

FINANCE (NO. 2) ACT 2010

EXPLANATORY NOTES

Section 2 Schedule 1: Rates of Capital Gains Tax

Details of the Schedule

Amendments to Finance Act (FA) 2008

22. When entrepreneurs' relief was introduced in FA 2008 there were a number of transitional provisions which enabled entrepreneurs' relief to be claimed in respect of certain deferred gains that arose before 6 April 2008. In relation to both gains deferred as a result of an exchange of shares for loan notes, and gains deferred by investment in EIS shares or shares in a venture capital trust (VCT shares), it was possible to claim entrepreneurs' relief on the first occasion on or after 6 April 2008 when all or part of the deferred gain came into charge. Where such a claim was made, the whole of the deferred gain that had not come in to charge before 6 April 2008 was reduced by 4/9.
23. Paragraphs 10 and 11 amend those transitional provisions following the change to the way in which entrepreneurs' relief is given. They have effect in cases where none of the gains deferred as at 6 April 2008 has come into charge between 6 April 2008 and 22 June 2010, so that no claim for entrepreneurs' relief can have been made in respect of those gains.
24. Paragraph 10 applies where gains were deferred before 6 April 2008 in respect of an exchange of shares for QCBs. When any part of the deferred gain comes into charge on or after 23 June 2010, because of a disposal of all or some of the QCBs at that time, a claim for entrepreneurs' relief in respect of the deferred gain can be made under the transitional provisions in Schedule 3 to FA 2008. Where such a claim is made (and the other conditions for the relief were satisfied at the time of the exchange), the deferred gains are charged at the entrepreneurs' relief rate of 10 per cent. This revised rule applies where the first disposal of QCBs since 6 April 2008 takes place on or after 23 June 2010 (paragraph 16).
25. Paragraph 11 applies where gains arising before 6 April 2008 were deferred against investment in EIS shares or VCT shares. Where all or part of that gain comes into charge on or after 23 June 2010 because a "chargeable event" (see paragraph 19 above) takes place on or after that date, a claim for entrepreneurs' relief in respect of the deferred gain may be made under the transitional provisions of Schedule 3 to FA 2008. Where such a claim is made (and the other conditions for the relief were satisfied at the time the gain arose), the deferred gain is charged at the entrepreneurs' relief rate of 10 per cent. This revised rule applies where the first chargeable event since 6 April 2008 takes place on or after 23 June 2010 (paragraph 17).
26. If a claim under the FA 2008 transitional rules has been made because a disposal of QCBs (in relation to the rules in respect of exchanges of shares for QCBs) or a chargeable event (in relation to a deferral against investment in EIS shares or VCT shares) took place between 6 April 2008 and 22 June 2010, any part of the deferred gain that qualified for entrepreneurs' relief and has not come into charge before 23 June 2010 will have been reduced by 4/9. When that reduced gain comes into charge on or

*These notes refer to the Finance (No. 2) Act 2010
(c.31) which received Royal Assent on 27 July 2010*

after 23 June 2010, the reduced gain will be charged at the “new” rate of 18 per cent or 28 per cent.