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Senate Tax Bill Expands QSBS Benefits

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On June 16, 2025, the Senate Finance Committee (SFC) released a revised version of the "One Big Beautiful Bill Act" (SFC bill), following the House's passage of the bill on May 22. The SFC bill would significantly expand the tax exemption under Internal Revenue Code 1202 for qualified small business stock (QSBS) acquired after the enactment date of the final legislation (effective date).[1]

The QSBS exclusion is an increasingly popular tax benefit for founders and investors in early-stage companies. Provided that certain holding period and other requirements are satisfied, the QSBS exclusion permits stockholders to exclude taxable gain from federal income tax, subject to the caps described below. The SFC bill would enhance these benefits and relax certain restrictions, making QSBS even more attractive for early-stage investors.

What is QSBS?

Under current law, QSBS generally refers to stock in a domestic "C" corporation that, among other requirements:

- Had aggregate gross assets of no more than $50 million (which is increased to $75 million under the SFC bill) at all times before and immediately after the stock issuance.
- Is engaged in a "qualified trade or business," which generally excludes service-based fields (e.g., law, healthcare, finance and architecture), financial services (e.g., banking and insurance) and certain other industries (e.g., farming, mining, hospitality and restaurants). Despite these exclusions, many early-stage technology and life sciences companies typically qualify.

What is changing under the SFC bill?

Below is a side-by-side comparison of the current QSBS rules and the proposed changes under the SFC bill:

Summary of changes	Current law (stock acquired on or before the effective date)	SFC bill (stock acquired after the effective date)
Reduced required holding period	More than five years	At least three years
Tiered gain exclusion percentages [2]	• 100% for stock acquired after September 27, 2010 • 75% for stock acquired after February 17, 2009, and before September 28, 2010 • 50% for stock acquired before February 18, 2009	• 50% for stock held for three years • 75% for stock held for four years • 100% for stock held for five years or more
Increased cap on the gain exclusion	Greater of $10 million ($5 million for married taxpayers filing separately) or 10 times the taxpayer's tax basis in the QSBS	Greater of $15 million ($7.5 million for married taxpayers filing separately), adjusted for inflation beginning in 2027, or 10 times the taxpayer's tax basis in the QSBS
Increased gross assets limit[3]	$50 million	$75 million (adjusted for inflation beginning in 2027)

Other QSBS requirements remain unchanged

The SFC bill does not change other key QSBS eligibility requirements. For example:

- The stock generally must be acquired directly from the issuing corporation in exchange for money, property (excluding stock) or as compensation for services.
- The issuing corporation must be a domestic C corporation and actively conduct a "qualified trade or business" for substantially all of the relevant holding period.
- Redemptions by the issuing corporation can cause stock acquired within specified periods before or after the redemptions to fail to qualify as QSBS.

Next steps

The SFC bill is subject to change before or during Senate floor consideration. If passed, it will need to be reconciled with the House version – potentially through a conference committee. According to reports, President Donald Trump directed the Senate to pass the bill by July 4, so that it can be signed into law by August.

Cooley will continue to monitor as the US legislative process unfolds. In the meantime, founders and investors

should consider the impact of the proposed changes on prospective financings.

Notes

1. The “acquisition date” of QSBS for this purpose is the date the stock is acquired for cash, property or services, but includes the holding period of stock acquired in certain carryover basis transactions, such as tax-deferred reorganizations and contributions to capital. The definition of “acquisition date” in the SFC bill precludes taxpayers from exchanging QSBS that would not qualify for the SFC bill expansions for new QSBS that would so qualify.
2. The portion of gain that remains taxable under the QSBS rules is subject to a 28% tax rate, rather than the standard 20% long-term capital gains rate. As a result, the effective tax rate is 14% for a 50% gain exclusion and 7% for a 75% gain exclusion, respectively (without considering the 3.8% net investment income tax).
3. The gross assets limit must be satisfied by the corporation at all times before and immediately after the issuance of the QSBS.

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