
Changes to legislation: Finance Act 1994, Cross Heading: Clawback is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 11

EXTENSION OF ROLL-OVER RELIEF ON RE-INVESTMENT

Clawback

- 9 (1) In section 164F—
- (a) for subsection (1) there is substituted—

“(1) This section shall apply where a person has acquired any eligible shares in a qualifying company (“the acquired holding”) for a consideration which is treated as reduced, under section 164A or this section, by any amount (“the held-over gain”)”,
 - (b) in subsection (3), for the words from “either” to the end of paragraph (b) there is substituted “charged on any disposal or under this section”,
 - (c) for subsection (4) there is substituted—

“(4) For the purposes of this section the whole or a part of any held-over gain on the acquisition of the acquired holding shall be treated—

 - (a) in accordance with subsection (4A) below as charged on any disposal in relation to which the whole or any part of the held-over gain falls to be taken into account in determining the chargeable gain or allowable loss accruing on the disposal, and
 - (b) as charged under this section so far as it falls to be disregarded in accordance with subsection (11) below.

(4A) In the case of any such disposal as is mentioned in subsection (4)(a) above, the amount of the held-over gain charged on that disposal—

 - (a) shall, except in the case of a part disposal, be the amount taken into account as so mentioned, and
 - (b) in the case of a part disposal, shall be calculated by multiplying the following, that is to say—
 - (i) so much of the amount of the held-over gain as has not already been charged on a previous disposal, and
 - (ii) the fraction used in accordance with section 42(2) for determining, subject to any deductions in pursuance of this Chapter, the amount allowable as a deduction in the computation of the gain accruing on the disposal in question”,
 - (d) in subsection (5)—
 - (i) in paragraph (a) “or 164D” is omitted, and
 - (ii) in paragraph (c), for the words from “section 164D(4)” to the end there is substituted “subsections (4) and (4A) above”,

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- (e) in subsection (10), “(within the meaning of section 164D)” is omitted, and
- (f) after that subsection there is inserted—

“(10A) Where (apart from this subsection) a chargeable gain of any amount would by virtue of subsection (2) above accrue to the person who acquired the acquired holding but, within the period mentioned in subsection (10B) below, that person acquires a qualifying investment (within the meaning of section 164A), that person shall, on making a claim as respects the qualifying investment, be treated—

- (a) as if the amount of the gain were reduced by whichever is the smallest of the following—
 - (i) the actual amount or value of the consideration for the acquisition of the qualifying investment,
 - (ii) in the case of a qualifying investment acquired otherwise than by a transaction at arm’s length, the market value of that investment at the time of its acquisition,
 - (iii) the amount specified for the purposes of this subsection in the claim, and
- (b) as if the amount or value of the consideration for the acquisition of the qualifying investment were reduced by the amount of the reduction made under paragraph (a) above;

but paragraph (b) above shall not affect the treatment for the purposes of this Act of the other party to the transaction involving the qualifying investment.

(10B) The period referred to in subsection (10A) above is the period (not including any period before the acquisition of the acquired holding) which begins 12 months before and ends 3 years after the time when the chargeable gain accrues or would but for that subsection accrue, together with any such further period after the disposal as the Board may by notice allow.”

- (2) Section 164F as amended by sub-paragraph (1) above shall have effect as follows—
 - (a) the reference in subsection (1) to consideration treated as reduced under section 164A includes consideration treated as reduced under section 164D,
 - (b) the reference in subsection (3) to a gain having been charged on any disposal includes any gain having been carried forward from any disposal of shares, and
 - (c) the amounts referred to in subsection (4A)(a) and (b)(i) shall be treated as reduced by any amounts carried forward from any disposal of shares.
- (3) References in sub-paragraph (2) above to an amount being carried forward from a disposal of shares are references to the reduction by that amount, in accordance with section 164D(3)(a), of the amount of the consideration for the disposal of those shares.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16A(2)(g) inserted by [2023 c. 30 Sch. 13 para. 28](#)
- s. 160(2)-(7) modified by 2010 c. 8 s. 464(6) (as inserted) by [2017 c. 32 Sch. 5 para. 1](#)
- Sch. 5 para. 2(1)(pa) inserted by [S.I. 2022/109 reg. 4](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)