

<b>CONTENTS</b>	<b>Page</b>
List of chapters	i
Preface	iii
Disclaimer	vi
About the author	vii
List of contents	viii
<b>1. How the relief works</b>	<b>1</b>
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
<b>2. Unincorporated businesses – disposals by sole traders</b>	<b>11</b>
201 Setting the scene	11
202 What is meant by ‘sole trader’	11
203 Overseas activities	13
<b>Sole traders: disposal of a business</b>	
204 The requirements of entrepreneurs’ relief	13
205 Sole traders: calculating the amount of relief	15
206 Winding up a business	16
207 Assets sold while continuing to trade	16
<b>Post-cessation disposals</b>	<b>17</b>
208 Availability of relief	17
209 Coping with unexpected delays in disposal	20
<b>Sole traders: miscellaneous matters</b>	
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	24
212A Section 169LA Goodwill Exclusion	25
212B Impact of Section 169LA	27
213 Mixed-use assets	27
214 The meaning of ‘part of a business’	29
215 ‘Part of a business’ tax cases post <i>McGregor v Adcock</i>	33
216 Tribunal decisions	44

217	Farmers with more than one farm	45
218	Preparing to trade	46
219	When does a trade begin?	46
220	Multiple disposals: impact of increases in the maximum relief	46
221	Trade: must be conducted on a commercial basis	47
222	Trade: must be conducted with a view to the realisation of profit	49
223	Lloyd's Underwriters	50
224	Exclusion of goodwill transferred to a related company	50
225	Commercial woodlands	51
<b>3.</b>	<b>Unincorporated businesses – partnerships</b>	<b>61</b>
301	Setting the scene	61
302	Partnerships	61
303	Disposals by the partnership: special provisions	63
304	HMRC SP D12	65
305	Partners' disposals: the conditions of the relief	66
306	Capital gains arising on partnership assets	66
307	Reduction on a partner's fractional share	69
308	Post-cessation disposals of partnership assets	71
309	Partners' assets used by the partnership	71
310	Associated disposals by partners	71
311	Associated disposals by partners: Pre 18 March 2015	72
312	Associated disposals by partners: Post 17 March 2015	74
313	Partnership purchase arrangements	76
314	Partnerships under Scottish law and other jurisdictions	76
315	Withdrawal from participation	77
316	Partnerships: the <i>McGregor v Adcock</i> principle	81
317	Associated disposals: restriction of relief under section 169P	82
318	Associated disposals: variation in rent	89
319	Meaning of rent	90
320	Associated disposals: more than one restriction applying	91
321	Partnerships: an alternative approach	92
322	Contemporaneous disposals	95
323	Limited Liability Partnerships (LLPs)	95
324	Salaried members of LLPs	97
325	Shares held by partnerships and LLPs	97

<b>4.</b>	<b>Share-owning officers and employees</b>	<b>111</b>
401	Setting the scene	111
402	The relevant one-year period	112
403	Gains on loans to companies	114
404	Company reorganisations	115
	<b>Share disposals: conditions to be satisfied by claimant</b>	<b>116</b>
405	Is the individual an officer or employee of the company?	116
406	Duration of office or employment	117
407	Employment within a group of companies	118
408	The 'personal company' requirement	120
409	Measuring the ordinary shares	123
410	Joint shareholdings	125
411	More than one disposal	126
412	Shares held in more than one capacity	126
413	Shares acquired in a holding company following a reorganisation	127
414	Enterprise Management Incentives ('EMI')	127
	<b>Share disposals: qualifying companies</b>	<b>131</b>
415	Status of the company to which the shares relate	131
416	Overseas resident companies	131
417	Meaning of trading company: disposals prior to 18 March 2015	132
418	Meaning of trading company: disposals post 17 March 2015	134
419	Singleton companies investing in a joint venture company	135
420.	A singleton company which is a member of a partnership	136
421	Cash-rich companies	136
422	Tainting cash accumulations	140
423	Substantial extent	142
424	Surplus trading property	143
425	'Holding company of a trading group'	144
426	Joint ventures: special rules applying prior to 18 March 2015	146
427.	Meaning of 'trading group': disposals after 17 March 2015	148
428	Joint ventures (minority shareholdings): disposals after 17 March 2015	150
429	The principal conditions – Paragraph 4	151
430	The joint venture company 'shareholding test'	153
431	The joint venture company 'voting test'	155
432	Activities as a company in partnership	156

433	The 'profits and assets' test	157
434	The 'voting rights' test	159
435.	Companies ceasing: liquidations and winding-up: Prior to 6 April 2016	161
436	Liquidations: post 5 April 2016	162
437	Purpose of winding up a company: cash extraction exercise?	164
	<b>Asset disposals: associated with share disposals</b>	165
438	Setting the scene	165
439	Associated disposals: conditions pre 18 March 2015	165
440	What is meant by withdrawal from participation in the business	168
441	Associated disposals: conditions post 17 March 2015	172
442	Share purchase arrangements	175
443	Associated disposals: restriction of relief	175
444	Associated disposals: variations in rent	180
445	Meaning of 'rent'	181
446	Associated disposals: More than one restriction applying	182
447	Amount of relief	182
448	Careful consideration of complexities	183
<b>5.</b>	<b>Disposals by trustees</b>	191
501	Setting the scene	191
502	The detailed provisions	193
503	'Qualifying beneficiary'	193
504	Settlement business assets	195
505	Share disposals by trustees	195
506	Office or employment	197
507	Meaning of 'personal company'	197
508	Joint shareholdings	198
509	Trust share disposals: summary of requirements	198
510	Other (non-share) asset disposals by trustees	199
511	Trust assets must be relevant business assets	200
512	Trust non-share disposals: summary of requirements	201
513	Trading by trustees	202
514	The relief available to trustees	203
515	The claim	206
516	Claim: time limit	207
517	Quantum of the claim	207

518	More than one beneficiary	209
519	The 'relevant proportion'	210
520	The 'material time'	210
521	More than one qualifying beneficiary	211
522	A second beneficiary who does not qualify	213
523	Trust gains arising on a liquidation	214
<b>6.</b>	<b>Furnished holiday lettings</b>	<b>221</b>
601	Introduction	221
602	Disposal after cessation of qualifying letting activity	223
603	Disposal of 'a business' or 'part of a business'?	224
604	Joint ownership: spouses	225
605	Is the timing right?	226
606	Previous letting: impact on relevant period	229
607	Furnished holiday lettings channelled through a company	230
<b>7.</b>	<b>Spouses</b>	<b>231</b>
701	Introduction	231
702	Can both spouses claim the relief?	231
703	Unincorporated businesses	231
704	Disposal of shares or securities of a company	232
705	Can a disposal to a spouse be used in tax planning?	233
706	Matrimonial breakdown	236
<b>8.</b>	<b>How entrepreneurs' relief is given</b>	<b>241</b>
801	Introduction	241
802	Post June 2010: a tax relief or just a different tax rate	241
803	Disposals between 6 April 2008 and 22 June 2010	242
804	How entrepreneurs' relief worked pre 23 June 2010	243
805	Applying the lifetime cap – pre 23 June 2010	243
806	Multiple disposals: impact of Finance Act 2010	247
807	Losses on relevant business assets	248
808	How entrepreneurs' relief works post 22 June 2010	250
809	Identifying the correct tax rate	251
810	Formal claims	253
811	Withdrawing a claim already made	253
812	Overpayment relief: Schedule 1AB TMA 1970	254

<b>9.</b>	<b>Interaction with general CGT losses</b>	259
901	Introduction	259
902	Losses not related to the business disposal	259
<b>10.</b>	<b>Interaction with other provisions</b>	263
1001	Roll-over relief (section 152)	263
1002	Incorporation relief (sections 162 and 162A )	263
1003	Hold-over relief re gifts (section 165 and 260)	266
1004	Relief for disposal of a private residence (section 222-226B)	268
1005	Appropriation to trading stock (section 161)	270
1006	Enterprise Investment Scheme (Schedule 5B)	270
1007	The Seed Enterprise Investment Scheme	272
1008	Deferred entrepreneurs' relief	273
1009	Double Taxation Relief	277
1010	Non-resident individuals	278
1011	Non-resident companies: attribution of gains	278
1012	Disincorporation relief	279
1013	Premium on grant of lease	279
1014	Negligible value claims	279
1015	Land used for commercial woodlands	280
1016	Investors' relief	281
<b>11.</b>	<b>Share exchanges, Etc.</b>	283
1101	Introduction	283
1102	QCBs acquired by exchange pre 6 April 2008	286
1103	Post 5 April 2008 exchanges of shares for QCBs	290
1104	'Paper for paper' transactions (disapplication of section 127)	292
1105	Earn-out arrangements	294
1106	Alternative to earn-outs	295
1107	Impact of reorganisation on relevant one-year period	295
<b>12.</b>	<b>Miscellaneous matters</b>	301
1201	Transitional provisions	301
1202	Pre 6 April 2008 claims under EIS and VCT deferral relief	301
1203	Contingent consideration	304
1204	Personal representatives	305
1205	Lloyd's Underwriters	306
1206	Counteraction of tax avoidance S684 ITA 2007	307

1207	Inherited shares: voting rights	308
1208	Deeds of variation: interaction with entrepreneurs' relief	308
<b>13.</b>	<b>Tribunal decisions: entrepreneurs' relief</b>	<b>311</b>
1301	Introduction	311
1302	<i>M Gilbert t/a United Foods v CIRC UKFTT TC 01542</i>	311
1303	<i>William Russell v CIRC [2012] UKFTT TC 02299</i>	318
1304	<i>Jeremy Rice v HMRC [2014] UKFTT TC0133</i>	320
1305	<i>Susan Corbett v HMRC 2014 UKFTT 298(TC)</i>	322
1306	<i>Richard Hirst v HMRC 2014 UKFTT 924(TC)</i>	323
1307	<i>John H R Carver v HMRC [2015] UKFTT 0168(TC)</i>	326
1308	<i>McQuillan v HMRC [2016] UKFTT 0305 (TC)</i>	326
1309	<i>Alan Castledine [2016] UKFTT 0145 (TC)</i>	328
1310	<i>Dilip Amin v HMRC [2016] UKFTT 0515 (TC)</i>	329
1311	<i>John K Moore [2016] UKFTT 0115 (TC)</i>	331

## PART TWO

<b>14.</b>	<b>Investors' Relief</b>	
1400	Background	333
1401	Who can claim relief?	334
1402	'Shareholding Period' and 'Relevant Period'	335
1403	Subscriptions for shares by individuals	335
1404	Employees	335
1405	Directors	335
1406	'Relevant employee'	336
1407	Unremunerated 'directors'	337
1408	Meaning of 'director'	337
1409	Meaning of 'unremunerated director'	338
1410	Meaning of 'connected'	339
1411	Meaning of 'employee' and 'employment'	341
1412	Meaning of 'office'	342
1413	Self-employed individuals	342
1414	Directors of Personal Service Companies	342
	<b>What can be claimed?</b>	
1415	Investors' relief: The 10% Rate	343
1416	Cap on relief for disposal by an individual	343
1417	The need for a timely formal claim	344

## **Qualifying shares**

1418	Shares must be subscribed for	344
1419	Shares acquired from a spouse or civil partner	345
1420	Shares acquired jointly	345
1421	The three categories of shares	345
1422	Which shares are 'qualifying shares'?	347
1423	Meaning of 'ordinary share'	348
1424	Which shares are 'potentially qualifying shares'?	348
1425	What is an 'excluded share'?	349
1426	Shares acquired by exercising a rights issue	349
1427	Shares acquired on a corporate reorganisation	349
1428	Shares issued prior to 6 April 2016?	350
1429	Disposals out of a partly-qualifying holding	350
1430	Identifying previous disposals out of a shareholding	351
1431	Meaning of 'recognised stock exchange'	352

## **Qualifying company**

1432	Meaning of 'trading company' and 'holding company of a trading group'	352
1433	Companies in administration, receivership or being wound up	353

### **Trust gains**

1434	Investors' relief on trust gains: introduction	353
1435	'Eligible beneficiary'	354
1436	The need for timely claims and timely elections	354
1437	Other conditions re trust gains	355

### **Disqualification of shares**

1438	Disqualification where there is a return of value	356
1439	When is value received?	356
1440	Amount of value received	358
1441	Receipts of insignificant value	358