

Amendments to Clause 75 and Schedule 13: Entrepreneurs' relief: "trading company" and "trading group"

Summary

1. Clause 75 and Schedule 13 amend the definitions of a trading company and a trading group which apply for the purposes of capital gains tax entrepreneurs' relief (ER). They allow activities of a joint venture company or a partnership to be taken into account in deciding whether a shareholder or partner company is a trading company.
2. This amendment changes the provision which determines when the new rules come into effect in order to ensure that no-one entitled to ER under the rules at section 43 of the Finance Act 2015 will lose that entitlement as a result of clause 75 and schedule 13.

Details of the amendments

3. Amendment 36 is to make clear that the new rules introduced by Clause 75 and Schedule 13 wholly supersede subsection (4A) of section 169S of the Taxation of Chargeable Gains Act 1992. (Subsection (4A) of section 169S was introduced by section 43 Finance Act 2015).
4. Amendment 37 ensures that the effect of amendment 7 is not compromised by the commencement provision as it applies generally to Schedule 13.
5. Amendment 38 is to make clear that the changes made by Schedule 13 do not affect the trading or non-trading status of a company on any date before 18 March 2015.

Background note

6. Clause 75 and schedule 13 allow ER to be claimed in a number of commercial situations where relief ceased to be available as a result of the changes to section 169S TCGA 1992 introduced by section 43 of the Finance Act 2015.
7. The Finance Act 2015 changes prevented certain abuses involving ER, but they also limited the availability of relief on some disposals of shares where the shareholder had made a genuine indirect investment in a trading business carried on by a joint venture company.
8. The intention announced at Budget was that the changes made by clause 75 and schedule 13 should be backdated to the introduction of the Finance Act 2015 changes in order to reduce the unintended effects of the earlier changes. These amendments give effect to that intention.
9. The amendments ensure that no-one entitled to ER under the rules at section 43 Finance Act 2015 rules will lose that entitlement as a result of the changes made by clause 75 and schedule 13.