

CGT Deferral Relief

Capital Gains Tax on gains realised on different assets can be deferred if you invest your gain into EIS qualifying shares. In some circumstances the deferral will become indefinite. To receive this relief you must subscribe for EIS shares during the period one year before or three years after selling or disposing of your assets, i.e. gains made three years before or one year after the date of the EIS investment can be deferred. It is not necessary to claim EIS income tax relief to obtain deferral relief. Deferral relief is unlimited and can also be claimed by investors (individuals or trustees) whose interest in the company exceeds 30%.

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

Worked Example

Where an individual has a capital gain on disposal of an asset 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 that chargeable gain, or any part of it. The amount of the gains that may be deferred has no maximum and is limited only by the amount subscribed for eligible 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 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

Initial Investment	£100,000 May 2018
Less income tax relief @ 30%	(£30,000)
Capital Gains Deferral (assuming CGT at 28%)	(£28,000) (Gain arose July 2012 on asset not eligible for Entrepreneurs' Relief)
Net cash outlay for investment	£42,000
Shares Sold August 2021	
Hypothetical Sale Value of Investment	£160,000
Chargeable gain	£0 – tax free if held for more than 3 years from issue or commencement of trade if later

Deferred gain from 2017/2018 becomes chargeable 2021/2022	£100,000
*Tax payable on deferred gain at 20% (28% on certain assets)	(£20,000) If EIS income tax relief is not claimed or not available, there will also be capital gains tax of £16,800 payable on the gain on the investment.
Value of EIS deferral relief	Capital gains tax of £28,000 has therefore been deferred for a period of four years, and has also benefitted from a reduction in the general CGT rate, giving an absolute and a cash flow advantage.

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

Those considering deferring capital gains should take professional advice.