

Changes to legislation: Taxation of Chargeable Gains Act 1992, Paragraph 1 is up to date with all changes known to be in force on or before 24 June 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) View outstanding changes

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\(3\)](#)

Application of Schedule

- 1 (1) This Schedule applies where—
- (a) there would (apart from paragraph 2(2)(a) below) be a chargeable gain (“the original gain”) accruing to an individual (“the investor”) at any time (“the accrual time”) on or after 29th November 1994;
 - (b) the gain is one accruing either on the disposal by the investor of any asset or in accordance with [^{F2}section 164F or 164FA,][^{F3}section 169N,] paragraphs 4 and 5 below or paragraphs 4 and 5 of Schedule 5C;
 - (c) the investor makes a qualifying investment; and
 - (d) the investor is resident [^{F4}... in the United Kingdom at the accrual time and the time when he makes the qualifying investment and is not, in relation to the qualifying investment, a person to whom sub-paragraph (4) below applies.
- [^{F5}(2) The investor makes a qualifying investment for the purposes of this Schedule if—
- (a) eligible shares in a company for which he has subscribed [^{F6}... are issued to him at a qualifying time and, where that time is before the accrual time, the shares are still held by the investor at the accrual time,
 - [^{F7}(aza) he subscribed for the shares (other than any of them which are bonus shares) wholly in cash,]
 - (b) the company is a qualifying company in relation to the shares,
 - (c) at the time when they are issued the shares [^{F8}(other than any of them which are bonus shares) are fully paid up],
 - (d) the shares are subscribed for, and issued, for bona fide commercial purposes and not as part of arrangements the main purpose or one of the main purposes of which is the avoidance of tax,
 - [^{F9}(da) the total amount of relevant investments made in the company in the year ending with the date the shares are issued does not exceed [^{F10}£5 million,]
 - (e) the requirements of section 289(1A) of the Taxes Act [^{F11}(read with section 289(1B) to (1E) of that Act)][^{F12}, or the requirements of section 183 of ITA 2007,] are satisfied in relation to the company,
 - (f) [^{F13}the shares (other than any of them which are bonus shares)] are issued in order to raise money for the purpose of a qualifying business activity, [^{F14}and

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- (g) all of the money raised by the issue of the shares (other than any of them which are bonus shares) is, no later than the time mentioned in section 175(3) of ITA 2007, employed wholly for the purpose of that activity,]

and for the purposes of this Schedule, the [^{F15}condition in paragraph (g) above does] not fail to be satisfied by reason only of the fact that an amount of money which is not significant is employed for another purpose.

- (3) In sub-paragraph (2) above “a qualifying time”, in relation to any shares subscribed for by the investor, means—
- (a) any time in the period beginning one year before and ending three years after the accrual time, or
- (b) any such time before the beginning of that period or after it ends as the Board may by notice allow.]
- (4) This sub-paragraph applies to the investor in relation to a qualifying investment if—
- (a) though resident ^{F16}... in the United Kingdom at the time when he makes the investment, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and
- (b) were section 150A to be disregarded, the arrangements would have the effect that he would not be liable in the United Kingdom to tax on a gain arising on a disposal, immediately after their acquisition, of the shares acquired in making that investment.

[Shares are not fully paid up for the purposes of sub-paragraph (2)(c) above if there is ^{F17}(5) any undertaking to pay cash to any person at a future date in respect of the acquisition of the shares.]

[The reference in sub-paragraph (1)(b) to a gain accruing in accordance with ^{F18}(5A) section 169N does not include such a gain so far as it is chargeable to capital gains tax at the rate in section 169N(3).]

[Section 173A(3) and (4) of ITA 2007 (meaning of “relevant investment”) apply for ^{F19}(6) the purposes of sub-paragraph (2)(da).

- (7) In sub-paragraph (2)(da), the reference to relevant investments made in the company includes relevant investments made in a company that is, or has at any time in the year mentioned there been, a subsidiary of the company (whether or not it was such a subsidiary when the investment was made).]]

Textual Amendments

- F2** Words in Sch. 5B para. 1(1)(b) inserted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 27\(1\)](#)
- F3** Words in Sch. 5B para. 1(1)(b) inserted (with effect in accordance with Sch. 3 para. 5 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 3 para. 4](#)
- F4** Words in Sch. 5B para. 1(1)(d) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 110\(2\)\(a\)](#) (with [Sch. 46 para. 110\(5\)](#))
- F5** Sch. 5B para. 1(2)(3) substituted (with effect in accordance with s. 74(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 13 para. 27\(2\)](#)
- F6** Words in Sch. 5B para. 1(2)(a) repealed (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 13\(1\)\(a\)](#), [Sch. 42 Pt. 2\(13\)](#)
- F7** Sch. 5B para. 1(2)(aza) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 18 para. 13\(1\)\(b\)](#)

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- F8** Words in Sch. 5B para. 1(2)(c) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 18 para. 13(1)(c)**
- F9** Sch. 5B para. 1(2)(da) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 16 para. 7(2)(a)**
- F10** Sum in Sch. 5B para. 1(2)(da) substituted (with effect in accordance with Sch. 7 para. 33(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 7 paras. 29, 33(1)**; S.I. 2012/1896, art. 2(d)
- F11** Words in Sch. 5B para. 1(2)(e) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 18 para. 13(1)(d)**
- F12** Words in Sch. 5B para. 1(2)(e) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 345(2)(a)** (with Sch. 2)
- F13** Words in Sch. 5B para. 1(2)(f) substituted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 18 para. 13(1)(e)**
- F14** Sch. 5B para. 1(2)(g) and preceding word substituted for Sch. 5B para. 1(2)(g)(h) (with effect in accordance with Sch. 8 para. 11 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 8 para. 2(2)**
- F15** Words in Sch. 5B para. 1(2) substituted (with effect in accordance with Sch. 8 para. 11 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 8 para. 2(3)**
- F16** Words in Sch. 5B para. 1(4)(a) omitted (with effect in accordance with Sch. 46 para. 112 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 110(2)(b)** (with [Sch. 46 para. 110\(5\)](#))
- F17** Sch. 5B para. 1(5) inserted (with effect in accordance with Sch. 18 para. 21 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 18 para. 13(2)**
- F18** Sch. 5B para. 1(5A) inserted (with effect in accordance with Sch. 1 para. 14 of the amending Act) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), **Sch. 1 para. 9(2)**
- F19** Sch. 5B para. 1(6)(7) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 16 para. 7(2)(b)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)