

## **EXPLANATORY NOTE**

### **SEIS REINVESTMENT RELIEF**

#### **SUMMARY**

1. Part [ ] of Schedule [ ] (paragraphs [1] to [3]) provides for “SEIS reinvestment relief”, an additional relief under the Seed Enterprise Investment Scheme (SEIS). Subject to meeting conditions, this relief is, broadly, an exemption from capital gains tax (CGT) that individuals may claim where they realise capital gains on disposals of assets in the tax year 2012-13 and in the same year make investments that qualify for the main “SEIS relief” from income tax. The maximum exemption of £100,000 of gains corresponds to the maximum investment that can qualify for SEIS income tax relief in 2012-13.

#### **DETAILS OF THE PART OF THE SCHEDULE**

2. Paragraph [1] of the Schedule inserts a new section 150G into the Taxation of Chargeable Gains Act 1992 (TCGA). Section 150G introduces Schedule 5BB to the TCGA, which provides the SEIS reinvestment relief.
3. Paragraph [2] inserts new Schedule 5BB into the TCGA – see paragraphs [5] to [16] below.
4. Paragraph [3] amends Schedule 5B TCGA. Schedule 5B allows individuals to defer the time at which gains on disposals of assets become liable to CGT where they invest in shares under the terms of the main Enterprise Investment Scheme (EIS). The amendments made by paragraph [3] ensure that both EIS deferral and SEIS reinvestment relief cannot be claimed in respect of the same expenditure.

#### *New Schedule 5BB TCGA*

5. Paragraph 1 of Schedule 5BB sets out the conditions for relief and the amount of relief available.
6. Paragraph 1(2) to (4) sets out three conditions for relief:
  - A. An individual must realise a gain on a disposal of an asset in the tax year 2012-13.
  - B. The individual must make an investment that qualifies for “SEIS relief” from income tax, and claim that relief.

C. The individual must claim SEIS reinvestment relief in respect of the amount on which the “SEIS relief” is claimed.

7. Paragraph 1(5) to (7) sets out the amount of SEIS reinvestment relief. Paragraph 1(5) sets the amount on which SEIS relief is claimed (“the SEIS expenditure”) against the gain on the disposal of the asset. Paragraph 1(6) provides that the amount of the gain that has the SEIS expenditure set against it is not liable to CGT. Paragraph 1(7) restricts the SEIS expenditure where there is also a claim to EIS deferral relief.
8. Paragraph 2 of Schedule 5BB restricts the amount of SEIS reinvestment relief that is given under paragraph 1 in two circumstances.
9. Paragraph 2(1) and (2) applies where the amount invested under SEIS exceeds the maximum amount of £100,000 on which an individual can obtain income tax relief in any one tax year. In this circumstance the SEIS reinvestment relief is capped at the amount on which SEIS relief is due, applying the formula in sub-paragraph (2).
10. Paragraph 2(3) and (4) applies where SEIS relief is restricted before the claim to SEIS reinvestment relief is made. In this case the maximum amount on which SEIS reinvestment relief can be claimed is restricted by a similar amount, under the formula in sub-paragraph (4).
11. Paragraph 2(5) gives the order in which the two restrictions in paragraph 2 are to be applied in cases where they both apply.
12. Paragraph 3 of Schedule 5BB sets the time limit for claiming SEIS reinvestment relief as the same as the limit that applies for claims to SEIS relief. The paragraph also makes clear that claims to SEIS reinvestment relief may be made before effect is given to the claim for SEIS relief on which the SEIS reinvestment relief claim depends.
13. Paragraph 4 of Schedule 5BB treats the amount on SEIS reinvestment relief is given as spread (‘attributed’) equally across all the shares in respect of which the claim to relief is made. This is required in order to be able to recover the correct amount of relief, should this become necessary, under paragraph 5 or 6 of Schedule 5BB, see below).
14. Paragraph 5 of Schedule 5BB applies where the SEIS relief attributed to shares is withdrawn or reduced so that the SEIS reinvestment relief attributed is also withdrawn or reduced in the same proportion. For example, if the SEIS relief were reduced by 60% the SEIS reinvestment relief will also be reduced by 60%. Where this happens paragraph 5(2) makes the individual who made the investment liable to CGT for the tax year 2012-13 on a chargeable gain of the

appropriate amount. Where paragraph 5 applies, the amount of SEIS reinvestment relief attributable to the shares in question, subparagraphs (4) and (5) reduce the amount of SEIS reinvestment relief remaining attributable to the shares by a corresponding amount.

15. Paragraph 6 of Schedule 5BB modifies the effect of paragraph 5 in cases where the investor in shares to which SEIS reinvestment relief is attributable transfers some or all of the shares to their husband or wife or civil partner, and that transfer does not itself lead to relief being withdrawn. Where SEIS reinvestment relief is withdrawn or reduced after the transfer, a gain is charged to CGT on the transferee spouse or civil partner in respect of the shares which they hold, and the amount of the gain charged on the original investor is based on only the shares they still hold.
16. Paragraphs 7 and 8 of Schedule 5BB make supplementary provision. Paragraph 7 permits all necessary adjustments to be made to give effect to claims or charges under the Schedule, notwithstanding the normal time limits for amending or making assessments to CGT. Paragraph 8 defines various terms in Schedule 5BB.

#### **BACKGROUND NOTE**

17. Draft legislation and an explanatory note for the main provisions of the Seed Enterprise Investment Scheme (SEIS) on 6 December 2011 [<http://www.hmrc.gov.uk/budget-updates/06dec11/fb2012-pt.pdf>].
18. The proposal to introduce a CGT exemption for gains realised in 2012-13 and then invested through SEIS in the same year was announced in the autumn statement on 29 November 2011 [<http://www.hmrc.gov.uk/budget-updates/06dec11/seed-enterp-invest-sch.pdf>].
19. If you have any comments on queries on the SEIS reinvestment relief, email [capitalgains.taxteam@hmrc.gsi.gov.uk](mailto:capitalgains.taxteam@hmrc.gsi.gov.uk) or telephone Colin Weston on 020 7147 0127.