Entrepreneurs’ relief – FB 2016 clauses amendments (23 June 2016)

OMB

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The team report on the amendments to the entrepreneurs’ relief clauses in Finance Bill 2016

As reported in the July edition of Technical Newsdesk, the entrepreneurs’ relief (ER) stakeholder group raised the need for amendments to Finance Bill 2016, mainly at cl 73 (associated disposals) which included some features considered to have a potentially adverse retroactive effect. The government’s amendments were published on 23 June 2016 and largely met the concerns on associated disposals.

Clause 73 – associated disposals

The amendments ensure that new condition D, as inserted by cl 73(11), applies only to disposals of privately held assets (including interests in assets) acquired on or after 13 June 2016. (The other changes made by the clause have effect in relation to disposals made on or after 18 March 2015, as originally proposed.)

In addition, the amendments re-name new condition ZA1 as condition A1A and provide for it to be inserted into Taxation of Chargeable Gains Act (TCGA) 1992, s 169K immediately after existing condition A1. This makes it clearer that the new condition is an alternative to the existing one and that it may be met where A1 is not met.

Clause 74 – disposal of goodwill

One minor adjustment suggested by the stakeholder group has not been amended. This was to align the test in new s 169LA(1)(aa) to the usual ER test – namely 5% or more of the ordinary share capital and (rather than or) 5% of the votes by virtue of

that holding.

Clause 75 and Sch 13 – ‘trading company’ and ‘trading group’

There is a clarificatory amendment that, for the purposes of Conditions B and D of s 169I, references to a company ceasing to be a trading company/member of a trading group do not include cases where a company/group is treated as being non-trading as of 18 March 2015 as a result of applying the new definition. As the explanatory note indicates, the aim is to ensure that no one entitled to ER under the rules at s 43 of the Finance Act 2015 will lose that entitlement as a result of cl 75 and Sch 13.