

Status: Point in time view as at 17/07/2013.

Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 5BB is up to date with all changes known to be in force on or before 18 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 5BB

SEED ENTERPRISE INVESTMENT SCHEME: RE-INVESTMENT

Textual Amendments

F1 Sch. 5BB inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 6 para. 5](#)

SEIS re-investment relief

- 1 (1) Sub-paragraph (5) applies where conditions A to C are met in relation to an individual (“the investor”).
- (2) Condition A is that—
- (a) there would (ignoring sub-paragraphs (5) and (6)) be a chargeable gain (“the original gain”) accruing to the investor at any time in the tax year 2012-13 [^{F2}or the tax year 2013-14 (the year in question being referred to in this Schedule as “the relevant year”)], and
 - (b) the original gain is one accruing on the disposal of an asset by the investor at any time (“the disposal time”) in [^{F3}the relevant year].
- (3) Condition B is that—
- (a) the investor is eligible for SEIS relief for the [^{F4}relevant year] in respect of an amount subscribed for an issue of shares in a company made to the investor in that year,
 - (b) the investor makes a claim for and obtains SEIS relief for that year in respect of all or some of those shares (“the relevant SEIS shares”), and
 - (c) if the relevant SEIS shares, or any corresponding bonus shares in relation to those shares, were issued before the disposal time, they are still held by the investor at the disposal time.
- (4) Condition C is that—
- (a) the investor has made a claim under this paragraph for relief in relation to the original gain, and
 - (b) the claim is in respect of the amount on which SEIS relief is claimed by the investor in respect of the relevant SEIS shares (“the SEIS expenditure”) or part of that amount.
- [^{F5}(5) The relevant percentage of the available SEIS expenditure is to be set against a corresponding amount of the original gain.
- (5A) In sub-paragraph (5)—
- “the available SEIS expenditure” means so much of the SEIS expenditure as—
- (a) is specified in the claim,

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- (b) is unused, and
- (c) does not exceed so much of the original gain as is unmatched;
 - “the relevant percentage” means—
 - (a) if the relevant year is the tax year 2012-13, 100%, and
 - (b) if the relevant year is the tax year 2013-14, 50%.]
- (6) Where an amount of the SEIS expenditure is set against the whole or part of the original gain under sub-paragraph (5), so much of that gain as is equal to that amount is to be treated as not being a chargeable gain.
- (7) For the purposes of this paragraph—
 - (a) the SEIS expenditure is unused to the extent that it has not already been set under sub-paragraph (5) or paragraph 2(1) of Schedule 5B against the whole or any part of a chargeable gain, and
 - (b) the original gain is unmatched, in relation to the SEIS expenditure, to the extent that it has not had any other expenditure set against it under sub-paragraph (5) or paragraph 2(1) of Schedule 5B.

Textual Amendments

- F2** Words in Sch. 5BB para. 1(2)(a) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(2\)\(a\)\(i\)](#)
- F3** Words in Sch. 5BB para. 1(2)(b) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(2\)\(a\)\(ii\)](#)
- F4** Words in Sch. 5BB para. 1(3)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(2\)\(b\)](#)
- F5** Sch. 5BB para. 1(5)(5A) substituted for Sch. 5BB para. 1(5) (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(2\)\(c\)](#)

Restrictions on relief under paragraph 1

- 2 (1) Sub-paragraph (2) applies if the investor's tax reduction under section 257AB of ITA 2007 for the [^{F6}relevant year] is limited by subsection (2)(b) of that section (calculation of tax reduction where claim made for amounts subscribed for shares which exceed £100,000).
- (2) Paragraph 1(5) to (7) has effect as if references to the SEIS expenditure were references to so much of that expenditure as is given by the formula—

$$SA \text{ TSA} \times \text{£ } 100,000$$
 where—
 - SA means the SEIS expenditure (ignoring this paragraph);
 - TSA means the total of the amounts subscribed for shares issued in the [^{F7}relevant year] in respect of which the investor is eligible for and claims SEIS relief for [^{F8}that year].
- (3) Sub-paragraph (4) applies if the amount of SEIS relief attributable to any of the relevant SEIS shares has been reduced under Chapter 6 of Part 5A of ITA 2007 before the SEIS relief was obtained (otherwise than by virtue of corresponding bonus shares being issued in respect of those shares).
- (4) Paragraph 1(5) to (7) has effect as if the SEIS expenditure were the amount found by multiplying that expenditure by the fraction—

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R 1 R 2

where—

“R1” means the amount of SEIS relief attributable to the relevant SEIS shares when the relief is obtained;

“R2” means the amount of SEIS relief which would have been so attributable in the absence of the reduction.

- (5) In a case where sub-paragraphs (2) and (4) both apply, sub-paragraph (2) is to be applied before sub-paragraph (4).

Textual Amendments

F6 Words in Sch. 5BB para. 2(1) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(3\)\(a\)](#)

F7 Words in Sch. 5BB para. 2(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(3\)\(b\)\(i\)](#)

F8 Words in Sch. 5BB para. 2(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(3\)\(b\)\(ii\)](#)

Claims

- 3 (1) Section 257EA of ITA 2007 (time for making claims for SEIS relief) applies in relation to a claim made by the investor for the purposes of paragraph 1 in relation to the SEIS expenditure as it applies in relation to a claim for SEIS relief in respect of that expenditure.
- (2) Nothing in paragraph 1(3) prevents a claim being made by the investor under paragraph 1 before SEIS relief has actually been obtained by the investor in relation to the SEIS relief.

Attribution of SEIS re-investment relief to relevant SEIS shares

- 4 (1) References in this Schedule to the SEIS re-investment relief attributable to any shares are to be read as references to the total amount attributed to those shares in accordance with this paragraph.
- (2) Sub-paragraph (3) applies where the whole or part of the SEIS expenditure is set off against a chargeable gain under paragraph 1(5).
- (3) A proportionate part of the expenditure which is so set off is attributed to each of the relevant SEIS shares.
- (4) Sub-paragraph (5) applies if corresponding bonus shares are issued in respect of all or some of the relevant SEIS shares (“the original shares”) to which relief is attributed under this paragraph.
- (5) A proportionate part of the total amount attributed to the original shares immediately before those bonus shares are issued is attributed to each of the shares in the holding comprising the original shares and those bonus shares.

Removal or reduction of the relief

- 5 (1) This paragraph applies where in respect of shares issued to an individual—
(a) SEIS relief is attributable to the shares,

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- (b) SEIS re-investment relief is also attributable to the shares, and
 - (c) the SEIS relief which is attributable to the shares is withdrawn or reduced under Chapters 6 and 7 of Part 5A of ITA 2007.
- (2) A chargeable gain accrues to the individual in the tax year [^{F9}in which the shares were issued] on a disposal made in that tax year.
- (3) The amount of that gain is—
- (a) in a case where the SEIS relief is withdrawn, the amount of SEIS re-investment relief which is attributable to the shares immediately before the withdrawal, and
 - (b) in a case where the SEIS relief is reduced, the appropriate fraction of that amount.
- (4) In a case where the SEIS re-investment relief is withdrawn, the SEIS re-investment relief ceases to be attributable to the shares.
- (5) In a case where the SEIS relief is reduced, the appropriate fraction of the SEIS re-investment relief ceases to be attributable to the shares.
- (6) “The appropriate fraction” is—

$$\frac{R1 - R2}{R1}$$

where—

“R1” is the total amount of the SEIS relief attributable to those shares immediately before the reduction, and

“R2” is the total amount of the SEIS relief attributable to those shares immediately after the reduction.

Textual Amendments

F9 Words in Sch. 5BB para. 5(2) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 57\(4\)](#)

Transfers of shares to spouses and civil partners

- 6 (1) This paragraph applies if—
- (a) shares to which an amount of SEIS relief is attributable were issued to an individual (“A”),
 - (b) A transferred the shares to another individual (“B”) during their lives,
 - (c) A was married to, or was the civil partner of, B at the time of the transfer, and
 - (d) subsection (4) of section 257FA of ITA 2007 (provision about disposals of shares disapplied where disposal between spouses or civil partners) prevented that section applying to the transfer.
- (2) Any chargeable gain which accrues by virtue of paragraph 5(2), as a result of SEIS relief attributable to the shares being withdrawn or reduced after the shares are transferred, is to accrue to B (instead of to A).

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Adjustment of capital gains tax liability

- 7 (1) All such adjustments of capital gains tax are to be made, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of relief being obtained, or a gain accruing, under this Schedule.
- (2) In its application to an assessment made by virtue of this paragraph, section 86 of TMA 1970 (interest on overdue capital gains tax) has effect as if the relevant date were 31 January next following the tax year in which the assessment is made.

Interpretation etc

- 8 (1) In this Schedule—
- “bonus shares” means shares which are issued otherwise than for payment (whether in cash or otherwise);
 - “corresponding bonus shares”, in relation to any shares (“the original shares”), means bonus shares which are in the same company, of the same class, and carry the same rights as the original shares;
 - “SEIS relief” has the same meaning as in Part 5A of ITA 2007.
- (2) In this Schedule, references (however expressed) to an issue of shares in any company to an individual are to such of the shares in the company as are of the same class and are issued to the individual in one capacity and on the same day.
- This is subject to sub-paragraph (3).
- (3) If section 257AB(1) and (2) of ITA 2007 applies, in the case of any issue of shares made to an individual, as if part of the issue had been issued in a previous tax year, this Schedule has effect as if that part and the remainder were separate issues of shares (and that part had been issued on a day in the previous tax year).
- (4) Part 5A of ITA 2007 applies, for the purposes of this Schedule, to determine whether SEIS relief is attributable to any shares and, if so, the amount of relief so attributable.]

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