

CGT Deferral Relief

Tax on gains realised on a different asset can be deferred whilst the EIS qualifying shares and in some circumstances indefinitely, where disposal of that asset was less than 36 months before the EIS investment or less than 12 months after it. Deferral relief is **unlimited** and can also be claimed by investors (individuals or trustees) whose interest in the company exceeds 30%.

There is a 4 year window for reinvesting to defer a gain and that period may also be described as the period which begins one year before that gain that is to be deferred arises and ends 3 years after the accrual time.

There are various circumstances in which a chargeable event may occur relating to the deferred gain resulting in the gain becoming chargeable, and individuals and trustees should seek advice about the events which would trigger the withdrawal of relief.

Worked Example

Where an individual has a chargeable capital gain within the three years before or one year after a subscription has been made for ordinary shares in an EIS company or fund, a claim may be made to defer the assessment of that chargeable gain, or any part of it. The amount of the gains that may be held over has no maximum and is limited only by the amount subscribed for ordinary shares in an EIS qualifying company. Gains may be deferred until the EIS qualifying shares are disposed of or, if earlier, when other events trigger withdrawal of the deferral relief. Once the shares in the EIS Company or fund have been sold, the deferred gain will fall back into charge to Capital Gains Tax in the year of disposal.

If the shares against which the gains are deferred are held until death, the deferred gain is **never chargeable**, so the deferral is indefinite.

NB In the examples that follow, it is assumed the investor is liable to capital gains tax ("CGT") at the rate of 28%.

Example - £100,000 capital gain invested, assuming income tax relief is also claimed

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| Initial Investment | £100,000 April 2011 |
| Less income tax relief @ 30% | (£30,000) |
| Capital Gains Deferral | (£28,000) |
| Net cash outlay for investment | £42,000 |
| Shares Sold August 2014 | |
| Hypothetical Value of Investment | £160,000 |

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| Chargeable gain | £0 – tax free if held for more than 3 years from issue or commencement of trade if later |
| Deferred gain from 2007/2008 becomes chargeable 2013/2014 | £100,000 |
| Tax payable at 28% | (£28,000) |

*Assuming current rates apply and annual CGT exemptions already utilised.

Those considering deferring capital gains should take professional advice, because of the potential to increase the actual tax payable.