

Status: Point in time view as at 05/12/2005.

Changes to legislation: Taxation of Chargeable Gains Act 1992, SCHEDULE 7C is up to date with all changes known to be in force on or before 15 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 7C

RELIEF FOR TRANSFERS TO APPROVED SHARE PLANS

Textual Amendments

F1 Sch. 7C inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), s. 48(2), [Sch. 9](#)

Introductory

- 1 (1) A person (“the claimant”) who makes a disposal of shares (“the disposal”) to the trustees of the plan trust of [^{F2}a share incentive] plan (“the plan”) is entitled to claim relief under paragraph 5 if—
- (a) the conditions in paragraph 2 are fulfilled, and
 - (b) paragraph 3(1) or (2) applies.
- (2) Sub-paragraph (1) does not apply to a company that makes a disposal of shares.
- (3) In this paragraph the references to a disposal of shares include a disposal of an interest in shares.

Textual Amendments

F2 Words in Sch. 7C para. 1(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 220\(2\)](#) (with [Sch. 7](#))

Conditions relating to the disposal

- 2 (1) The first condition is that, at the time of the disposal, the plan is approved under [^{F3}Schedule 2 to ITEPA 2003].
- (2) The second condition is that the relevant shares meet the requirements in [^{F4}Part 4] of that Schedule (types of shares that may be [^{F5}awarded]) in relation to the plan.
- For this purpose that Part applies as if paragraph [^{F6}27(1)(a) and (c) and (2)] (listed shares and shares in a company under the control of a company whose shares are listed) were omitted.
- (3) The third condition is that, at any time in the entitlement period, the trustees hold, for the beneficiaries of the plan trust, shares in the relevant company that—
- (a) constitute not less than 10% of the ordinary share capital of the company, and
 - (b) carry rights to not less than 10% of—
 - (i) any profits available for distribution to shareholders of the company, and

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- (ii) any assets of that company available for distribution to its shareholders in the event of a winding up.
- (4) For the purposes of sub-paragraph (3), shares that have been appropriated to, or acquired on behalf of, an individual under the plan shall continue to be treated as held by the trustees of the plan trust for the beneficiaries of that trust until such time as they cease to be subject to the plan (within the meaning [F7 given by paragraph 97 of Schedule 2 to ITEPA 2003]).
- (5) The fourth condition is that, at all times in the proscribed period, there are no unauthorised arrangements under which the claimant or a person connected with him may be entitled to acquire (directly or indirectly) from the trustees of the plan trust any shares, or an interest in or right deriving from any shares.
- (6) For the purposes of this paragraph—
 “ordinary share capital” has the meaning given in section 832(1) of the Taxes Act;
 “the relevant company” means the company of whose share capital the relevant shares form part; and
 “the relevant shares” means the shares that are, or an interest in which is, the subject of the disposal.

Textual Amendments

- F3** Words in Sch. 7C para. 2(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 220(3)(a)** (with Sch. 7)
- F4** Words in Sch. 7C para. 2(2) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 220(3)(b)(i)** (with Sch. 7)
- F5** Word in Sch. 7C para. 2(2) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 220(3)(b)(ii)** (with Sch. 7)
- F6** Words in Sch. 7C para. 2(2) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 220(3)(b)(iii)** (with Sch. 7)
- F7** Words in Sch. 7C para. 2(4) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 6 para. 220(3)(c)** (with Sch. 7)

Reinvestment of disposal proceeds

- 3 (1) This sub-paragraph applies if the claimant obtains consideration for the disposal and, at any time in the acquisition period, all of the amount or value of the consideration is applied by him in making an acquisition of assets or an interest in assets (“replacement assets”) which—
- (a) are, immediately after the time of the acquisition, chargeable assets in relation to the claimant, and
- (b) are not shares in, or debentures issued by, the relevant company or a company which is (at the time of the acquisition) in the same group as the relevant company;
- but the preceding provisions of this sub-paragraph shall have effect without the words “, at any time in the acquisition period,” if the acquisition is made pursuant to an unconditional contract entered into in the acquisition period.

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- (2) This sub-paragraph applies if—
- (a) sub-paragraph (1) would have applied but for the fact that part only of the amount or value mentioned in that sub-paragraph is applied as there mentioned, and
 - (b) all the amount or value so mentioned except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal is so applied.
- (3) In sub-paragraph (1)(b)—
- “the relevant company” has the meaning given in paragraph 2(6); and
 - “group” shall be construed in accordance with section 170.

Provision supplementary to paragraphs 2 and 3

- 4 (1) This paragraph applies for the purposes of paragraphs 2 and 3.
- (2) The entitlement period is the period beginning with the disposal and ending on the expiry of 12 months beginning with the date of the disposal.
- (3) The acquisition period is the period beginning with the disposal and ending on the expiry of six months beginning with—
- (a) the date of the disposal, or
 - (b) if later, the date on which the third condition (set out in paragraph 2(3)) is first fulfilled.
- (4) The proscribed period is the period beginning with the disposal and ending on—
- (a) the date of the acquisition, or
 - (b) if later, the date on which the third condition (set out in paragraph 2(3)) is first fulfilled.
- (5) All arrangements are unauthorised unless they only allow shares to be appropriated to or acquired on behalf of an individual under the plan.

The relief

- 5 (1) Where the claimant is entitled to claim relief under this paragraph and paragraph 3(1) applies, he shall, on making a claim in the period of 2 years beginning with the acquisition, be treated for the purposes of this Act—
- (a) as if the consideration for the disposal were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him, and
 - (b) as if the amount or value of the consideration for the acquisition were reduced by the excess of the amount or value of the actual consideration for the disposal over the amount of the consideration which the claimant is treated as receiving under paragraph (a).
- (2) Where the claimant is entitled to claim relief under this paragraph and paragraph 3(2) applies, he shall, on making a claim in the period of 2 years beginning with the acquisition, be treated for the purposes of this Act—
- (a) as if the amount of the gain accruing on the disposal were reduced to the amount of the part mentioned in paragraph 3(2)(b), and

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- (b) as if the amount or value of the consideration for the acquisition were reduced by the amount by which the gain is reduced under paragraph (a) above.
- (3) Nothing in sub-paragraph (1) or (2) shall affect the treatment for the purposes of this Act of the other party to the disposal or of the other party to the acquisition.
- (4) The provisions of this Act fixing the amount of the consideration deemed to be given for a disposal or acquisition shall be applied before the preceding provisions of this paragraph are applied.

Dwelling-houses: special provision

- 6 (1) Sub-paragraph (2) applies where—
 - (a) a claim is made under paragraph 5,
 - (b) immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, any replacement asset was a chargeable asset in relation to the claimant,
 - (c) the asset is a dwelling-house or part of a dwelling-house or land, and
 - (d) there was a time in the period beginning with the acquisition and ending with the time when paragraph 5(1) or (2) falls to be applied such that, if the asset (or an interest in it) were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [^{F8}or civil partner].
- (2) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant.
- (3) Sub-paragraph (4) applies where—
 - (a) the provisions of paragraph 5(1) or (2) have been applied,
 - (b) any replacement asset which, immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, was a chargeable asset in relation to the claimant consists of a dwelling-house or part of a dwelling-house or land, and
 - (c) there is a time after paragraph 5(1) or (2) has been applied such that, if the asset (or an interest in it) were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [^{F9}or civil partner].
- (4) In such a case—
 - (a) the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly, but
 - (b) any gain treated as accruing in consequence of the application of paragraph (a) shall be treated as accruing at the time mentioned in sub-paragraph (3)(c) or, if there is more than one such time, at the earliest of them.
- (5) Sub-paragraph (6) applies where—
 - (a) a claim is made under paragraph 5,
 - (b) immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, any replacement asset was a chargeable asset in relation to the claimant,

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- (c) the asset was an option to acquire (or to acquire an interest in) a dwelling-house or part of a dwelling-house or land,
 - (d) the option has been exercised, and
 - (e) there was a time in the period beginning with the exercise of the option and ending with the time when paragraph 5(1) or (2) falls to be applied such that, if the asset acquired on exercise of the option were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [^{F10}or civil partner].
- (6) In such a case the option shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant.
- (7) Sub-paragraph (8) applies where—
- (a) the provisions of paragraph 5(1) or (2) have been applied,
 - (b) any replacement asset which, immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, was a chargeable asset in relation to the claimant consisted of an option to acquire (or to acquire an interest in) a dwelling-house or part of a dwelling-house or land,
 - (c) the option has been exercised, and
 - (d) there is a time after paragraph 5(1) or (2) has been applied such that, if the asset acquired on exercise of the option were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse [^{F11}or civil partner].
- (8) In such a case—
- (a) the option shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly, but
 - (b) any gain treated as accruing in consequence of the application of paragraph (a) shall be treated as accruing at the time mentioned in sub-paragraph (7)(d) or, if there is more than one such time, at the earliest of them.
- (9) References in this paragraph to an individual include a person entitled to occupy under the terms of a settlement.

Textual Amendments

- F8** Words in Sch. 7C para. 6(1)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **129**
- F9** Words in Sch. 7C para. 6(3)(c) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **129**
- F10** Words in Sch. 7C para. 6(5)(e) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **129**
- F11** Words in Sch. 7C para. 6(7)(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **129**

Shares: special provision

- 7 (1) Sub-paragraph (2) applies where—

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- (a) a claim is made under paragraph 5,
 - (b) immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, any replacement asset was a chargeable asset in relation to the claimant,
 - (c) the asset consists of shares, and
 - (d) relief is claimed under Chapter III of Part VII of the Taxes Act (enterprise investment scheme) at any time in the period beginning with the acquisition and ending when paragraph 5(1) or (2) falls to be applied.
- (2) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant.
- (3) Sub-paragraph (4) applies where—
- (a) the provisions of paragraph 5(1) or (2) have been applied,
 - (b) any replacement asset which, immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, was a chargeable asset in relation to the claimant consists of shares, and
 - (c) at any time after paragraph 5(1) or (2) has been applied relief is claimed in respect of the asset under Chapter III of Part VII of the Taxes Act (enterprise investment scheme).
- (4) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly.

Meaning of “chargeable asset”

- 8 For the purposes of this Schedule an asset is a chargeable asset in relation to the claimant at a particular time if, were the asset to be disposed of at that time, any gain accruing to him on the disposal would be a chargeable gain, and either—
- (a) at that time he is resident or ordinarily resident in the United Kingdom, or
 - (b) he would be chargeable to capital gains tax under section 10(1) (non-resident with United Kingdom branch or agency) in respect of the gain,
- unless (were he to dispose of the asset at that time) the claimant would fall to be regarded for the purposes of any double taxation relief arrangements as not liable in the United Kingdom to tax on any gains accruing to him on the disposal.]

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