

Status: Point in time view as at 12/01/2000.

Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 5BA 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)

SCHEDULES

[^{F1}SCHEDULE 5BA

ENTERPRISE INVESTMENT SCHEME: APPLICATION OF TAPER RELIEF

Textual Amendments

F1 Sch. 5BA inserted (27.7.1999) by Finance Act 1999 (c. 16), s. 72(2), Sch. 7

Application of Schedule

- 1 (1) This Schedule applies where—
 - (a) a chargeable gain (“the original gain”) accrues on the disposal of shares (“the original shares”) to which deferral relief or relief under Chapter III of Part VII of the Taxes Act (EIS income tax relief), or both, is attributable;
 - (b) the whole or part of the original gain is treated as not having accrued at the time of that disposal because of expenditure on shares being set against it under paragraph 2 of Schedule 5B; and
 - (c) a chargeable gain (“the revived gain”) is subsequently treated as accruing in accordance with paragraph 4 of Schedule 5B as a result of the disposal (“the relevant disposal”) of shares expenditure on which has been set under paragraph 2 of Schedule 5B against the whole or part of the original gain or the whole or part of a gain derived from the original gain.
- (2) This Schedule applies only if the original shares were issued on or after 6th April 1998 and disposed of on or after 6th April 1999.

Taper relief on revived gains

- 2 (1) Where this Schedule applies, the provisions of paragraphs 3 to 5 below have effect for applying taper relief under section 2A in relation to the revived gain.
- (2) Those provisions do not apply to the extent that the revived gain is treated as not having accrued at the time of the relevant disposal because of expenditure being set against it under paragraph 2 of Schedule 5B.

Qualifying holding period

- 3 (1) The qualifying holding period of the original shares for the purposes of taper relief is the period beginning with the date of issue of the original shares and ending with the date of the relevant disposal.
- (2) Sub-paragraph (1) is subject to paragraph 2(4) of Schedule A1 (periods that do not count for taper relief purposes).

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Periods that do not count

- 4 A period—
- (a) which falls within the period beginning with the date of issue of the original shares and ending with the date of the relevant disposal, and
 - (b) during which neither the original shares nor any relevant re-investment shares were held,
- does not count for the purposes of taper relief.

Gains on disposal of business or non-business assets

- 5 (1) The following rules apply to determine whether, or to what extent, the revived gain is for taper relief purposes a gain on the disposal of a business asset or a gain on the disposal of a non-business asset.
- (2) The revived gain is treated as a gain on the disposal of an asset which was acquired on the issue of the original shares and disposed of on the date of the relevant disposal.
 - (3) That asset is treated as being the original shares during the period for which they were held.
 - (4) That asset is treated as being any relevant re-investment shares during the period for which those shares were held, or so much of that period as is not an overlap period in relation to those shares.
 - (5) For the purposes of sub-paragraph (4) an “overlap period”, in relation to any relevant re-investment shares, means a period during which those shares and also—
 - (a) any of the original shares, or
 - (b) any relevant re-investment shares issued before the relevant re-investment shares in question,
 are held.

Savings

- 6 The application of paragraphs 3 to 5 above in relation to the revived gain does not affect the treatment for the purposes of taper relief under section 2A of—
- (a) any gain which is treated as accruing in accordance with paragraph 4 of Schedule 5B at the same time as the revived gain, or
 - (b) any part of a gain where no expenditure was set under paragraph 2 of Schedule 5B against that part of the gain.

Relevant re-investment shares

- 7 For the purposes of this Schedule—
- (a) shares are “re-investment shares” if expenditure on them is set under paragraph 2 of Schedule 5B against all or part of a gain; and
 - (b) re-investment shares are “relevant re-investment shares”, in relation to a revived gain, if—
 - (i) their disposal results in a gain being treated as accruing under paragraph 4 of Schedule 5B, and
 - (ii) that gain is the revived gain or a gain from which the revived gain is derived.

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Derivation of gains

- 8 For the purposes of this Schedule a gain (“the later gain”) is derived from another gain (“the earlier gain”) if—
- (a) the later gain is treated as accruing in accordance with paragraph 4 of Schedule 5B on the disposal of any shares, and
 - (b) expenditure on those shares has been set under paragraph 2 of Schedule 5B against all or part of the earlier gain or a gain which, by virtue of this paragraph, is derived from the earlier gain.

Interpretation

- 9 Expressions defined for the purposes of Schedule 5B (apart from “the original gain”) have the same meaning for the purposes of this Schedule as they have for the purposes of that Schedule.]

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