

**§ 1202 QUALIFIED SMALL BUSINESS STOCK
CHECKLIST**

Name of Corporation: _____

Date of Stock Issuance: _____ Type of Stock: _____

This checklist is intended to assist corporations, shareholders, and tax advisors in determining whether stock is “qualified small business stock” within the meaning of § 1202 of the Code (“QSBS”). The following is not tax or legal advice. There is no assurance that stock qualifies as QSBS or that any taxpayer is entitled to any particular amount of tax benefits.

This checklist does not address how to compute how much capital gain, if any, may be excluded from taxable income. Consult a professional tax advisor on this issue.

By completing this checklist, neither the corporation nor any advisor or preparer is providing any assurance that the corporation’s stock is QSBS.

Part I: When Stock is Issued

Part I of this checklist is intended to be used when stock is originally issued to determine whether such stock is or likely will be QSBS.

Questions 1-4: Basic Requirements

If the answer to any of Questions 1-7 is NO, the stock to be issued will not be QSBS. But continue to respond to Questions 8-9 because the responses may impact the QSBS status of stock the corporation previously issued or will issue in the future.

1. Is the issuing corporation is a domestic C corporation?

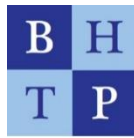
[Yes / No]

Notes:

- A “domestic” C Corporation is one organized under laws of any state or the District of Columbia, but does not include (a) a DISC, or former DISC, (b) a corporation with a Section 936 election in effect (including direct or indirect subsidiaries), (c) a RIC, REIT, a REMIC, or (d) a cooperative.

2. Will the stock be issued to a person other than a C corporation (i.e., an individual, partnership, S corporation, trust, or estate)?

[Yes / No]



3. Will the stock be issued after August 10, 1993 for money, other property (not including stock), or as compensation for services (other than underwriter services)?

[Yes / No]

If YES:

Date of issuance: _____

Money contributed for stock: \$ _____

Fair market value of property contributed for stock: \$ _____

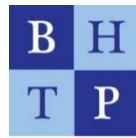
4. At all times during the corporation's existence after August 10, 1993 and up to the time immediately following the issuance of stock, will the aggregate gross assets of the issuing corporation (or any predecessor) be equal to or less than \$50 million?

[Yes / No]

Notes:

- The issuing corporation's aggregate gross assets equal:
 - The amount of cash held by the corporation, plus
 - The adjusted tax basis of any property held by the corporation, *but* with respect to property contributed to the corporation in a tax-free transaction, the adjusted tax basis shall be computed as if the corporation's initial tax basis equaled the fair market value of such property at the time of such contribution.
- Liabilities are not taken into account.

All corporations which are a part of a "controlled group" constituting a parent/subsidiary chain, in which each subsidiary is owned at least 50% by vote and value, are taken into account as though they were a single corporation.



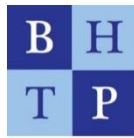
Questions 5-7: “Active Business” Requirements

5. Will at least 80% (by value) of the corporation’s assets will be used in the active conduct of one or more qualified trades or businesses?

[Yes / No]

Notes:

- A “qualified trade or business” means any trade or business except the following:
 - The performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, 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.
 - Any banking, insurance, financing, leasing, investing, or similar business.
 - Any farming business (including the business of raising or harvesting trees).
 - Any business involving the production or extraction of products of a character with respect to which a deduction is allowable under IRC Section 613 or 613A.
 - Any business of operating a hotel, motel, restaurant, or similar business.
- A parent corporation shall be deemed to own its ratable share of a subsidiary’s assets and to conduct its ratable share of the subsidiary’s activities. A corporation shall be considered a subsidiary for these purposes if the parent owns more than 50% of the combined voting power of all classes of stock entitled to vote, or more than 50% in value of all outstanding stock, of such corporation.
- Where the corporation holds an interest in a partnership, the law is unclear as to when the corporation is deemed to own a share of the partnership’s assets and conduct a share of the partnership’s activities in the same manner as with a corporate subsidiary. and assets of the partnership. Consult a tax professional on this issue.
- The following shall be treated as used in the active conduct of a trade or business:
 - Assets used for start-up activities, research and experimentation expenditures, and in-house research expenses;
 - Assets held for reasonably required working capital needs, or for investment which are reasonably expected to be used within two years to finance increases in working capital needs or research and experimentation, *provided*, that after the corporation has been in existence for at least two years, no more than 50% of the corporation’s assets can qualify as used in the active conduct or a qualified trade or business by reason of this bullet; and
 - Rights to computer software that produce “active business computer software royalties.”
 - Certain technical definitions of “start-up activities,” “research and experimentation expenditures,” “in-house research expenses,” and “active business computer software royalties” apply. Consult a tax professional to apply such terms to the corporation’s specific facts.



6. Will no more than 10% (by value) of the corporation's assets consist of real estate not used in the active conduct of its qualified trade or business?

[Yes / No]

Notes:

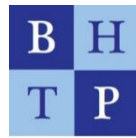
- The ownership of, dealing in, or renting of real property is not treated as the active conduct of a qualified trade or business.

7. Will no more than 10% of the corporation's net assets (assets in excess of liabilities) consist of stock or securities, other than that of subsidiaries?

[Yes / No]

Notes:

- See notes under Question 5 for:
 - The definition of a subsidiary, and
 - Where stock or securities may be treated as used in the active conduct of a trade or business because they are expected within two years to finance increases in working capital needs or research and experimentation.



Questions 8-9: “Significant Redemptions” Rules

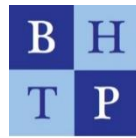
Questions 8-9 are intended to determine compliance with rules to prevent avoidance of the requirement that QSBS be originally issued by the corporation to the shareholder. If the answer to either is YES, consult with a tax advisor as soon as possible. The stock to be issued in connection with the completion of this checklist will not be QSBS, but stock the corporation previously issued or may issue in the future may not be QSBS.

8. Has the corporation made, or will the corporation make, purchases of its own stock from any person during the 2-year period beginning 1 year prior to issuance and ending 1 year after the issuance in an aggregate amount greater than 5% of the fair market value of all of its stock as of the beginning of such period (i.e. 1 year prior to the issuance)?

[Yes / No]

Notes:

- The timing for this determination is often confusing. The numerator includes all purchases of the corporation’s own stock within the 2-year period beginning 1 year before and ending 1 year after the issuance of the stock. But the denominator is the fair market value of the corporation’s stock 1 year prior to the issuance of the stock. For a corporation appreciating in value, the denominator may be smaller than expected, and the QSBS status of stock issued in connection with this checklist may be affected by the corporation’s purchases of stock up to 1 year after such issuance.
- Disregard the following purchases (do not include them in the numerator):
 - The stock was acquired by the selling shareholder in connection with the performance of services as an employee or director and the stock is purchased from the selling shareholder incident to the seller’s retirement or other termination of such services;
 - The stock is purchased within 3 years and 9 months from the date of a decedent shareholder’s death from the decedent’s estate, beneficiary, heir, surviving joint tenant, or surviving spouse or from a trust established by the decedent or decedent’s spouse;
 - The stock is purchased incident to the divorce of the selling shareholder;
 - The stock is acquired in connection with the end of employment of an employee or director in connection with such person’s disability or mental incompetency; or
 - The stock is transferred by a shareholder to an employee or independent contractor, even if other tax rules deem the transfer to be a contribution by the shareholder to the corporation and the payment of compensation by the corporation to the employee or independent contractor.
- Purchases of a “de minimis” amount of stock within the 2-year period will not be treated as violating this requirement. Purchases are “de minimis” if, in the aggregate during the 2-year period, they do not exceed \$10,000 or 2% of the corporation’s outstanding stock.
 - For purposes of the 2% threshold, the percentage of each single purchase is determined by dividing the stock’s value (as of the time of purchase) by the value of all the corporation’s stock (as of the time of purchase). Aggregate all such percentages for purchases within the two year period to determine if the 2% threshold is met.

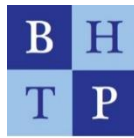


9. Has the corporation made, or will the corporation make, purchases of its own stock from the person whose stock is being tested for QSBS qualification, or any person related to that person, in the 4-year period beginning 2 years prior to issuance and ending 2 years after issuance?

[Yes / No]

Notes:

- While Question 8 relates to certain purchases of stock from any person, Question 9 only relates any purchases from the person to be issued new stock.
- See notes under Question 8 for certain purchases disregarded for this determination, and “de minimis” purchases that will not be treated as violating this requirement.



Part II: When Stock is Sold

Part II of this checklist is intended to be used when a shareholder sold stock (the “Sold Stock”), and such stock or the predecessor to such stock (the “Original Stock”) was QSBS when originally issued. In most but not all cases, the Original Stock and the Sold Stock will be the same stock.

1. (a) Is the shareholder of the Sold Stock the same person to whom the Original Stock was issued?
[Yes / No]

(b) If the answer is NO, did the shareholder acquire the Sold Stock (i) as a gift from, or upon the death of, the shareholder of the Original Stock, or (ii) as a distribution from a partnership to whom the Original Stock was issued, and the shareholder was a partner in the partnership when it was issued the Original Stock?
[Yes / No]

2. (a) Is Sold Stock of the same corporation as the Original Stock?
[Yes / No]

*If the answer is YES, skip Questions 2(b) and (c) below.
If the answer is NO, answer Question 2(b) below.*

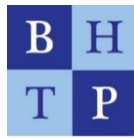
(b) Was the Original Stock exchanged for the Sold Stock in a tax-free reorganization or § 351 transaction?
[Yes / No]

*If the answer is YES, skip Question 2(c) below.
If the answer is NO, answer Question (c) below.*

(c) Was the Original Stock disposed of in a taxable transaction, but the Sold Stock was acquired within 60 days of such disposition in a transaction to which § 1045 applied?
[Yes / No]

3. Is the Sold Stock of the same corporation as the Original Stock, but of a different class or number of shares, as a result of a conversion or recapitalization transaction?
[Yes / No]

If the answer is YES, please explain:



4. Has the shareholder held the Sold Stock for at least 5 years?

[Yes / No]

Notes:

- Subject to exceptions described below, a shareholder’s holding period in the Sold Stock for QSBS purposes begins only when the shareholder acquires the stock, *e.g.*, when the shareholder exercises an option to purchase the stock, converts debt into stock, or contributes property (other than stock) to the corporation in exchange for stock. This is true regardless of whether, for “regular” long-term capital gains purposes, the shareholder’s holding period would include his or her holding period in the property converted or exchanged for stock.
- If the answer to Question 1(b) was YES, the shareholder’s holding period in the Sold Stock includes the holding period of the person who was issued the Original Stock.
- If the answer to Question 2(b) was YES, the shareholder’s holding period in the Sold Stock includes his or her holding period in the Original Stock.
- If the answer to Question 2(c) was YES, the shareholder’s holding period in the Sold Stock includes his or her holding period in the Original Stock that was disposed of prior to the acquisition of the Sold Stock and to which § 1045 applied.

5. During substantially all of the shareholder’s holding period, has the corporation remained a domestic C corporation described in Part I, Question 1?

[Yes / No]

6. During substantially all of the shareholder’s holding period, has the corporation met the “active business” requirements described in Part I, Questions 5-7?

[Yes / No]

7. At any time during the shareholder’s holding period, did the shareholder have an offsetting short position with respect to the Original Stock or Sold Stock?

[Yes / No]

Notes:

- An “offsetting short position” includes:
 - A short sale of the stock or substantially identical property;
 - Selling the stock for future delivery;
 - A put option to sell the stock or substantially identical property for a fixed price; or
 - Writing a call option to buy the stock or substantially identical property, which option is more likely than not to be exercised.