



# Financial, Legal & Tax Advisory

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## *Section 1202: New & Improved*

Selling your business? What if I told you that you could exclude up to \$15 million from the sale of your business if you meet certain parameters? Business owners must be aware of the requirements, as they are crucial for qualifying for the exclusion. Section 1202 of the Internal Revenue Code is a very beneficial tool, and the exclusion can easily be applied to your sale. Section 1202 is known as the Small Business Stock Capital Gains Exclusion. As originally signed into law, this section can only be applied to qualified small business stock acquired after September 27, 2010, that is held for more than five years.

Within the Protecting Americans from Tax Hikes (PATH) Act in 2015, one tax benefit, made permanent by the Obama administration, was the Small Business Stock Capital Gains Exclusion found in Section 1202. The intention of this section in the Internal Revenue Code was to provide an incentive for non-corporate taxpayers to invest in small businesses in the United States. Before February 18, 2009, Section 1202 allowed up to 50% of capital gains to be excluded from gross income.

The American Recovery and Reinvestment Act then increased the exclusion rate from 50% to 75% for stock purchased between February 18, 2009, and September 27, 2010. This was done to stimulate the small business sector. The latest revision to Section 1202, where we are at today, provides for 100% exclusion of any capital gain if the acquisition of the small business stock was after September 27, 2010. The capital gains that are exempt from tax are also exempt from the net investment income (NII) tax that is applied to most investment income at a rate of 3.8%.

The limit upon the amount of gain a shareholder can exclude is limited to either \$10 million or 10 times the adjusted basis of the stock. Any taxable portion of the gain from selling small business stock has an assessment at the maximum tax rate of 28%. On July 4, 2025, a new bill known as the One Big Beautiful Bill (OB BB) was signed into law. Within this bill, there were some changes to section 1202. A tiered system was implemented for eligible QSBS that was issued after July 4, 2025. Within this tier, you are now eligible for partial gain exclusion after a 3-year holding period, rather than having to wait the entire 5 years.

The QSBS requirements remain the same as listed above, with the only changes being the issue date and the asset limitation. The aggregate gross asset threshold was increased from \$50 million to \$75 million, and the eligible amount of gain exclusion was increased from the greater of \$10 million (not indexed for inflation) or 10x basis to \$15 million (indexed for inflation beginning in 2027) or 10x basis.

- 3-year holding period, 50% gain exclusion
- 4-year holding period, 75% gain exclusion
- 5-year holding period, 100% gain exclusion

It is important that business owners check immediately with their business broker, accountant, or legal counsel in regard to their business structure. This is especially true for those who plan to sell within the next couple of years. If you are looking into selling your business and have any questions about the Small Business Stock Capital Gains Exclusion, reach out to the professionals at The Center for Financial, Legal, and Tax Planning, P.C. at our website, [www.taxplanning.com](http://www.taxplanning.com) or by phone at (618) 997-3436.

Basi, Basi & Associates at The Center for Financial, Legal, & Tax Planning, P.C.

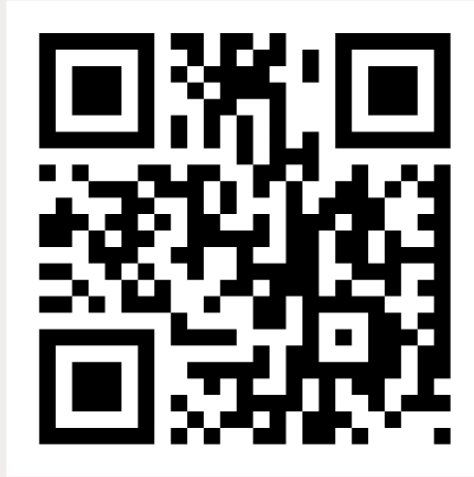
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