

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Value received by investor is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 5B U.K.]

#### ENTERPRISE INVESTMENT SCHEME: RE-INVESTMENT

##### Textual Amendments

- F1** Sch. 5B inserted (with effect in accordance with Sch. 13 para. 4(4) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 13 para. 4\(3\)](#)

*[<sup>F2</sup> Value received by investor*

##### Textual Amendments

- F2** Sch. 5B paras. 10-15 and cross-headings inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 35](#)

- 13 (1) Where an individual who subscribes for eligible shares (“the shares”) in a company receives any value [<sup>F3</sup>(other than insignificant value)] from the company at any time in the [<sup>F4</sup>period of restriction], the shares shall be treated as follows for the purposes of this Schedule—
- (a) if the individual receives the value on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if the individual receives the value after that date, as ceasing to be eligible shares on the date when the value is received.

[ This paragraph is subject to paragraph 13B below.

<sup>F5</sup>(1A)

(1B) Where—

- (a) the individual who subscribes for the shares receives value (“the relevant receipt”) from the company during the period of restriction,
- (b) the individual has received from the company one or more receipts of insignificant value at a time or times—
  - (i) during that period, but
  - (ii) not later than the time of the relevant receipt, and
- (c) the aggregate amount of the value of the receipts within paragraphs (a) and (b) above is not an amount of insignificant value,

the individual shall be treated for the purposes of this Schedule as if the relevant receipt had been a receipt of an amount of value equal to the aggregate amount.

For this purpose a receipt does not fall within paragraph (b) above if it has previously been aggregated under this sub-paragraph.]

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(2) For the purposes of this paragraph an individual receives value from the company if the company—

- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company’s share capital or any security on its cancellation or extinguishment;
- (b) repays, in pursuance of any arrangements for or in connection with the acquisition of the shares, any debt owed to the individual other than a debt which was incurred by the company—
  - (i) on or after the date [<sup>F6</sup>of issue of the shares]; and
  - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
- (c) makes to the individual any payment for giving up his right to any debt on its extinguishment;
- (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;
- (e) makes a loan or advance to the individual which has not been repaid in full before the issue of the shares;
- (f) provides a benefit or facility for the individual;
- (g) disposes of an asset to the individual for no consideration or for a consideration which is or the value of which is less than the market value of the asset;
- (h) acquires an asset from the individual for a consideration which is or the value of which is more than the market value of the asset; or
- (i) makes any payment to the individual other than a qualifying payment.

(3) For the purposes of sub-paragraph (2)(e) above there shall be treated as if it were a loan made by the company to the individual—

- (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company; and
- (b) the amount of any debt due from the individual to a third person which has been assigned to the company.

<sup>F7</sup>(4) .....

(5) For the purposes of this paragraph an individual also receives value from the company if any person who would, for the purposes of section 291 of the Taxes Act [<sup>F8</sup>or Chapter 2 of Part 5 of ITA 2007], be treated as connected with the company—

- (a) purchases any of its share capital or securities which belong to the individual; or
- (b) makes any payment to him for giving up any right in relation to any of the company’s share capital or securities.

(6) Where an individual’s disposal of shares in a company gives rise to a chargeable event falling within paragraph 3(1)(a) or (b) above, the individual shall not be treated for the purposes of this paragraph as receiving value from the company in respect of the disposal.

(7) In this paragraph “qualifying payment” means—

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- (a) the payment by any company of such remuneration for service as an officer or employee of that company as may be reasonable in relation to the duties of that office or employment;
  - (b) any payment or reimbursement by any company of travelling or other expenses wholly, exclusively and necessarily incurred by the individual to whom the payment is made in the performance of duties as an officer or employee of that company;
  - (c) the payment by any company of any interest which represents no more than a reasonable commercial return on money lent to that company;
  - (d) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or other securities of that company;
  - (e) any payment for the supply of goods which does not exceed their market value;
  - (f) any payment for the acquisition of an asset which does not exceed its market value;
  - (g) the payment by any company, as rent for any property occupied by the company, of an amount not exceeding a reasonable and commercial rent for the property;
  - (h) any reasonable and necessary remuneration which—
    - (i) is paid by any company for services rendered to that company in the course of a trade or profession [<sup>F9</sup>carried on wholly or partly in the United Kingdom]; and
    - (ii) is taken into account [<sup>F10</sup>in calculating for tax purposes the profits of that trade or profession];
- (i) a payment in discharge of an ordinary trade debt.
- (8) For the purposes of this paragraph a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (9) In this paragraph—
- (a) references to a debt or liability do not, in relation to a company, include references to any debt or liability which would be discharged by the making by that company of a qualifying payment; and
  - (b) references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would be a qualifying payment.
- (10) In this paragraph [<sup>F11</sup>and paragraph 13A(1) below]—
- (a) any reference to a payment or disposal to an individual includes a reference to a payment or disposal made to him indirectly or to his order or for his benefit;
  - (b) any reference to an individual includes a reference to an associate of his; and
  - (c) any reference to a company includes a reference to a person who at any time in the relevant period is connected with the company, whether or not he is so connected at the material time.
- (11) In this paragraph “ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given—
- (a) does not exceed six months; and

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- (b) is not longer than that normally given to customers of the person carrying on the trade or business.

[ In paragraphs 13A to 13C below (except paragraph 13C(4))—

- <sup>F12</sup>(12) (a) references to “the shares” shall be construed in accordance with subparagraph (1) above, and
- (b) references to “the period of restriction” shall be construed as references to the period of restriction relating to the shares.]]]

#### Textual Amendments

- F3** Words in Sch. 5B para. 13(1) inserted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 30\(1\)](#) (with [Sch. 3](#))
- F4** Words in Sch. 5B para. 13(1) substituted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 30\(2\)](#) (with [Sch. 3](#))
- F5** Sch. 5B para. 13(1A)(1B) inserted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 30\(3\)](#) (with [Sch. 3](#))
- F6** Words in Sch. 5B para. 13(2)(b)(i) substituted (with effect in accordance with Sch. 18 para. 16(2)(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 16\(1\)](#)
- F7** Sch. 5B para. 13(4) repealed (with effect in accordance with Sch. 33 Pt. 2(3) Note 6 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 30\(4\)](#), [Sch. 33 Pt. 2\(3\)](#) (with [Sch. 3](#))
- F8** Words in Sch. 5B para. 13(5) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 345\(10\)](#) (with [Sch. 2](#))
- F9** Words in Sch. 5B para. 13(7)(b)(i) inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 450\(a\)](#) (with [Sch. 2](#))
- F10** Words in Sch. 5B para. 13(7)(b)(ii) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 450\(b\)](#) (with [Sch. 2](#))
- F11** Words in Sch. 5B para. 13(10) inserted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 30\(5\)](#) (with [Sch. 3](#))
- F12** Sch. 5B para. 13(12) inserted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 30\(6\)](#) (with [Sch. 3](#))

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