

Amendments to Clause 76 and Schedule 14: Investors' Relief

Summary

1. Clause 76 and Schedule 14 introduce investors' relief. This new relief applies a 10% rate of Capital Gains Tax (CGT) to gains accruing on the disposal of qualifying shares in an unlisted trading company held by individuals.
2. These amendments extend the scope of the relief to apply to trustees of a settlement and shares jointly subscribed for by two or more individuals. They also allow investors who become unpaid directors to qualify for investors' relief in certain circumstances.
3. The amendments also ensure that in the case of trusts the amount of investors' relief available is attributed to and deducted from a qualifying beneficiary's own individual lifetime limit of £10 million.

Details of the amendments

4. Amendments 39, 41, 43, 44 and 50 taken as a group ensure that:
 - disposals of interests in shares by individuals who have jointly subscribed for shares with other individuals, and
 - disposals of shares by the trustees of a settlement,potentially qualify for investors' relief, subject to the £10 million lifetime cap on qualifying gains.
5. Amendment 40 deletes new section 169VA(6), which explained that there was a cap on the amount of available investors' relief. It introduces new subsections 169VA(6) to (6C). These subsections explain that new sections:
 - 169VGA to 169VGB make special provisions for disposals by trustees of a settlement.
 - 169VGC makes provision about disposals of certain interests in shares.
 - 169VGD to 169 VGE provide for a cap on the amount of investors' relief that can be claimed by individuals and trustees of settlements.
 - 169VGF provides for claims for investors' relief.
6. Amendment 42 deletes existing subsection 169VB(2)(g). It provides that a share can be a qualifying share if the investor, or a person connected to the investor, was not a relevant employee for the purposes of new section 169VQA at any time during the three year qualifying period.

7. Amendments 45 to 48 taken as a group, clarify how to determine the number of shares which qualify for investors' relief, when a disposal is made that consists of a mixture of qualifying and non-qualifying shares.
8. Amendment 49 is a clarifying amendment. It is intended to make clear that the reference in new section 169VE to section 169VC(1) applies only to subsection 169VC(1)(a).
9. Amendment 51 deletes new section 169VH, which limited the amount of investors' relief available to individuals. It inserts new sections 169VGA to 169VGF which specify the amount of relief available to individuals and trustees of a settlement.
10. New section 169VGA provides that where there is a disposal of qualifying shares by the trustees of a settlement, the disposal is only eligible for investors' relief where there is at least one individual, "an eligible beneficiary", who has had an interest in possession of the qualifying shares for the three years preceding the disposal and has not been an relevant employee of the company that issued the shares.
11. New section 169VGB provides that where there is a disposal of qualifying shares by the trustees of a settlement and there are two or more persons who have an interest in the shares, each of whom individually would satisfy the requirements of new section 169VGA, the gain should be divided between them in accordance with their beneficial interest.
12. New section 169VGC provides that disposals by an individual of an interest in a holding of qualifying shares, or of a holding of shares that are held jointly, can qualify for investors' relief.
13. New section 169VGD provides for an upper limit on the total gains accruing to an individual during his or her lifetime which may be charged at the 10% rate of CGT under investors' relief. Relief can be claimed in respect of any number of gains accruing in tax year 2019-20 or later years, but the total gains eligible for investors' relief may not exceed £10 million.
14. New section 169VGE provides for a limit where gains accrue to the trustees of a settlement. Any relief claimed comes out of the £10 million limit of the eligible beneficiary. Where there is more than one beneficiary then the gain is apportioned, in accordance with new section 169VGB, and relief is deducted from each eligible beneficiary's individual lifetime limit. This means that should a beneficiary have exhausted their own lifetime limit, then in respect of that portion of the gain, no investors' relief is available.
15. New section 169VGF explains who must make the claim to investors' relief and provides that any claim for relief must be made on or before the first anniversary of the 31 January following the tax year in which the disposal is made.
16. Amendments 52 to 57 amend section 169VN. They clarify the rules for share exchanges.
17. Amendment 58 provides that when an election to disapply section 127 is made, following a reorganisation, the election must be made either by the individual or, where the gain accrues to the trustees of a settlement, by the trustees and the eligible beneficiary or beneficiaries (if there is more than one) jointly
18. Amendments 59 and 60 ensure that for the purposes of new section 169VP, certain terms are consistent with the rest of the TCGA.
19. Amendment 61 ensures that any reference to a person having subscribed for a share includes

a person who has subscribed for a share jointly with another person (and makes similar provision in relation to the holding of a share by, and its issue to, a person).

20. Amendment 62 adds new sections 169VOA to 169VOB. These sections ensure that certain officers and employees of the company can benefit from IR. They are primarily, but not exclusively, aimed at business angels. Business angels tend to be entrepreneurial individuals who in return for an investment in a company become closely involved in its growth and development.
21. Generally a person who is an officer or employee of the issuing company or connected company is unable to qualify for investors' relief. New section 169VOA provides that this exclusion does not apply if they are a "relevant employee". A relevant employee is a person who (i) becomes an "unremunerated director" of the company, or connected company, following the purchase of an issue of qualifying shares, or (ii) becomes an employee of the company after 180 days of the share issue, or where there was no reasonable prospect that the person would become an employee at the time of the share issue.
22. New section 169VOB defines unremunerated director. The conditions provide that the investing person must never have been involved with the issuing company before their investment and that they must not have received disqualifying payments. A disqualifying payment is any payment other than those specifically allowed. Amongst other things these include reimbursements of travelling expenses, dividends which do not exceed the normal return and certain services.
23. Amendment 63 provides a definition of "employee" for the purposes of the Chapter.
24. Amendment 64 reflects the new location of the definition of "qualifying person" within section 169VC.
25. Amendments 65 to 68 amend new Schedule 7ZB, Paragraph 1. They clarify the rules concerning receipts of insignificant value received by an investor during the period of restriction. The amendments make clear that each receipt of insignificant value received during the period of restriction must be aggregated for each subsequent issue of shares and should not be disregarded, even if they have been previously aggregated.

Background note

26. Entrepreneurs' relief applies, subject to certain conditions, a 10% rate of CGT to gains accruing on qualifying business disposals. The new investor's relief complements entrepreneurs' relief by extending the 10% rate of CGT to gains accruing on the disposal of certain qualifying shares held by investors in an unlisted company who generally have had no connection with the company. The qualifying shares must:
 - Be new, having been acquired by the person making the disposal on subscription for new consideration.
 - Have been issued by the company on or after 6 April 2016.
 - Be in an unlisted trading company, or unlisted holding company of a trading group.

- Have been held continually for a period of three years before disposal.
27. The gains qualifying for the relief are subject to a lifetime limit of £10 million for each claimant. This is separate from the existing lifetime limit that applies to disposals that qualify for entrepreneurs' relief.
 28. The government wants to create a strong enterprise and investment culture, and ensure that companies can access the capital they need to expand and create jobs. Extending the 10% rate of CGT to external investors in this way will provide a financial incentive for individuals to invest in unlisted trading companies over the long term.