

SCHEDULES

SCHEDULE 7

ENTERPRISE INVESTMENT SCHEME

PART 2

ENTERPRISE INVESTMENT SCHEME: CHARGEABLE GAINS

Introduction

26 TCGA 1992 is amended as follows.

Disposal of shares to which EIS relief is attributable

27 In section 150A (disposal of shares to which EIS relief is attributable)—
(a) in subsection (3), in paragraph (b) for “basic rate” substitute “EIS original rate”, and
(b) after that subsection insert—

“(3A) In subsection (3) “EIS original rate” has the meaning given by section 256A of ITA 2007, except that where the year mentioned in subsection (3)(b) is the tax year 2007-08 or an earlier year, it means 20%.”

28 Accordingly, in Schedule 1 to FA 2008, paragraph 48 is repealed.

Maximum annual investment

29 In paragraph 1 of Schedule 5B to the TCGA 1992 (EIS re-investment relief: application of Schedule), in sub-paragraph (2)(da), for “£2 million” substitute “£5 million”.

No disqualifying arrangements

30 After paragraph 11 insert—

“Disqualifying arrangements

11A (1) Where an individual subscribes for eligible shares (“the shares”) in a company (“the company”), the shares are to be treated as not being eligible shares for the purposes of this Schedule if the shares are issued, nor any money raised by the issue employed, in consequence or anticipation of, or otherwise in connection with, disqualifying arrangements.

(2) Arrangements are “disqualifying arrangements” if—

Status: This is the original version (as it was originally enacted).

- (a) the main purpose, or one of the main purposes, of the arrangements is to secure—
 - (i) that a qualifying business activity is or will be carried on by the company or a qualifying 90% subsidiary of the company, and
 - (ii) that one or more persons (whether or not including any party to the arrangements) may obtain relevant tax relief in respect of shares issued by the company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a venture capital trust,
 - (aa) that activity is the relevant qualifying business activity, and
 - (b) one or both of conditions A and B are met.
- (3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the shares being employed as required by paragraph 1(2)(g), an amount representing the whole or the majority of the amount raised is, in the course of the arrangements, paid to or for the benefit of a relevant person or relevant persons.
- (4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the whole or greater part of the component activities of the relevant qualifying business activity would have been carried on as part of another business by a relevant person or relevant persons.
- (5) For the purposes of this paragraph, it is immaterial whether the company is a party to the arrangements.
- (6) In this paragraph—
- “component activities” means—
 - (a) if the relevant qualifying business activity is activity A (see section 179(2) of ITA 2007), the carrying on of a qualifying trade, or preparing to carry on such a trade, which constitutes that activity, and
 - (b) if the relevant qualifying business activity is activity B (see section 179(4) of that Act), the carrying on of research and development which constitutes that activity;
 - “qualifying holdings”, in relation to the issuing company, is to be construed in accordance with section 286 of ITA 2007 (VCTs: qualifying holdings);
 - “qualifying 90% subsidiary” has the meaning given by section 190 of ITA 2007;
 - “relevant person” means a person who is a party to the arrangements or a person connected with such a party;
 - “relevant qualifying business activity” means the activity for the purposes of which the issue of the shares raised money;
 - “relevant tax relief”, in respect of shares, means one or more of the following—
 - (a) relief under this Schedule in consequence of which deferral relief is attributable to the shares;

Status: This is the original version (as it was originally enacted).

- (b) relief under section 150A or 150E (enterprise investment scheme or seed enterprise investment scheme) in respect of the shares;
- (c) relief under Schedule 5BB (seed enterprise investment scheme: re-investment) in consequence of which SEIS re-investment relief is attributable to the shares (see paragraph 4 of that Schedule);
- (d) relief under Chapter 6 of Part 4 of ITA 2007 (losses on disposal of shares) in respect of the shares;
- (e) EIS relief (within the meaning of Part 5 of that Act) in respect of the shares;
- (f) SEIS relief (within the meaning of Part 5A of that Act) in respect of the shares.”

Information

- 31 In paragraph 16 (information)—
- (a) in sub-paragraph (6), for “or 11(1)” substitute “, 11(1) or 11A”,
 - (b) in sub-paragraph (7), omit the “and” at the end of paragraph (b) and after that paragraph insert—
 - “(ba) in relation to paragraph 11A, the claimant, the company, any person controlling the company and any person whom an officer of Revenue and Customs has reason to believe may be a party to the arrangements in question; and”, and
 - (c) in that sub-paragraph, for “and (b)” substitute “, (b) and (ba)”.

Meaning of “arrangements”

- 32 In paragraph 19 (interpretation), in sub-paragraph (1) for the definition of “arrangements” substitute—
- ““arrangements” includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable);”.

Commencement

- 33 (1) The amendment made by paragraph 29 comes into force on such day as the Treasury may by order appoint.
- (2) That amendment has effect in relation to shares issued on or after 6 April 2012.
- 34 (1) The amendments made by paragraphs 27, 28, 30 and 31 have effect in relation to shares issued on or after 6 April 2012.
- (2) For the purposes of those paragraphs it does not matter whether the disqualifying arrangements were entered into before or on or after that date.
- 35 The amendment made by paragraph 32 is treated as having come into force on 6 April 2012.