TAX | BUSINESS TAX

Qualified Small Business Stock Questionnaire

This questionnaire will help non-corporate shareholders determine whether any common or preferred stock they hold is qualified small business stock (QSBS) under Internal Revenue Code Sec. 1202. For federal tax purposes, shareholders who sell QSBS are eligible to exclude 50%, 75%, or 100% of the gain they realize, depending on the date the stock was acquired and how long it was held. Note that state tax conformity with these federal QSBS rules varies. The following table summarizes the available gain exclusion percentages:

Acquisition Date	Holding Period	QSBS Gain Exclusion Percentages
Aug. 11, 1993 – Feb. 17, 2009	More than five years	50%
Feb. 18, 2009 – Sept. 27, 2010	More than five years	75%
Sept. 28, 2010 – July 4, 2025	More than five years	100%
July 5, 2025, or later	At least three years	50%
	At least four years	75%
	At least five years	100%

Each shareholder's total QSBS gain exclusion amount for each QSBS issuer is capped at the greater of $10 million or 10 times the shareholder's stock basis, with $15 million substituted for $10 million in the case of QSBS acquired July 5, 2025, or later (the "cap"). The $15 million base is adjusted annually for inflation beginning in 2027. The cap is determined first, and then the gain exclusion percentage is applied to that amount. When the gain exclusion percentage is less than 100%, the taxable portion of the amount not exceeding the cap is subject to a special 28% capital gains rate. In all cases, any taxable amount above the cap is subject to the normal 20% maximum capital gains rate. The 3.8% net investment income tax is added to either capital gains rate.

If the answer to all of the questions below is "Yes," the investment is QSBS. If the answer to ***any*** question below is "No," the investment is not QSBS.

Questions	Yes	No
1. Has the company been a domestic C corporation[1] during substantially all the shareholder's holding period, and was the company a domestic C corporation at the time of original issuance of the stock?	☐	☐
2. Was the stock issued after Aug. 10, 1993 for money, other property (not including stock of another company), or as compensation for services (other than underwriter services)?	☐	☐
3. Was the QSB stock acquired by "original issuance?" » Original issuance generally means that the stock must be acquired directly from the issuing corporation (or its underwriter). » Stock that the shareholder acquires through the exercise of options or warrants, or through the conversion of convertible debt is treated as acquired at original issuance. » Stock can sometimes be treated as having been received at original issuance even when the shareholder is not the original owner of the shares. When stock is received as a gift, at death, or as a qualifying distribution from a partnership, the stock is treated as having been received by the transferee at original issuance. Exceptions also apply for stock involved in corporate reorganizations.	☐	☐
4. Has the shareholder held the stock long enough to satisfy the applicable qualifying holding period?	☐	☐
5. Confirm that the shareholder did not have an "offsetting short position" with respect to the QSBS during the shareholder's holding period. » An offsetting short position exists if, during the holding period, the shareholder made a short sale of substantially identical stock, the shareholder acquired an option to sell substantially identical stock at a fixed price, or the shareholder entered into any other transaction that substantially reduces the risk of loss from holding the stock. » Limited exceptions also apply. » The shareholder is deemed to hold any offsetting short position actually held by a person related to the shareholder.	☐	☐
6. For substantially all of the shareholder's holding period of the company's stock: » (a) Has the company been engaged in a qualified trade or business? A qualified trade or business is one that is not in the fields of health; law; engineering; architecture; accounting; actuarial science; performing arts; consulting; athletics; financial services; brokerage services; banking; insurance; financing; leasing; investing; farming; extracting or producing natural resources; operating a hotel, motel, restaurant, or similar business; or any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees; or » (b) Regardless of the determination above, was the company a "specialized small business investment company" licensed to operate under section 301(d) of the Small Business Act of 1958[2] during such period?	☐	☐

[1] The following corporations are not eligible: (1) a current or former domestic international sales corporation; (2) a corporation with a section 936 election in effect (including direct or indirect subsidiaries with a section 936 election); (3) a regulated investment company, real estate investment trust, or real estate mortgage investment conduit; or (4) a cooperative.

[2] This is a company that has a policy to make investments solely in small business concerns which contribute to a well-balanced national economy, where ownership in such concerns is facilitated through persons facing social or economic disadvantages that hamper their participation in the free enterprise system.

Questions	Yes	No
7. For substantially all the shareholder's holding period, was at least 80% of the fair market value of the company's assets, including self-created intangibles such as goodwill, used in the active conduct of "qualified trades or businesses?" *(See question 6 for the definition of qualified trades or businesses)* » The company is deemed to own its ratable share of assets actually owned by a subsidiary and to conduct its ratable share of the subsidiary's[3] activities. » The fair value of assets consisting of rights to certain computer software, or assets currently used by the company in the conduct of start-up activities, research and experimentation, and in-house research are treated as used in the active conduct of a qualified trade or business. » If the company is less than two years old, the following assets are also treated as used in the active conduct of a qualified trade or business: (1) assets reasonably required for the current working capital needs of the business, or (2) investments reasonably expected to be used within two years to finance research and experimentation or to fund increases in working capital needs. The fair market value of intangible assets is included in this computation. » If the company is two or more years old, no more than 50% of the fair value of the company's assets qualify for the aforementioned test.	☐	☐
8. Confirm that the company did not repurchase any of its own stock from the shareholder or a person related to the shareholder during the four-year period that begins two years before the stock was issued to the shareholder, or if it did, the aggregate of all repurchases[4] from the shareholder qualify as a de minimis amount? » For this purpose, the aggregated repurchases from the shareholder fail to be a de minimis amount if: (1) the purchase price exceeds $10,000, and (2) the company purchases more than 2% of the stock held by the shareholder and persons related to the shareholder, valued on the repurchase date(s) (and including the repurchased stock).	☐	☐
9. Confirm that the company did not repurchase any of its own stock from any of its shareholders during the two-year period that begins one year before the stock was issued to the shareholder (the "testing period"), or if it did: » (a) The aggregate purchase price of all repurchases[4] was less than 5% of the fair market value of all company stock at the beginning of the testing period; or » (b) The aggregate of all repurchases[4] qualify as a de minimis amount? An amount is de minimis for this purpose if: (1) the purchase price exceeds $10,000; and (2) the company purchases more than 2% of all its outstanding stock, valued on the repurchase date(s) (and including the repurchased stock).	☐	☐

[3] A "subsidiary" is a corporation that is more than 50% owned by the company with respect to either voting power or value.

[4] A repurchase by the company is disregarded if it is made because of the shareholder's death,disability or mental incapacity, divorce, or in connection with the termination of an employee's or director's services (where the stock was originally issued in connection with the performance of services).

Questions	Yes	No
10. Were the company's aggregate gross assets equal to or less than the applicable threshold at all times on or after Aug. 10, 1993 until immediately after the date(s) that the company issued stock to the shareholder? » For stock issued July 5, 2025 or later, the applicable threshold is $75 million (inflation-adjusted beginning in 2027); the applicable threshold is otherwise $50 million. » Aggregate gross assets include cash and the adjusted tax basis of the company's property. » All corporations in the same parent-subsidiary control group (defined as more than 50% owned) are treated as one corporation. » The adjusted basis of contributed property is deemed to be equal to its fair market value at the time of contribution.	☐	☐
11. Since the date of issuance of the stock, confirm that the company's investment in stock or securities of corporations other than subsidiaries[3] never exceeded 10% of the value of the company's net assets?	☐	☐
12. Since the date of issuance of the stock, confirm that the company's investment in real property not used in the active conduct of a qualified business[5] never exceeded 10% of the value of the company's net assets?	☐	☐
13. Does the company maintain sufficient records to undertake any reporting to the IRS and shareholders deemed necessary by the IRS to carry out the purposes of Section 1202 of the Code?	☐	☐

[3] A "subsidiary" is a corporation that is more than 50% owned by the company with respect to either voting power or value.

[5] The ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified business.