



Enterprise Investment Scheme

The Enterprise Investment Scheme (EIS) aims to help smaller companies to obtain finance by offering incentives to potential investors.

Companies that qualify for EIS are significantly more attractive to investors than those that don't.

Investors can receive a tax rebate against their personal income tax equal to 30% of the amount of their investment as well as being able to sell their shares and pocket any capital gain tax free.

How does EIS work?

An investor subscribing for shares in a non-listed (or AIM listed) company performing a qualifying business activity may (subject to both the company and the investor complying with certain requirements) be entitled to various tax reliefs. Particular requirements of note are that the investor must not sell his shares for a period of three years from the date of investment and must not enter into a transaction or arrangement by which his risk is reduced.

An investor must not be connected with the company meaning that he cannot (except in limited circumstances where the investor is a business angel) be a director, officer, employee or other paid consultant of the company and cannot hold either himself or through associates 30% or more of the issued share capital of the company. In addition, the shares held by the investor must not give him a preferential entitlement to receipt of a dividend or to capital (including on a winding up).

The definition of qualifying business activity includes any business other than property (including development, hotels and nursing homes), financial services (including dealing in commodities, shares and financial instruments, insurance, banking, legal and accountancy), receiving royalties or licence fees, leasing, shipping, agriculture, coal and steel production and shipbuilding.

The available tax reliefs are as follows:

Income Tax Relief: available to investors who are individuals and amounting to 30% of the cost of the shares (par plus premium) which is set against the individual's Income Tax liability for the tax year in which the investment was made (up to a maximum tax reduction of GBP150,000).

Capital Gains Tax Exemption: an investor who has received Income Tax Relief (which has not subsequently been withdrawn) on the cost of shares, may sell the shares three years after they were issued free from capital gains tax.

Loss Relief: if the shares are disposed of at a loss, the investor can elect for the amount of the loss (less any Income Tax Relief given) to be set against income of the year in which the shares were disposed of,

or any income of the previous year, instead of the loss being set off against any capital gains.

Capital Gains Tax Deferral Relief: the payment of tax on a capital gain can be deferred where the gain is invested in shares of an EIS qualifying company within the period of one year before or three years after the gain arose.

How can we help?

Buckworth Solicitors offers clients advice on accessing the various reliefs available under EIS and structuring new or existing companies and transactions to take advantage of EIS reliefs. We act for both companies and investors and provide some or all of the following services as required:

We draft transaction documents which maximise the relief claimable under EIS whilst ensuring that all conditions necessary for the company and investment to qualify under EIS are maintained throughout the three year period running from the date of the investment.

We seek an advance approval from HMRC that a company and investment ought to qualify under EIS. This approval is not binding on HMRC, particularly if the circumstances of the business or investment change subsequent to HMRC granting the approval.

We monitor the management of the company and behaviour of the investor during the three year period to ensure that all conditions continue to be met.

We handle the process with HMRC by which HMRC judges that all conditions for the grant of relief are met and assist the company with issuing the documents to the investor which enable the investor to claim reliefs.

Where can I find further information?

For further information, or to see if your company or investment, could qualify for EIS, please contact Michael Buckworth at Buckworth Solicitors.

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