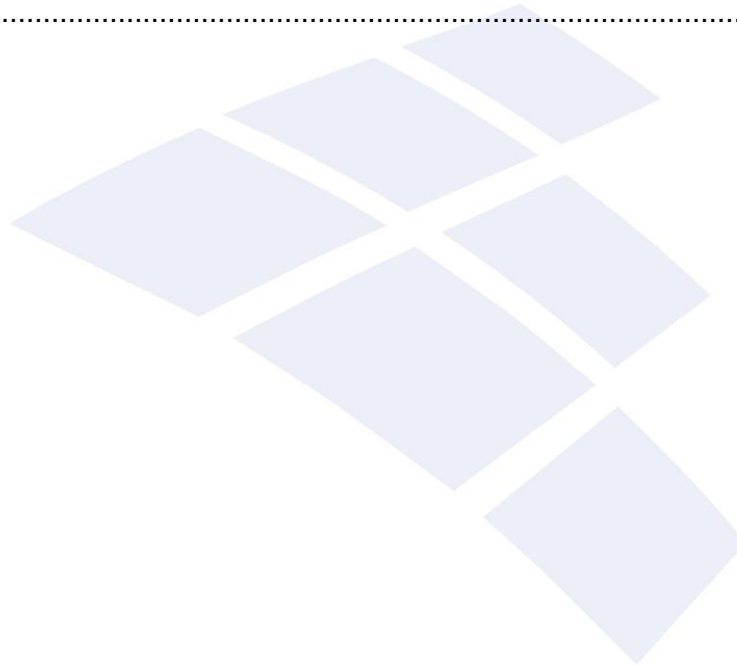


Business Investment Relief

FOR RESIDENT NON-DOMICILES

CONTENTS

| | |
|--|---|
| PURPOSE..... | 2 |
| CONDITIONS..... | 2 |
| LIMITS ON THE AMOUNT OF RELIEF..... | 2 |
| TARGET COMPANY..... | 3 |
| APPROPRIATE STEPS & GRACE PERIODS..... | 4 |
| HOW WE CAN HELP..... | 4 |



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Purpose

Business Investment Relief is designed to allow a person claiming the remittance basis, to bring foreign income and gains to the UK without it being taxed as a remittance.

This is to help prevent any negative impact on investment in UK businesses by those claiming the remittance basis.

In order to qualify for Business Investment Relief, certain conditions must be met.

Conditions

- 1) The investment must be made in a target company (see below)
- 2) The investment must be made in the form of either shares in, or a loan to the target company.
- 3) The investment must be made within 45 days of the foreign income or gains being brought to the UK.
- 4) The investor nor any 'relevant person' may extract any value as a result of the investment, either directly or indirectly.
- 5) On a potentially chargeable event, the investment must be removed from the UK, or reinvested within 45 days.

Limits on the amount of relief

The amount of Business Investment Relief which can be claimed by an individual is unlimited, as long as the above conditions are met.

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Target company

The target company must be a private limited company, not listed on a recognised stock exchange. Furthermore, the target company must be one of the following:

- 1) A company carrying on a commercial trade or preparing to do so within 5 years.
Carrying on a commercial trade must be substantially all of what the target company does.
HMRC usually considers substantial to mean at least 80%.
- 2) A company which holds one or more investments in in companies that carry on a commercial trade.
- 3) A company which both carries on a commercial trade and also holds investments in one or more companies carrying on a commercial trade.

Potentially chargeable event

Business Invest Relief will be withdrawn where a potentially chargeable event occurs and the appropriate steps are not taken within the specified grace periods.

If Business Investment Relief is withdrawn, the foreign income & gains used to make the investment will become a taxable remittance.

HMRC have listed the following as potentially chargeable events:

- 1) The relevant person who made the investment disposes of all or part of the investment.
- 2) The company in which the investment was made ceases to qualify.
- 3) The 5 year start up rule is breached.
- 4) The extraction of value rule is breached.

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Appropriate steps & Grace periods

If the relevant person disposes of all or part of the investment, they have 45 days to take the disposal proceeds offshore or reinvest them in another qualifying target company.

Where the target company ceases to qualify, the investor has 90 days to dispose of the investment. They then have 45 days to either take the disposal proceeds offshore or reinvest in another qualifying target company.

If the 5 year start up rule is breached, the investor has 2 years to dispose of the holding and to either take the disposal proceeds offshore or to reinvest them into another qualifying target company.

If the extraction of value rule is breached, the investor has 90 days to dispose of the investment. Then, 45 days to either take the disposal proceeds offshore or reinvest them in another qualifying investment.

If you believe a potentially chargeable event has occurred, it is advisable to seek advice immediately. Should the money not be required in the UK, it is usually advisable to either take the funds offshore or reinvest them so that a tax charge does not crystallize.

How we can help

We have advised multiple clients on Business Invest Relief. If you have any questions about the relief or believe that you may be able to benefit from the relief, please do contact us. Our team will be happy to explore how we can help you.

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