Slevin's Guide to Entrepreneurs' Relief LIST OF CHAPTERS

			Page
List of Ch	napters		i
Preface			iii
Disclaime	er		V
About the	e Autho	r	vi
List of Contents			vii
Chapter	1	How Entrepreneurs' Relief works	1
Chapter	2	Unincorporated Businesses: Sole traders	11
Chapter	3	Unincorporated Businesses: Partnerships	51
Chapter	4	Share-Owning Officers and Employees	87
Chapter	5	Disposals by Trustees	149
Chapter	6	Furnished Holiday Lettings	181
Chapter	7	Spouses and Civil Partners	197
Chapter	8	How entrepreneurs' relief is given	211
Chapter	9	Interaction with general CGT losses	231
Chapter	10	Interaction with other provisions	241
Chapter	11	Share Exchanges, etc.	263
Chapter	12	Miscellaneous Matters	281
Chapter	13	Tribunal Decisions: Entrepreneurs' Relief	297

CON	NTENTS	Page
List o	f Chapters	i
Prefa	ce	iii
Discla	aimer	٧
Abou	t the Author	vi
List o	of Contents	vii
1.	How the Relief Works	1
101	Disposals giving rise to relief	1
102	Who may claim the relief?	2
103	The amount of relief available – Pre 23 June 2010	2
104	The amount of relief available – On or after 23 June 2010	3
2.	Unincorporated businesses – Disposals by sole traders	11
201	Setting the Scene	11
202	What is meant by 'sole trader'	12
203	Overseas Activities	12
	Sole Traders: Disposal of a Business	
204	The requirements of Entrepreneurs' Relief	12
205	Sole Traders: Calculating the amount of relief	14
206	Winding up a business	15
207	Assets sold while continuing to trade	15
	Post-Cessation Disposals	16
208	Availability of relief	16
209	Coping with unexpected delays in disposal	19
	Sole Traders: Miscellaneous Matters	
210	Ownership of the business	21
211	Disposal of a part of a business: Followed by a disposal of a	
	business asset	22
212	Relevant Business Assets	23
213	Mixed-Use Assets	24
214	The meaning of 'Part of a business'	27
215	'Part of a business' Tax Cases post McGregor v Adcock	31
216	Tribunal Decisions	43
217	Farmers with more than one farm	43

218	Preparing to trade	44
219	When does a trade begin?	44
220	Multiple disposals: Impact of increases in the maximum relief	45
221	Trade: Must be conducted on a commercial basis	45
222	Trade: Must be conducted with a view to the realisation of profit	47
223	Lloyd's Underwriters	49
3.	Unincorporated businesses – Partnerships	51
301	Setting the scene	51
302	Partnerships	51
303	Disposals by the Partnership: special provisions	53
304	HMRC SP D12	55
305	Partners Disposals: The Conditions of the relief	56
306	Capital Gains arising on Partnership Assets	56
307	Reduction on a partner's fractional share	59
308	Post-cessation disposals of partnership assets	60
309	Partners' assets used by partnership	61
310	Associated Disposals by Partners	61
311	Withdrawal from Participation	63
312	Partnerships: The McGregor v Adcock principle	66
313	Associated Disposals: Restriction of Relief	67
314	Associated Disposals: Variation in rent	74
315	Meaning of Rent	75
316	Associated Disposals: More than one restriction applying	76
317	Partnerships: an alternative approach	77
318	Contemporaneous disposals	80
319	Limited Liability Partnerships (LLPs)	80
320	Salaried members of LLPs	82
321	Shares held by partnerships and LLPs	82
4.	Share-Owning Officers and Employees	87
401	Setting the scene	87
402	The Relevant One Year Period	88
403	Gains on loans to companies	90
404	Company Reorganisations	91
	Share Disposals: Conditions to be satisfied by Claimant	92

405	Is the Individual an Officer or Employee of the company?	92
406	Duration of office or employment	93
407	Employment within a group	94
408	The 'Personal Company' requirement	96
409	Measuring the Ordinary Shares	98
410	Joint shareholdings	100
411	More than one disposal	101
412	Shares held in more than one capacity	102
413	Shares acquired in a holding company following a reorganisation	102
414	Enterprise Management Incentives ('EMI')	102
	Share Disposals: Qualifying Companies	107
415	Status of the company to which the shares relate	107
416	Overseas resident companies	107
417	Meaning of 'Trading Company'	108
418	Cash-rich companies	110
419	Tainting cash accumulations	111
420	Substantial Extent	113
421	Surplus trading property	114
422	'Holding Company of a Trading Group'	115
423	Joint Ventures	117
424	Companies Ceasing: Liquidations and Winding-up	119
425	Purpose of Winding-up a company: Cash extraction exercise?	120
	Asset Disposals: Associated with share disposals	122
426	Setting the scene	122
427	Associated disposals: Conditions to be satisfied	122
428	What is meant by withdrawal from participation in the business	125
429	Associated disposals: Restriction of relief	129
430	Associated Disposals: Variations in rent	134
431	Meaning of 'rent'	135
432	More than one restriction applying	135
433	Amount of Relief	136
5.	Disposals by Trustees	149
501	Setting the Scene	149
502	The Detailed Provisions	151
503	'Qualifying beneficiary'	151
504	Settlement Business Assets	153

505	Share Disposals by Trustees	153
506	Office or employment	154
507	Meaning of 'Personal Company'	155
508	Joint shareholdings	156
509	Trust share disposals: Summary of requirements	156
510	Other (non-share) asset disposals by Trustees	157
511	Trust Assets must be relevant Business Assets	158
512	Trust non-share disposals: Summary of requirements	159
513	Trading by Trustees	159
514	The Relief Available to Trustees	161
515	The Claim	164
516	Claim: Time Limit	164
517	Quantum of the claim	165
518	More than one beneficiary	166
519	The 'relevant proportion'	168
520	The 'material time'	168
521	More than one qualifying beneficiary	168
522	A second beneficiary who does not qualify	171
6.	Furnished Holiday Lettings	181
601	Introduction	181
602	Disposal after cessation of qualifying letting activity	183
603	Disposal of 'a business' or 'part of a business'?	183
604	Joint Ownership: Spouses	185
605	Is the timing right?	186
606	Previous letting: impact on relevant period	189
607	Furnished holiday lettings channelled through a company	190
7.	Spouses	197
701	Introduction	197
702	Can both spouses claim the relief?	197
703	Unincorporated Businesses	197
704	Disposal of shares or securities of a company	198
705	Can a disposal to a spouse be used in tax planning	199
706	Matrimonial breakdown	202

8.	How Entrepreneurs' Relief is Given	211
801	Introduction	211
802	Post June 2010: A tax relief or just a different tax rate	211
803	Disposals between 6 April 2008 and 22 June 2010	212
804	How entrepreneurs' relief worked pre 23 June 2010	213
805	Applying the lifetime cap – pre 23 June 2010	213
806	Multiple Disposals: Impact of Finance Act 2010	217
807	Losses on relevant business assets	218
808	How Entrepreneurs' relief works post 22 June 2010	220
809	Identifying the correct tax rate	221
810	Formal Claims	223
811	Withdrawing a Claim already made	223
812	Overpayment Relief: Schedule 1AB TMA 1970	224
9.	Interaction with general CGT losses	231
901	Introduction	231
902	Losses not related to the business disposal	231
10.	Interaction with other provisions	241
1001	Roll-over relief (Section 152)	241
1002	Incorporation Relief (Sections 162 and 162A)	241
1003	Hold-over relief re gifts (Section 165 and 260)	244
1004	Relief for disposal of a private residence (Section222-226B)	246
1005	Appropriation to trading stock (Section 161)	248
1006	Enterprise Investment Scheme (Schedule 5B)	248
1007	The Seed Enterprise Investment Scheme	249
1008	Double Taxation Relief	251
1009	Non-resident individuals	252
1010	Non-resident companies: attribution of gains	253
1011	Disincorporation Relief	253
11.	Share Exchanges, Etc.	263
1101	Introduction	263
1102	QCBs Acquired by Exchange Pre 6 April 2008	266

1104	'Paper for Paper' Transactions (Disapplication of Section 127)	272
1105	Earn-out arrangements	274
1106	Alternative to Earn-outs	275
1107	Impact of reorganisation on relevant one-year period	276
12.	Miscellaneous Matters	281
1201	Transitional Provisions	281
1202	Pre 6 April 2008 claims under EIS and VCT deferral relief	281
1203	Contingent Consideration	284
1204	Personal representatives	285
1205	Lloyd's underwriters	286
1206	Counteraction of tax avoidance S684 ITA 2007	287
1207	Deeds of Variation: interaction with entrepreneurs' relief	288
13.	Tribunal Decisions: Entrepreneurs' Relief	297
1301	Introduction	297
1302	M Gilbert t/a United Foods v CIRC	297
1303	William Russell v CIRC	304
1304	Jeremy Rice v HMRC [2014] UKFTT TC0133	307
1305	Susan Corbett v HMRC 2014 UKFTT 298(TC)	308