Seed Enterprise Investment Scheme

The scheme is for true start-ups who find it difficult to obtain financial assistance. By giving generous income tax relief (IT) and capital gains tax (CGT) exemptions, qualifying companies can use the scheme to attract individual investors to invest in new and growing companies.

Key features

The key features of the relief can be summarized as follows:

- A qualifying investor can invest up to £100,000 into qualifying companies in a tax year of which they will receive income tax relief of up to 50% of the sum invested.
- Unused relief in one tax year can be carried back to the preceding tax year if the relief for the preceding tax year is not reached.
- The maximum amount that a company can raise under SEIS is £150,000 in total
- The company must not have gross assets of more than £200,000[1] before any SEIS investment.
- An individual who makes a capital gain on another asset and re-invest the gain in SEIS shares will not pay tax on 50% of the gain reinvested subject to certain conditions.

General requirements

The shares must be ordinary shares, which have been subscribed for wholly in cash and are fully paid up. They must be held for a three-year period from the date of issue to obtain the tax benefits. The purpose for raising the money must be to fund the carrying on (or preparations to carry on[2]) a new[3] qualifying trade and must be spent within three years of the date of issue of the shares.

The anti-avoidance requirement is that there must be no pre-arranged exit for the investor involving the purchase of the shares, or the disposal of assets.

---

[1] If the company is a parent of a group, the amount is the total for the group.
[2] Such as using the funds to meet the costs of research and development intended to create or benefit a new qualifying trade will also be acceptable.
[3] New as in it has not been carried out by either the company or any other person for longer than two years at the date the shares are issued.

Investor requirements

The investor (or someone who is associated[4] with the investor) must not be an employee of the company in which the investment is being made unless the investor is also a director.

The investor must also not have (directly or indirectly) a substantial interest (i.e. more than 30%) in the company by reference to shareholding, voting rights or assets on winding up.

Company requirements

The main conditions relating to the company can be summarised as follows:

- It must not be controlled by another company
- The company must be unquoted
- The company must have a permanent establishment in the UK
- The company must be effectively solvent at the date of issue of the shares
- The company may have a qualifying subsidiary[5]
- The company must not be a member of a partnership
- Immediately before the investment, the gross assets of the company must not exceed £200,000[6]
- There are less than 25 full-time employee equivalents in the company and any related entity
- The company must not have had EIS or Venture Capital Trust (VCT) investment before the SEIS shares are issued. It can seek EIS or VCT investment thereafter
- The total amount of investment made under SEIS in the company must not exceed £150,000 in total.

Which trades qualify?

Basically any trading activity carried out on a commercial basis will qualify unless it is an excluded activity as defined. This means activities such as property development, retail distribution, hotels, nursing homes and farming will not qualify.

How is relief obtained?

The relief is given as a reduction against the total tax liability for the year but cannot turn a tax liability into a tax repayment. In that situation the individual would be able to carry back the unused relief to the preceding tax year for use if there was any tax unrelieved for that year.

---

[4] Includes business partners, trustees of any settlement of which the investor is a settlor or the beneficiary, and relatives i.e. spouses, civil partners, parents, grandparents, children and grandchildren (brothers and sisters are not counted as associated for SEIS purposes).
[5] The investee company directly or indirectly holding more than 50% of the ordinary shares capital of the subsidiary.
[6] If the company is a parent of a group, the amount is the total for the group.

Can the relief be withdrawn?

Yes if certain events happen within three years from the date the shares are issued. The most obvious event is the disposal of the shares in that period. There are complex rules that will cause the relief to be withdrawn if the investor receives value from the company during this period.

However, if the company goes into receivership or administration or is wound up during this period, the relief would not be withdrawn.

What about the CGT position?

Where shares are sold more than three years after the date on which they are issued then any resulting gain is free of CGT. Shares sold within three years would be chargeable but may qualify for the 10% rate of CGT under Entrepreneurs' Relief if various conditions are met.

Where a loss arises on the disposal of SEIS shares, any income tax relief is reduced by the amount of any income tax relief attributable to the shares sold which the investor has claimed previously.

In addition, up to 50% of capital gains from disposal of assets can be deferred if the capital gain is invested in SEIS shares. This reinvestment relief is capped at £100,000. Further, this relief will only be allowed where the investment also qualifies for income tax relief and a claim is made. If for any reason the SEIS relief is withdrawn on the shares then the gain will be reinstated.

How we can help

SEIS compliments the EIS and related Venture Capital Trust investment schemes as it may be an alternative way of attracting funds at a time when it is still difficult to obtain finance from traditional sources such as banks. We can guide you through the requirements and ensure all opportunities to use it are obtained for both the investor and qualifying company. Please do contact us at DRG Chartered Accountants 0n 01628 760000 if this is an area of interest.

18th August 2016