

Status: Point in time view as at 06/04/2007.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Failure of conditions of application is up to date with all changes known to be in force on or before 20 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

[^{F1}SCHEDULE 5B

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\(3\)](#)

[^{F2}Failure of conditions of application

Textual Amendments

- F2** Sch. 5B para. 1A and cross-heading inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 28](#)

- 1A (1) If the condition in sub-paragraph (2)(b) of paragraph 1 above is not satisfied in consequence of an event occurring after the issue of eligible shares, the shares [^{F3}mentioned in sub-paragraph (2)(a) of that paragraph] shall be treated for the purposes of this Schedule as ceasing to be eligible shares on the date of the event.
- (2) If the condition in sub-paragraph (2)(e) of that paragraph is not satisfied in consequence of an event occurring after the issue of eligible shares, the shares [^{F4}mentioned in sub-paragraph (2)(a) of that paragraph] shall be treated for the purposes of this Schedule as ceasing to be eligible shares on the date of the event.
- (3) If the condition in sub-paragraph (2)(f) of that paragraph is not satisfied in relation to [^{F5}the shares mentioned in sub-paragraph (2)(a) of that paragraph,] the shares shall be treated for the purposes of this Schedule as never having been eligible shares.
- (4) If the condition in sub-paragraph (2)(g) [^{F6}or (h)] of that paragraph is not satisfied in relation to [^{F7}the issue of eligible shares, the shares mentioned in sub-paragraph (2) (a) of that paragraph] shall be treated for the purposes of this Schedule—
- (a) if the claim under this Schedule is made after the time mentioned in [^{F8}sub-paragraph (4A) below], as never having been eligible shares; and
- (b) if that claim is made before that time, as ceasing to be eligible shares at that time.
- [The time referred to in sub-paragraph (4) above is—
- ^{F9}(4A) (a) in a case relating to the condition in sub-paragraph (2)(g) of paragraph 1 above, the time mentioned in section 289(3) of the Taxes Act [^{F10}or section 175(3) of ITA 2007], and

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- (b) in a case relating to the condition in sub-paragraph (2)(h) of that paragraph, the time 12 months after that time.]
- (5) None of the preceding sub-paragraphs applies unless—
- (a) the company has given notice under paragraph 16(2) or (4) below^[F11], section 310(2) of the Taxes Act or section 241(3) of ITA 2007]; or
- (b) an inspector has given notice to the company stating that, by reason of the matter mentioned in that sub-paragraph, the shares ^[F12]mentioned in paragraph 1(2)(a) above] should, in his opinion, be treated for the purposes of this Schedule as never having been or, as the case may be, as ceasing to be eligible shares.
- (6) The giving of notice by an inspector under sub-paragraph (5) above shall be taken, for the purposes of the provisions of the Management Act relating to appeals against decisions on claims, to be a decision refusing a claim made by the company.
- (7) Where any issue has been determined on an appeal brought by virtue of section 307(1B) of the Taxes Act ^[F13]or section 236(1) of ITA 2007] (appeal against notice that relief was not due), the determination shall be conclusive for the purposes of any appeal brought by virtue of sub-paragraph (6) above on which that issue arises.]]

Textual Amendments

- F3** Words in Sch. 5B para. 1A(1) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 14\(a\)](#)
- F4** Words in Sch. 5B para. 1A(2) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 14\(b\)](#)
- F5** Words in Sch. 5B para. 1A(3) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 14\(c\)](#)
- F6** Words in Sch. 5B para. 1A(4) inserted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 27\(1\)\(a\)](#) (with [Sch. 3](#))
- F7** Words in Sch. 5B para. 1A(4) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 14\(d\)](#)
- F8** Words in Sch. 5B para. 1A(4)(a) substituted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 27\(1\)\(b\)](#) (with [Sch. 3](#))
- F9** Sch. 5B para. 1A(4A) inserted (11.5.2001) by [Finance Act 2001 \(c. 9\)](#), [Sch. 15 para. 27\(2\)](#) (with [Sch. 3](#))
- F10** Words in [Sch. 5B para. 1A\(4A\)\(a\)](#) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 345\(3\)\(a\)](#) (with [Sch. 2](#))
- F11** Words in Sch. 5B para. 1A(5)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 345\(3\)\(b\)](#) (with [Sch. 2](#))
- F12** Words in Sch. 5B para. 1A(5)(b) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 14\(e\)](#)
- F13** Words in Sch. 5B para. 1A(7) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 345\(3\)\(c\)](#) (with [Sch. 2](#))

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