

# BUSINESS INVESTMENT RELIEF

## Background

Most UK resident taxpayers are liable to pay UK income tax and capital gains tax on their worldwide income and gains as they arise.

UK resident individuals who are not domiciled in the UK, however, may be able to make a claim to be taxed on their non-UK income and gains on the “remittance basis”, meaning those income and gains will only be taxed in the UK to the extent that they are received in, or remitted to, the UK. A remittance will generally occur when non-UK income or gains are transferred to, or used to benefit, a “relevant person” (the taxpayer, the taxpayer’s spouse, minor child or grandchild, or a related company or trust) in the UK. The rules relating to both the remittance basis and what can constitute a remittance are complex, so please do seek professional advice when considering your position.

Business Investment Relief (BIR) provides non-domiciled individuals with an opportunity to use non-UK income or gains to make certain UK investments, without those income or gains being taxed in the UK under the remittance basis.

There is neither an annual nor a lifetime cap on the amount of income or gains that may qualify for this relief.

## Key conditions

The following are the key conditions that must be met in order to qualify for the relief:

- The investment must be made within 45 days of the non-UK income or gains being remitted to the UK.
- The investment must be in the form of shares of, or a loan to, an eligible company. An eligible company cannot be listed on a recognised stock exchange, and must be an eligible trading company, an eligible holding company, an eligible stakeholder company or an eligible hybrid company (with each of these terms having detailed definitions). For the purposes of this relief, it is worth noting that “trading” includes property investment activities.
- Neither the taxpayer, nor any “relevant person”, may receive any benefits in connection with the making of the investment (although payments received in the ordinary course of business and on arm’s length terms are allowed).

## Potentially chargeable events

Where certain events take place, remittances which have qualified for BIR will become taxable in the UK unless mitigating steps are taken within the relevant grace period. These events are known as “potentially chargeable events”, and are as follows:

- The investor disposes of all or part of the investment;
- The company ceases to be an eligible trading company, holding company, stakeholder company or hybrid company;
- The investor receives value from the investment; or
- The company did not begin to trade or hold investments within five years of the date of the investment.

Where the potentially chargeable event is the disposal of the investment, the original non-UK income or gains will not come into charge if the proceeds are taken offshore, or reinvested into an eligible company, within 45 days of the proceeds being available.

Where another potentially chargeable event takes place, the original non-UK income or gains will not come into charge if the investment is sold, and the proceeds are taken offshore, or reinvested into an eligible company, within both 90 days of the event (or the investor becoming aware of the event), and 45 days of the disposal proceeds being available.

Any gain made on the disposal of the investment itself will be subject to UK capital gains tax in accordance with the usual rules.

## Advance assurance

In advance of making an investment, it is possible to ask HMRC for an opinion on whether the planned investment can qualify under the BIR rules. This is a voluntary procedure, but generally, where full disclosure is made, HMRC’s views can be relied upon by the taxpayer.

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## Other benefits

A claim for BIR does not affect entitlement to other investment reliefs and so:

- An investor may be able to take advantage of the income tax and capital gains tax reliefs available under the Enterprise Investment Scheme (EIS) or Seed Enterprise Investment Scheme (SEIS) if the conditions are met.
- Business Property Relief from UK inheritance tax may be available in respect of the investment after it has been held for a two year qualifying period.

## How can Moore Kingston Smith assist me?

This document provides only a brief summary of the issues relating to Business Investment Relief. We would be pleased to discuss your particular circumstances and, should you appear eligible for the relief, assist you with an application for advance assurance and/or making a formal claim for BIR. Please get in touch with your usual Moore Kingston Smith adviser or contact us using the details on our website.

## CONTACT US

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Or email:  
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