

Principal Features

To provide a targeted incentive for new equity investment in unquoted trading companies.

Relief is available to qualifying individuals subscribing in cash for new ordinary shares in a qualifying company.

Tax Relief Available

Relief is given at 20% on the investment up to a maximum of £500,000 in a tax year (minimum investment £500 in any one company in any one tax year).

For shares issued in 2009/10 and later years, the investor can claim for some or all of the relief to be given in the previous year subject to the overall limit for that year. For 2008/09 and earlier if the investment was made prior to 5 October, 50% of the investment (up to a maximum of £50,000) could be carried back to the previous tax year.

Qualifying Individual

This is an individual liable to UK income tax and who is not connected to the company in the period two years before and three years after the share issue (or three years after commencement of trade, if later).

A person is connected if he or his associates owns more than 30% of:

- the share capital of the company or any subsidiary
- the loan capital and share capital
- the voting power
- the assets available for distribution on a winding up

Associates are business partners, spouse/civil partner, parents,

grandparents, children and grandchildren.

He is also connected if he is or has been at any time in the period a director or employee. However, he can still qualify for relief if:

- when issued with the shares, he was not a director/employee and
- his remuneration is reasonable for the services performed

ie it is imperative that he is not appointed a director until after the share issue.

Qualifying Company

It must be an unquoted trading company or the parent of a group carrying on a qualifying trade in the UK for at least three years. It must not be under the control of another company and must not control another company apart from a qualifying subsidiary.

The funds raised must be used for the trade within two years of receipt (or commencement of trade, if later).

The gross assets must not exceed £7million before and £8million after the share issue (including subsidiaries' assets where relevant).

It must have fewer than 50 full time employees at the time of the share issue.

It cannot raise more than £2million in any 12 month period.

Qualifying Trade

Must be carried on wholly or mainly in the UK and must not consist to any substantial extent of any of the following:

- dealing in land, shares, securities



Enterprise Investment Scheme (EIS)

Technical Guidelines

- dealing in goods otherwise than in the course of any trade of wholesale or retail distribution
- banking, insurance, money lending etc
- leasing or receiving royalties or licence fees, unless derived from an intangible asset created by the company
- providing legal or accountancy services
- providing services or facilities for any trade within the above
- property development
- farming or market gardening
- holding, managing or occupying woodlands
- operating or managing hotels, nursing homes, residential care homes.

Capital Gains Tax

Shares are exempt from CGT if held for at least three years, if relief was obtained on investment and has not been withdrawn.

If shares are sold at a loss, loss relief is available. The cost of the shares is reduced by the amount of income tax

relief given. The loss can be set against income of that year or the previous year.

Other capital gains can be deferred by investing under EIS. The deferred gain becomes chargeable when the EIS shares are sold or the EIS shares cease to be qualifying shares. The EIS investment must be made within the period one year before or three years after the gain arose. An investor can be connected to the company and still claim deferral relief.

Clawback of Relief

EIS relief may be withdrawn if:

- the company ceases to be a qualifying company within three years from the issue of the shares (or from when trading commenced, if later)
- the individual becomes connected in the five year period
- the company redeems share capital
- the individual 'receives value'
- the individual sells shares before the three year period.

Advice that stands the test of time

This is intended to provide a guide to current tax issues. It is not a substitute for technical advice. If you have any queries, please do not hesitate to contact us.