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CGT FOUNDERS' RELIEF: TECHNICAL CONSULTATION

Response by the Association of Taxation Technicians

1 Introduction

1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the HM Treasury technical consultation on *CGT Founders' Relief* issued on 28 October 2026[1] ('the Consultation').

1.2 The primary charitable objective of the ATT is to promote education and the study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.

1.3 We were pleased to have the opportunity to attend the Founders' Relief (FR) roundtable discussion held by HMT/HMRC on 4 November 2026. From that meeting, we understand that the concept and wider policy design of FR is not open for debate, and that the focus of the Consultation is on reviewing the proposed design of the relief and making suggestions for possible improvements prior to legislation being introduced.

This response is largely written within the bounds of those limitations and follows the questions set, but we would draw your attention to section 10, where we have raised additional areas of concern which were not covered by the questions in the Consultation.

1.4 Although the 4 November roundtable discussion and the opportunity to respond to this Consultation are appreciated, engaging with stakeholders on a policy which has largely already been designed limits the benefit our external perspective and members' practical experience can offer, and significantly reduces the value we can bring to creating effective, straightforward and robust tax measures.

We raised the value of engaging with external stakeholders at an early policy stage in our recent letter to the Financial Secretary to the Treasury and HMRC's Chief Executive[2]. Whilst we urge external engagement to take place as early as possible in the policy making process, we also recognise that political and other pressures can force HMT and HMRC to develop tax policy in short timescales. We assume this was the case with FR and the related Consultation.

[1] https://www.gov.uk/government/consultations/founders-relief-technical-consultation
[2] https://www.att.org.uk/technical/news/att-raises-tax-consultation-concerns-minister-and-hmrc-chief-executive

1.5 The ATT's ten principles for the tax system[3] set out how we believe the tax system should be designed and operated.

We believe the proposals in the Consultation fail to meet the following five principles:

i. Simple – the proposals are complex, with multiple detailed tests. The proposed link with the R&D tax regime adds complexity and risk, and we suggest it should be removed from the FR criteria.

ii. Fair – the relief is narrowly targeted and unincorporated businesses cannot benefit, even if they are carrying out the same activities which FR aims to encourage.

iii. Practical – records to support claims will sit with companies, but claimants are individuals who may no longer have access to those records by the time claims need to be considered. Furthermore, the relevant tests apply over periods longer than current statutory record keeping obligations.

iv. Efficient – administrative burdens on companies in particular will be considerable, with no benefit to affected companies from having to retain and provide relevant records to potential claimants.

v. Consultative – no consultation has occurred on the proposed policy measures. The Consultation has been condensed into less than five weeks. The planned legislative timescale will also leave very little time for proper external scrutiny, which could potentially mean that the policy intent of FR will not be met in the longer term.

2 Question 1: Noting the need for a clear definition of individuals who held a significant early stake in the company, will the individual conditions, including the treatment of ownership structures and reorganisations, effectively identify founders?

2.1 We understand from the HMT/HMRC roundtable discussion which we attended on 4 November that the requirement for a 25% shareholding is intended to only apply at commencement of (or preparation for) trade, and that an individual's shareholding could subsequently fall below that level without jeopardising a later claim for FR. This must be made clear in the legislation and guidance, particularly where any reduction in percentage shareholding may be brought about by factors beyond the taxpayer's control, such as the shareholding being diluted by a fresh issue of shares.

2.2 Consideration may need to be given to anti-avoidance measures to prevent a 25% shareholding being artificially allocated at inception of a company, when the shares are likely to have low value, purely to enable a possible subsequent claim to FR, then reallocated shortly afterwards to give the desired shareholdings going forward. A minimum holding period for the 25% shareholding test may be needed to prevent this. However, this would add another requirement on top of an already complicated set of tests for FR to apply.

2.3 The Consultation states at paragraph 2.6 that "Relief will not be restricted to shares acquired at the time the company was started or to an individual's original shareholding".

[3] https://www.att.org.uk/technical/atts-principles-tax-system

However, the ownership period for additional shares acquired is unclear – do *all* shares have to have been held for five years in order to qualify for FR? Or is it sufficient to have held *some* shares for that period, as long as 25% of the company's ordinary share capital was held at commencement of (or preparation for) trade, and at least some of that original holding carries through to a disposal?

For example, consider a four-founder company where each holds 25% of the ordinary share capital. If Founder A exits the company after four years, selling their shares to Founder B, can Founder B go on to claim FR on their now 50% shareholding at a disposal one year later? Or can they only claim FR on the 25% shareholding which has been held for the full five years?

2.4 Is FR intended to be available on a part-disposal of eligible shares? For instance, a founder holding 25% of an eligible company's ordinary share capital at outset might sell half that holding after 5 years, with the remainder sold in later tranches. If the company meets the relevant FR conditions at each disposal date, we assume *all* disposals would be eligible for FR?

2.5 As well as FR being available on a straightforward sale of shares, is FR also intended to be available where a potentially qualifying company is disposed of via:

1) assets sales followed by a liquidation?
2) company share buybacks?

2.6 We assume the five year minimum shareholding period would, like BADR, relate to each individual shareholder in isolation, and that where inter-spouse/inter-civil partner share transfers occur, ownership periods would not be combined.

2.7 We assume the conditions in paragraph 2.5 of the Consultation relating to the nature of the shares (attribution of voting rights and entitlements on winding up) will be carried over from BADR. This would provide consistency within the CGT regime and reduce the required volume of legislation and guidance.

2.8 We assume the five continuous years of UK residence have to fall *immediately* before the disposal? A founder may have a previous five-year period of residence, become non-resident and then return to the UK shortly before sale. If their disposal met all the other conditions for FR, would they qualify?

2.9 Clarification over the implications of Split Year Treatment under the Statutory Residence Test is needed – will a split year count as one year of residence towards the five required to qualify for FR?

2.10 *Other considerations*

2.11 The requirement for a 25% shareholding from commencement of (or preparation for) trade will deny relief to otherwise qualifying startups where five or more founders start with equal shareholdings. We acknowledge, however, that the policy intent to target relief at select companies only requires a minimum shareholding to be drawn *somewhere*.

2.12 The requirement for a 25% shareholding from the outset will have consequences for founders of companies where a 'lead' founder retains a 51% controlling shareholding, or where eg husband and wife founders want to retain a combined 51%.

Dividing the remaining 49% equally among two or more additional founders will result in those additional founders failing to meet the conditions for FR regardless of their input into the company and its later success.

2.13 The proposed conditions do nothing to recognise and reward individuals who become shareholders and potentially employees or company officers after commencement of (or preparation for) trading.

This is fairly common with small owner-managed startups where a key founder holds shares at the outset, but a spouse or son/daughter subsequently joins the business, acquiring shares, and actively contributes to the growth and development of that business in an employee or directorship role.

2.14 The requirement for 25% of the company share capital to have been held at the outset will also do nothing to reward or incentivise investment in the business after that time.

Whilst the Enterprise Investment Scheme (EIS) and Seed Enterprise Investment Scheme (SEIS) potentially provide full CGT exemption on a qualifying sale of shares in such instances, some investors and contributors to company growth may be disqualified from both by virtue of being associated with the company (ITA 2007 s163 and ITA 2007 s257BA). FR will be unavailable to such individuals, potentially restricting investment in the company and reducing its ability to innovate and to grow.

3 Question 2: Will the company conditions effectively focus Founders' Relief on UK trading companies that have reached sufficient scale and continue to carry on the trade they were established for?

3.1 The requirement for the company to have "a substantial UK presence for the 5 accounting periods before disposal" will need to be defined, with accompanying guidance available as to what does and does not constitute "substantial UK presence" as this does not appear to be a term already in use for Corporation Tax purposes.

3.2 We assume the "substantial UK presence" requirement may be intended to enable overseas companies with UK branches to qualify. If so, this may fail to drive growth within the UK economy if the company as a whole is successful and meets the FR conditions, but its UK activities are small scale such that the UK branch would fail to meet the FR tests if considered as a standalone entity.

3.3 A simpler condition would be to require the company to be UK resident for five years prior to disposal.

However, if it is preferred to keep UK branches of overseas companies in scope, consideration should be given to applying the FR tests to the UK branch in isolation, rather than to the wider company.

3.4 A definition of "substantial" non-trading activities will be needed, along with examples in guidance. Will this, for example, be carried over from BADR, where a 'rule of thumb' existed for a long time that less than 20% of a business' activities, assets, staff time etc should be attributable to non-trading activities? Guidance similar to HMRC's CG Manual 64090[4] is likely to be required.

3.5 We welcome the proposed carry-over of definitions of "excluded trading activities" from the EIS rules for simplicity and consistency. The scope of this condition appears much clearer than the two mentioned above.

[4] https://www.gov.uk/hmrc-internal-manuals/capital-gains-manual/cg64090

4 Question 3: Are there practical difficulties or unintended consequences in applying them?

4.1 Good entrepreneurs do not persist with their first idea if it proves not to be as successful as envisaged, or if markets, technologies or wider economic conditions change. Instead, they will often revise their business strategy to react to external forces and to pursue new opportunities.

The requirement to "continue to carry on the trade [potentially qualifying companies] were established for" may have unintended consequences for founders who are aware of FR from the outset and intending to claim FR on a later sale.

Firstly, founders may be driven to set up new companies for each new venture or opportunity, rather than 'pivot' the direction and purpose of their existing company. This risks creating administrative burdens and complex structures which will detract from growing their business, as well as disrupt the natural development of an entrepreneurial business.

Alternatively, founders may be disincentivised from expanding the business or pursuing potentially profitable new opportunities if they would result in their company carrying on a different trade to the one for which it was established.

4.2 For founders who are unaware of FR on commencement, or who do not set out with an intention to claim it at a later date, the 'same trade' requirement will catch up with them when they come to sell their shares. This will deny them tax relief on what may otherwise be exactly the type of innovative, fast-growing business FR aims to incentivise.

This will be particularly relevant in the first five years of the relief, as claims in that period will only be possible in respect of businesses which existed before FR was announced, and before founders could have been aware of the relief. The requirement to have continued the same trade since commencement will deny relief to otherwise eligible founders who have already 'pivoted' to a different trade from the one their company was set up for.

4.3 It is unclear what the 'same trade' requirement is intended to achieve. If the policy intent is to reward growth, then this requirement may not be effective. It would have no impact on eligibility for FR claims for founders who grow their companies by acquiring direct competitors, rather than pursuing organic growth, which normally brings greater economic and employment benefits.

4.4 The requirements for at least £10m of turnover and at least 15 qualifying full time employees in the accounting period prior to disposal may both be open to manipulation.

For example, a company falling short on employee numbers may be driven to take on additional low-cost staff purely to be eligible for FR. In many cases, the employment costs could be lower than the potential CGT saving achieved by meeting the criteria for FR. Following a sale and claim for FR by the founders, the new owners of the company may then be faced with an artificially inflated workforce, pushing them to make those staff redundant.

5 Question 4: Are there any practical difficulties, administrative burdens or unintended consequences for founders or companies in applying the three tests?

5.1 *Turnover and headcount tests*

5.2 The conditions referred to in paragraph 4.4 above stipulating £10m turnover and 15 full time employees must be met in the accounting period before disposal.

The 'growth' tests in Chapter 3 of the Consultation relate to turnover growth and headcount growth, and can be met across any three consecutive accounting periods in the ten years before disposal. Each starts from a 'baseline' - £10m turnover / 15 full-time employees - in the accounting period immediately preceding those three years.

Given that these tests are intended to require growth, it is surprising that the turnover and employee requirements in the period before disposal (ie following successful growth) are identical to the 'baseline' requirements measured *before* the three years of required growth.

We can only assume this is intended to allow a company to experience a period of growth, followed by a decline in the period preceding a sale, or conversely to experience a period of decline from a high baseline position followed by growth back to previous turnover/staff levels before a sale. These accommodations add complexity to the rules and seem at odds with a policy which aims to incentivise "high growth" companies.

5.3 The high 'baseline' requirements will rule out a significant proportion of companies, regardless of the growth they go on to achieve. Again, this risks undermining a policy of incentivising high growth, innovative companies.

5.4 The terminology relating to employee numbers is inconsistent. The headcount growth test refers to "qualifying full-time equivalent employees", the 'baseline' to that test refers to "full-time employees", and the 'accounting period before sale' test in Chapter 2 refers to "qualifying full-time employees". Is the difference in terminology intentional? Using a consistent definition of employee across all three requirements would be simpler to understand, apply and evidence. Guidance will be needed on any and all definitions of employees used.

5.5 Businesses do not always grow in a linear way. The requirements for turnover and headcount growth to occur across three consecutive years fails to take account of different growth strategies, or of unforeseen economic challenges such as those experienced in recent years. For example, the Covid-19 pandemic, and wars in Ukraine and Iran have all had economic impacts which could mean a company fails these tests across the required three year period, whilst growing significantly over the longer term.

It may be more reasonable to look at a longer period than three years out of the preceding ten, in which the desired turnover and headcount growth can occur at any time.

5.6 *Innovation test*

5.7 The requirement for R&D tax relief to have been claimed "for expenditure for an accounting period or periods ending within the three years before disposal" is unrealistically restrictive.

Innovative companies commonly undertake R&D at an early stage, before exploiting that new discovery to grow the business over a number of years. Stipulating that R&D expenditure must occur close to sale goes against that business model, and may deny relief for some of the high growth innovative companies FR appears to be targeting.

5.8 The two-part nature of this test firstly requires sufficient qualifying R&D activities to have occurred within the three accounting periods before disposal. The second part requires R&D claim(s) to have been made in respect of those activities.

It is unclear whether the R&D claim(s) have to have been successful – ie approved by HMRC with R&D relief given and not withdrawn. For the purposes of this response, we assume the claim(s) must have been successful, but this needs to be clarified.

5.9 Insisting on successful R&D claims links the potential availability of FR to the R&D tax regime. However, an R&D claim might initially be approved, but subsequently investigated by HMRC, with the relief paid out being recovered.

If a founder of the R&D claimant company submitted a claim for FR based on the initial R&D relief awarded, paragraph 4.6 in the Consultation confirms that their CGT relief would later be denied if the R&D claim were subsequently overturned. This will lead to a period of uncertainty for the FR claimant whilst the R&D compliance activity runs its course. During that period, founders who have sold their shares and ceased to be connected with the company will no longer have visibility over the progress of the R&D enquiry.

5.10 A 'successful' claim would therefore need to be well defined and also time-constrained. An R&D claim only becomes reasonably certain once the enquiry window has elapsed. Even then, HMRC's discovery powers could overturn it.

A 'careless' error in a company's R&D claim could create up to a 6 year period of uncertainty over the 'success' of that claim, which would lead to a broadly equal period of uncertainty for any FR claims which rely on it. A 'careless' error by the company which is discovered by HMRC could therefore overturn a founder's claim for FR up to six years after the relevant company tax return was filed, despite the founder potentially having had no involvement in the error.

Consideration should be given to FR claimants being entitled to assurance after a reasonable time that their claim will not be overturned – for instance once the enquiry window into the relevant corporation tax return has expired. That assurance could only be made void if HMRC were later able to prove that an error in the company's R&D claim was either deliberate or was made with FR claimant's knowledge and/or involvement.

5.11 Our members report genuine R&D claims being robustly challenged by HMRC. We acknowledge that HMRC have taken steps, including at Budget 2026[5], to reduce hurdles to claiming R&D relief, but members still report that claimants can be forced to abandon eligible claims due to the cost and effort of defending them to HMRC. Competing demands on R&D claimants' time in small, busy startups means they are often unable or unwilling to engage further if HMRC are unduly intransigent.

5.12 Whilst companies may accept losing out on potential R&D tax relief in the event of such administrative difficulties, the resulting financial impact on founders' ability to claim FR could be considerable.

5.13 Furthermore, those deciding whether or not to make and persist with R&D claims may not be the potential FR claimants. In deciding to abandon a potential R&D claim due to the impracticality of continuing to engage with HMRC, companies may inadvertently expose themselves to future damages claims from founders if a lack of R&D relief prevents an otherwise valid claim to FR.

[5] https://www.gov.uk/government/publications/budget-2026-overview-of-tax-legislation-and-rates-ootlar/budget-2026-overview-of-tax-legislation-and-rates-ootlar#:~:text=1.47%20Research%20and%20Development%20(R%26D)%20Tax%20Reliefs%3A%20Improving%20the%20Customer%20Experience

5.14 Equally, unscrupulous founders may pressure their staff into submitting fraudulent or inflated R&D claims on behalf of the company in order for them to meet the FR tests themselves, taking a risk that the relief may be clawed back in the event of an HMRC enquiry.

5.15 Whilst paragraph 3.5 of the Consultation recognises that only two out of the three growth and innovation conditions must be met, our concerns regarding linking eligibility for FR to the R&D regime place greater practical reliance on the turnover and headcount tests.

This may deny FR claims linked with some of the companies FR is expected to apply to, potentially further reducing the already small pool of c.600 eligible claimants[6] envisaged each year.

5.16 *Unintended consequences*

5.17 Stipulating minimum turnover growth may drive bad business decisions in a similar way to the concerns raised in relation to the pre-sale tests at paragraph 4.4.

Turnover could be artificially boosted (for instance by sacrificing margin and profitability) in the period leading up to a sale in order to enable the sellers to make a FR claim. This would have adverse longer term consequences for the company post-sale.

5.18 Equally, founders whose companies fall short of the required level of R&D claims may be incentivised to submit R&D claims shortly before selling their shares, even if such claims were known or suspected to be ineligible. Any subsequent HMRC compliance activity would need to be dealt with by the company's new owners. The Consultation recognises this risk at paragraph 4.6.

5.19 R&D claims are a known area targeted by 'bad actors', who offer to claim R&D relief on behalf of companies for expenditure which does not qualify. Companies who fall victim to these tactics are commonly left to deal with subsequent HMRC enquiries and withdrawal of the tax relief initially granted.

We acknowledge that HMRC have taken steps to clamp down on bogus R&D claims, but they remain a problem. Linking FR with the R&D regime provides a further selling point for bad actors to promote and profit from ineligible R&D claims.

5.20 The risk of bogus R&D claims or claims being inflated pre-sale places greater emphasis on the importance of pre-sale due diligence work. Requiring greater scrutiny pre-sale and extra indemnities in sale contracts is likely to slow down business sales, increase transaction costs and lead to higher risks for buyers. This goes against the policy aims of driving economic growth and encouraging innovative founders to sell up and reinvest in new ventures.

6 Question 5: Are there alternative criteria which might provide a robust and objective means of identifying innovative companies other than the R&D test set out above?

6.1 Paragraph 3.3 in the Consultation states that "The tests will focus Founders' Relief on founders of companies whose sustained growth is most likely to bring wider benefits to the UK through jobs and innovation".

[6] https://www.gov.uk/government/publications/capital-gains-tax-introduction-of-a-founder-relief/capital-gains-tax-introduction-of-a-new-founders-relief

We question whether innovation should be a key pillar of FR, particularly given the difficulties addressed by this question of how to identify innovation, and the drawbacks of relying on a link with the R&D scheme identified in our response to Question 4.

6.2 Whilst innovative companies can undoubtedly contribute to growth, those operating in high tech, automation and AI sectors may add less to the economy than less innovative counterparts which employ more staff and have longer lifecycles.

6.3 We advise against linking FR with the R&D tax regime, for the reasons set out in our response to Question 4 above. Making eligibility for one tax relief (FR) contingent on another (R&D) creates complexity and a potential 'domino effect' on taxpayers affected if the R&D relief claim is later challenged by HMRC. This is particularly true given the challenges experienced by our members when making R&D claims, and the risk of bad actors abusing the R&D relief system.

A FR claim which depends on R&D claims by the claimant's former company could be challenged at any point in a period of up to 6 years for careless errors (rising to 20 for deliberate errors). This is completely impractical. FR claimants are unlikely to remain associated with the company for that period, some may have emigrated, others may have died.

The immediate and long-term complexity created by linking FR to R&D claims should be avoided.

6.4 Alternatives for further consideration could include holding qualifying patents. Alternatively, if the Government wishes to incentivise particular innovative sectors, a well-defined 'relevant industry' condition could be introduced in place of the proposed innovation test.

7 Question 6: Are there any practical difficulties, for individuals or companies, with the proposed statutory right for individuals claiming the relief to request information and supporting documentation from a company? The government would also welcome views on the period within which companies should be required to provide the information.

7.1 The FR Policy paper[7] published on 28 October states that:

"This measure is expected to have a negligible administrative impact on the approximately 400 businesses per year with founders or investors eligible for the relief where individuals wish to understand if the company has met the qualifying conditions. It is also expected to have a negligible impact on businesses with founders or investors who are not eligible for the relief but wish to understand if they qualify."

We disagree with both statements.

The numerous and complex qualifying criteria for FR and the period over which those conditions need to be checked create significant record keeping obligations. They also create considerable burdens on both the potential claimant and the company at the time a FR claim is considered, both in finding the relevant records and in checking whether a claim for FR can be made.

The company will also need to be mindful of providing adequate information to the potential claimant, whilst avoiding sharing sensitive company or employee data which is not relevant to the claim and would be in breach of their GDPR obligations.

[7] https://www.gov.uk/government/publications/capital-gains-tax-introduction-of-a-founder-relief/capital-gains-tax-introduction-of-a-new-founders-relief

7.2 Where a successful claim *can* be made, the individual may feel that this administrative work is justified.

However, there will be no benefit to the company for the time taken in obtaining the required data, redacting confidential and irrelevant information, and providing it to the potential FR claimant.

7.3 Worse still, in providing the relevant information, the company may expose itself to risk and potential liability claims if the records provided prove to be inadequate or incorrect and the FR claim ultimately fails.

7.4 In some instances, again due to the complexity of the relief, individuals and companies may invest significant time in reviewing the FR criteria, obtaining relevant company records and checking whether a claim could be made, only to find that they fall short in some way.

The administrative burden on both company and individual will not be "negligible", and in these cases will be for no benefit to either party.

7.5 *Individuals*

7.6 A fundamental difficulty with claiming FR will be that much of the evidence will sit with the company, but by the time claimants are filing tax returns which could potentially include FR claims, they may have sold their shares and no longer be associated with the company or have easy access to those records. The new owners of the company may be unwilling to provide any information to corroborate any FR claims.

7.7 Whilst the same issue exists to an extent with BADR, the qualifying conditions for FR are more numerous and significantly more complex. Acquiring the necessary evidence of eligibility will therefore be much more onerous. This means it will be difficult to obtain sufficient evidence to check eligibility, or to demonstrate to HMRC that a FR claim is valid in the event of a compliance check where further evidence is requested by HMRC.

7.8 As discussed in paragraph 10.1, the complexity of FR may mean that some claimants do not keep their eligibility for the relief in mind or under review during the lifetime of their business, only considering whether a claim may be possible as part of completing their tax return for the year of sale.

By this time, it will be too late to retain personal copies of evidence that the numerous conditions were met. Potential claimants will therefore be entirely reliant on the company's records, potentially several years later, and on being given sufficient access to that information even when they may no longer be associated with the company.

7.9 *Companies*

7.10 Responsibility for retaining evidence relating to the criteria for possible future FR claims, and for providing this to potential claimants exposes companies to additional administrative burdens and possible liability risks.

7.11 Paragraph 4.4 of the Consultation notes that the record keeping requirements for possible FR claims could span 10 years, exceeding normal statutory record keeping periods.

7.12 It is therefore unclear how the proposal in paragraph 4.4 of the Consultation to provide individuals with a statutory right to request relevant information and supporting documentation for FR claims would work.

If companies are under no obligation to retain records for 10 years, how would they comply with requests from individuals for FR-related information? Is the intention to amend statutory record keeping requirements for companies, purely to support possible FR claims? This would impose a disproportionate

burden on all affected companies, particularly since the ability to claim FR will not benefit the company itself.

7.13 It may instead be envisaged that the proposed statutory right in paragraph 4.4 of the Consultation would enable individuals to request FR-related information from companies on a more contemporaneous basis, rather than several years later when considering a FR claim.

If this is the intention, our comments in paragraph 10.1 regarding *when* individuals might consider their eligibility are relevant, since the potential claimant may not consider the need to request and retain evidence for a future FR claim until they come to sell their shares.

7.14 If the statutory right for individuals to request relevant information from a company to support a FR claim is the preferred approach, a deadline should be set for companies to supply that information. The time permitted must balance the burden on the company with potential FR claimants' need to be certain of their eligibility before filing their tax return. We suggest a period of 60-90 days may be reasonable, but this should be subject to further stakeholder consultation.

7.15 The proposal in paragraph 4.5 of the Consultation for a certificate of compliance with FR would create significant administrative burdens and potential liability for companies. We would urge against this.

7.16 Much of the historic evidence relating to the numerous FR criteria should, however, be held by HMRC.

Turnover details and historic R&D claims should all be available within HMRC. Payroll data will also be held by HMRC, although this may currently be insufficient to confirm the FR conditions requiring full time employees to work 35 hours per week. Records of shareholdings should be accessible from Companies House. The 'certificate of compliance' approach may therefore seem more appropriate if responsibility for issuing such a certificate sat with HMRC rather than with companies. The certificate may need to be provided on the proviso that the company must separately confirm employee hours meet the relevant FR tests. Due to the 'two out of three' growth and innovation tests proposed for FR, the need for the company to confirm this may not be a practical problem in all cases.

If this approach were taken forward, certificates could be requested by founders via a clearance procedure in advance of a share sale, with a deadline set for HMRC to provide the certificate, or respond that their records did not indicate that FR would be available. This facility could also operate after the sale, to allow founders to obtain certainty before filing their tax return for the year of the sale. Any deadlines set for HMRC to respond would need further consideration, but we suggest approximately 30-45 days could be reasonable given the relatively small number of FR claims expected each year.

An appeals process would be needed if founders disagreed with HMRC's position.

7.17 *HMRC*

7.18 The FR Policy paper states that FR "will require changes to HMRC's processes and IT systems. The full impacts are still being assessed and are yet to be finalised."

HMRC service standards already attract negative media coverage, and our members continue to report poor service standards in a range of areas. Adding new processes for the submission of FR claims, dealing with taxpayer queries regarding the new relief, and ensuring staff are in place and sufficiently trained to handle compliance activity ensuring FR claims are valid will all need to be adequately funded, and will take time to put into place.

7.19 It appears that the impact on HMRC has not yet been fully costed or considered. The short timescale before FR is expected to come into effect, with the first claims potentially being made from 6 April 2028, adds further pressure on HMRC to ensure IT systems and wider processes are in place to enable FR claims to be made and properly reviewed for eligibility. Any impact on wider taxpayer support risks further negative publicity regarding HMRC's customer service standards.

8 Question 7: What avoidance or administrative risks could arise from the proposed design? Where respondents identify risks, we would also welcome views on potential changes or safeguards that could address them.

8.1 We recognise there may be a need to include detailed information where FR is claimed via a tax return to confirm that the numerous requirements have been met.

8.2 However, there are a number of potentially complex existing CGT reliefs where minimal entries are required on a tax return – for instance BADR claims can be made in respect of various types of 'material disposals' of business assets, whilst Private Residence Relief can have complexities around periods of occupation/deemed occupation or permitted area.

Whilst providing detailed disclosures for such claims on tax returns is generally good practice, for these and other current CGT reliefs, no attachments to the return are required. The guidance notes for the SA108 CGT pages[8] of a tax return only require "full details about your claim, election or notice in box 54, 'Any other information'".

Contrasting with disclosure requirements for current CGT reliefs, the proposed requirement for a separate form to be attached to the tax return providing additional disclosure where FR is claimed seems burdensome and unusual.

8.3 If HMRC do mandate the use of a standard form to be attached to tax returns which include FR claims, consideration must be given to all possible tax return submission methods. Affected tax returns could be submitted via third party software - both products supporting 'classic' Self-Assessment tax returns, and those for taxpayers in Making Tax Digital (MTD) - via the GOV.UK filing service, or on paper. Software providers will need to be informed urgently if they are expected to update products capable of filing 2027/28 tax returns.

We would welcome the opportunity to review a draft version of the proposed claim form before it is released.

8.4 Given the small number of expected FR claimants each year, there is a risk that providers of MTD software do not build in support for users of their products to submit FR claims, particularly if a bespoke disclosure form is required. MTD exemptions have already had to be granted for niche sub-groups of taxpayers, such as Lloyds Underwriters. If this proves to be true, claimants (or potential claimants) of FR may have to be granted temporary exemption from MTD.

8.5 In paragraph 5.9 we raised concerns that HMRC enquiries into R&D claims could result in claims for FR later becoming invalid, resulting in additional tax being payable by the FR claimant(s), together with late payment interest. The method of recovering that additional tax would need to be considered – presumably an enquiry could be opened within 12 months of the relevant Self-Assessment return having been filed. But for R&D claims investigated beyond that period – for instance under HMRC's discovery

[8] https://assets.publishing.service.gov.uk/media/6a02e5df4fb0713aa63ea77c/SA108-Notes-2026.pdf

powers – would overturning an R&D claim be sufficient grounds to raise a discovery assessment on the FR claimant as well, given they made the FR claim based on the R&D claims position at the time of submitting their relevant Self-Assessment return?

8.6 The implications for inaccuracy penalties would need to be considered, but would presumably depend on the facts and circumstances of any such case. Imposing penalties on the FR claimant based on the behaviour of the company (eg when filing bogus R&D claims, or reporting artificially inflated turnover) would seem unfair, particularly where the founder denies knowledge of the company's improper actions.

Provisions in FA 2007, Sch 24, Pt 1, para 1A to attribute penalties to a person who provided information which a taxpayer relied on when filing their tax return may be relevant here – ie where the FR claimant themselves took reasonable care, the company could be made liable for any penalty in such circumstances.

8.7 Paragraph 4.8 of the Consultation seeks views on how to mitigate this risk, together with mitigating risks around confidentiality of data between FR claimants and the associated companies.

In our view, the number of conditions relevant to FR, together with the period they could apply over, and the separation of records tending to be held by the company but claims being made by the individual present an insurmountable problem. We can offer no practical suggestions to solve these risks which are created by the current policy proposal. These concerns provide further reasons to break the proposed link with R&D claims, adding to the points made in response to Questions 4 and 5. Earlier engagement with stakeholders could have helped identify these issues as part of the policy design process.

9 Legislative recommendations

9.1 Where an individual receives shares in another company as consideration for the sale of a company in respect of which they would be eligible to claim FR, provision should be given for them to disapply the 'share-for-share' rules in TCGA 1992 s.127.

Precedent for this exists in the form of TCGA 1992 s169Q, which allows a shareholder to disapply the 'share-for-share' rules in order to claim BADR on the initial share disposal.

9.2 The interaction with holdover relief under TCGA 1992 s165 may need to be considered. Where shares qualifying for FR are gifted – for instance between generations – it appears claims to both holdover relief and FR may be possible. Is it envisaged that holdover relief would take priority, with any remaining gain (eg due to restrictions for non-business assets, or sales at undervalue) potentially eligible for FR? The position should be made clear in legislation and guidance.

10 Other observations

10.1 As proposed, FR will have numerous detailed and very strict criteria. This could lead to two possible approaches by potential claimants, particularly those who do not have professional advisors.

Firstly, potentially eligible claimants may review their position following the sale of their business, having been focussed on acting in the best interests of that business during its lifecycle, rather than eyeing tax relief on a future sale. Due to the complex eligibility requirements for FR, we expect many will find they fall short in one or more areas, despite having built businesses which largely fit the policy objectives of

growth and innovation and wider economic benefit. The difference between a 10% CGT rate on up to £10m of eligible FR gains, and a 24% CGT rate on gains in excess of the £500,000 BADR limit could be significant. This will feel like a costly 'punishment' for founders who fall short of complying with any one of the complex FR conditions.

An alternative situation is that founders (particularly those with professional advisors) may be aware of the FR criteria from the outset. Awareness of the incentives on sale where the FR conditions are met may distort their natural entrepreneurial behaviour. This risks adversely affecting the businesses' success, growth and potential economic contribution, which cannot be a sign of good tax policy.

Whilst a mixture of both situations is likely to exist, we expect the 'review eligibility after a sale' scenario will be more common, particularly among founders who do not have professional advisors before selling, as well as in the early years of the relief as explained in paragraph 4.2. This undermines the policy objective of incentivising investment in UK startups. It will result in FR becoming a 'nice to have' benefit after the event, rather than reflecting the policy goal of creating an incentive to invest in the UK and encouraging overseas individuals to come to the UK to start their businesses.

10.2 FR will add significant complexity to the CGT regime for an incentive that is expected to benefit approximately 600 individuals per year. This risks going against previous government objectives to simplify the UK tax regime.

10.3 We understand from the HMT/HMRC roundtable discussion on 4 November that no analysis has been carried out into the expected wider economic benefit of offering FR as an incentive to set up qualifying companies in the UK. At present, the cost of FR is estimated at £1.285bn over its first five years[9], but the potential benefit is unknown. Given the concerns raised in this response, FR feels like a significant gamble for unknown benefit.

10.4 The reduction in the lifetime limit for combined ER & BADR claims to £500,000 of qualifying gains from 6 April 2027 will reduce incentives to, and rewards for, building a successful business.

FR does nothing to compensate the majority of businesses who will lose out as a result of this reduced BADR lifetime limit. Many of those businesses are also employers and contribute to the wider economy, but the tax incentives for growing the majority of successful businesses are being reduced. Meanwhile, FR will benefit a very small number of eligible claimants.

Purely based on business structure, 63% of private sector businesses at the start of 2025 were sole trades or partnerships [10]. No founders or investors in these unincorporated businesses will benefit from FR, even if the business could otherwise meet the required turnover and headcount growth criteria ('innovation' is denied by virtue of R&D tax relief being irrelevant to unincorporated businesses).

11 Contact details

11.1 We would be pleased to join in any further discussion relating to this consultation. Should you wish to discuss any aspect of this response, please contact atttechnical@att.org.uk.

[9] https://www.gov.uk/government/publications/capital-gains-tax-introduction-of-a-founder-relief/capital-gains-tax-introduction-of-a-new-founders-relief#summary-of-impacts

[10] https://www.gov.uk/government/statistics/business-population-estimates-2025/business-population-estimates-for-the-uk-and-regions-2025-statistical-release#:~:text=this%20chart%E2%80%99s%20data-,Legal%20form,-There%20are%203

The Association of Taxation Technicians

12 Note

12.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has more than 10,000 members and Fellows together with over 7,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.