
STATUTORY INSTRUMENTS

2012 No. 1898

INCOME TAX

The Business Investment Relief Regulations 2012

<i>Made</i>	- - - -	<i>18th July 2012</i>
<i>Laid before the House of Commons</i>	- - - -	<i>19th July 2012</i>
<i>Coming into force</i>	- -	<i>10th August 2012</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 809VJ(4) and (5) of the Income Tax Act 2007⁽¹⁾:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Business Investment Relief Regulations 2012 and shall come into force on 10th August 2012.

(2) These Regulations have effect in relation to qualifying investments made on or after 6 April 2012.

Circumstances in which grace period may be extended

2. The grace period allowed for an appropriate mitigation step by section 809VJ of the Income Tax Act 2007 may be extended by an officer of Revenue and Customs if regulation 3 or 4 applies.

Lock-up agreements

3.—(1) This regulation applies if conditions 1 and 2 are met.

(2) Condition 1 is that—

- (a) the target company has ceased to be a private limited company by virtue of having some or all of its shares listed on a recognised stock exchange; or
- (b) (i) the target company has become a subsidiary of another company (“the new company”); and
(ii) the new company is a body corporate some or all of whose shares are listed on a recognised stock exchange (or are to be so listed).

(3) Condition 2 is that P is unable to comply with an appropriate mitigation step without breaching the terms of a lock-up agreement.

(1) 2007 c. 3. Section 809VJ was inserted by paragraph 7 of Schedule 12 to the Finance Act 2012 c. 14.

- (4) For the purposes of this regulation “lock-up agreement” means a contract—
- (a) entered into by P with one or more relevant parties which is directly related to the listing of shares in the target company or, as the case may be, the new company, on a recognised stock exchange; and
 - (b) that imposes restrictions on the time or manner in which P may—
 - (i) dispose of some or all of P’s holding in the target company; or
 - (ii) dispose of some or all of any shares in the new company received by P in return for P’s holding in the target company.
- (5) For the purposes of this regulation “relevant party” means—
- (a) the target company;
 - (b) the new company;
 - (c) professional advisors retained by the target company or the new company in relation to the listing of the shares of the target company (or, as the case may be, the shares of the new company) on a recognised stock exchange.

Statutory and legal bars

4. This regulation applies if—
- (a) P is prevented from taking an appropriate mitigation step by a prohibition imposed by or under any enactment; or
 - (b) the taking of an appropriate mitigation step by P would breach the terms of an order imposed by any court.

Mike Eland
Dave Hartnett
Two of the Commissioners for Her Majesty’s
Revenue and Customs

18th July 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 809VA to 809VO of the Income Tax Act 2007 (ITA 2007), as inserted by Schedule 12 to the Finance Act 2012, provide for the introduction of the business investment relief. A qualifying investment (as defined in section 809VC ITA 2007), or money or other property brought to the UK to make such an investment, will not be treated as a taxable remittance under Chapter A1 of Part 14 of ITA 2007 as long as certain conditions are met.

An individual who makes a qualifying investment must take appropriate mitigation steps (as defined in section 809VI ITA 2007) where a potentially chargeable event (as defined in section 809VH ITA 2007) occurs in relation to that investment. Failure to take such steps within the grace period (as defined in section 809VJ ITA 2007) will trigger a taxable remittance.

Section 809VJ(4) ITA 2007 provides that an officer of Revenue and Customs may agree in a particular case to extend the grace period allowed for an appropriate mitigation step in circumstances specified in regulations made by the Commissioners for Her Majesty's Revenue and Customs.

These Regulations prescribe the circumstances in which the grace period may be extended. They come into force on 10 August 2012 and have effect in relation to qualifying investments made on or after 6 April 2012.

A Tax Information and Impact Note covering this instrument was published on 6 December 2011 alongside draft Finance Bill 2012 clauses and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm> . It remains an accurate summary of the impacts that apply to this instrument.