EIS & SEIS

CALDWELL PENN
chartered accountants • chartered tax advisers

Overview

The Enterprise Investment Scheme (EIS) and the Seed Enterprise Investment Scheme (SEIS) are two of a number of initiatives which help companies source funding by granting investors a significant tax break when investing in early stage, 'high risk' companies.

EIS

EIS is designed to help your company raise money. It does this by offering tax relief to individual investors who buy new shares in your company. It focuses on companies who have been trading for two to seven years.

Who qualifies?

Your company qualifies if:

- it is established in the UK
- carries out a qualifying trade
- is not trading on a recognised stock exchange at the time of the share issue and does not intend to do so
- does not control another company other than qualifying subsidiaries
- is not controlled by another company, or does not have more than 50% of its shares owned by another company
- does not expect to close after completing a project or series of projects.
- has gross assets less than £15 million
- has less than 250 employees

Benefits to investor

- Invest up to £1 million per tax year and receive a 30% tax break in return
- Investor will not pay any capital gains tax on any profit arising from the sale of the shares after three years
- There is no inheritance tax to pay on shares held for at least two years
- If shares sold at a loss, the investor may offset the loss against their capital gains tax.

SEIS

SEIS is designed to help your company raise money when it's starting to trade. It does this by offering tax relief to individual investors who buy new shares in your company. It focuses on smaller businesses in their first two years of trading.

Who qualifies?

Your company qualifies if:

- it is established in the UK
- carries out a new qualifying trade
- is not trading on a recognised stock exchange at the time of the share issue and does not intend to do so
- does not control another company other than qualifying subsidiaries
- has not been controlled by another company since the date of your company being incorporated
- has gross assets less than £200k
- is not a member of a partnership
- has less than 25 employees

Benefits to investor

- Invest up to £100k per tax year and receive a 50% tax break
- Investor will benefit from capital gains tax exemptions on any profits that arise from the sale of shares after three years
- There is no inheritance tax to pay on shares held for at least two years
- If shares sold at a loss, the investor may offset the loss against their capital gains tax.

Contact Us

For the latest news and advice please visit our Facebook, LinkedIn and website pages. If you have any immediate questions or if you would like to discuss anything further please contact us via email or give us a call on:

01483 898 400

Enterprise Investment Scheme

Enterprise Investment Scheme (EIS)

EIS is designed so that your company can raise money to help grow your business. It does this by offering tax relief to individual investors who buy **new** shares in your company.

£5m	£12m	3
in 12 months	a lifetime	years
Under EIS, you can raise up to £5 million in total in any 12 month period. A single investor can invest a maximum of £1 million per tax year in EIS investments.	You can raise a maximum of £12 million in your company's life-time. However, this includes amounts received from other venture capital schemes.	Tax relief will be withheld or withdrawn from your investors if you do not follow the rules for at least 3 years after the investment is made.

Can I use the scheme?

Your company can use the scheme if it:

- has a permanent establishment in the UK
- is not trading on a recognised stock exchange at the time of the share issue and does not plan to do so
- does not control another company other than **qualifying subsidiaries**
- is not controlled by another company, or does not have more than 50% of its shares owned by another company
- does not expect to close after completing a project or series of projects.

Your company and any qualifying subsidiaries must:

- not have gross assets worth more than £15 million before any shares are issued, and not more than £16 million immediately afterwards
- have less than 250 full-time equivalent employees at the time the shares are issued
- your company must carry out a qualifying trade. If you're part of a group, the majority of the group's activities must be **qualifying trades**.

What is a qualifying subsidiary?

If your company owns or controls any other companies they must be 'qualifying subsidiaries'. This means:

- your company must own more than 50% of the subsidiary's shares
- no one other than your company or one of its other qualifying subsidiaries can control this subsidiary
- there cannot be any arrangements which would put someone else in control of this subsidiary.

The subsidiary must be at least 90% owned by your company where either the:

- business activity you're going to spend the investment on is to be carried out by the qualifying subsidiary
- subsidiary's business is mainly property or land management.

What is a qualifying trade?

You must use the investment for a qualifying trade.

Most trades will qualify, including any research and development which will lead to a qualifying trade.

However your company may not qualify if more than 20% of your trade includes things like:

- coal or steel production
- farming or market gardening
- leasing activities
- legal or financial services
- property development
- running a hotel
- generation of energy, such as electricity and heat
- production of gas or other fuel
- banking, insurance, debt or financing services.

Find a full list and more information about non-qualifying trades click **here**.

What can I use the money for?

The money raised by the new share issue must be used for a qualifying business activity, which is either:

- a qualifying trade
- preparing to carry out a qualifying trade (which must start within 2 years of the investment)
- research and development that's expected to lead to a qualifying trade.

The money raised by the new share issue must:

- be spent within 2 years of the investment, or if later, the date you started trading
- not be used to buy all or part of another business
- pose a **risk of loss to capital for the investor**
- be used to grow or develop your business.

Are there any conditions that need to be met?

The investment in your company must meet the **risk to capital condition**, which means:

- your company must use the money for growth and development
- the investment should be a risk to the investors capital.

Growth and development

The growth and development of your company should be permanent and not rely on the investor's continued support.

This means you'll use the investment to grow things like:

NUMBER OF STAFF

REVENUE

CUSTOMER BASE

Investment risk

The investment should carry a risk that the investor will lose more capital than they are likely to gain as a net return.

The net return includes:

- income from dividends, interest payments and other fees
- capital growth
- upfront tax relief.

Can I apply for EIS at anytime?

You can receive investment under EIS as long as it's within 7 years of your company's first commercial sale, or if part of a group, the group's earliest commercial sale.

If you received investment in this period under EIS, SEIS, SITR, VCT or other state aid, you can use EIS to raise money for the same activity as long as you showed you were planning to do so in your original business plan.

If you did not receive investment within the first 7 years, or now want to raise money for a different activity from a previous investment, you'll have to show that the money:

- is required to enter a completely new product market or a new geographic market
- you're seeking is at least 50% of your company's average annual turnover for the last 5 years.

What are the rules for your investors?

To qualify for these tax benefits, investors must abide by the following rules:

- They can only invest up to a maximum of £1 million in any number of qualifying companies in each tax year
- They must hold the shares for a minimum of 3 years. If they sell or gift the shares within the 3 year period, they will be subject to relief claw-back
- They cannot carry-forward your EIS tax relief
- They must be a UK taxpayer
- They must not be connected to the EIS company (the meaning of connected being: (i) an employee (ii) partner (iii) a paid director)
- They must be buying brand new shares that are not already on the market.

What are the benefits for your investors?

Income tax relief

They can claim back up to 30% of the value of their investment in the form of income tax relief. Therefore if they make an investment of £20,000 they can save £6,000 in income tax.

Capital gains relief

Disposal

If they hold the shares for at least 3 years, then all gains that accrue on those shares may be exempt from Capital Gains Tax when they come to sell them. Therefore, if they buy your shares for £20,000 and in 3 years they are worth £40,000, they will not have to pay capital gains tax on the £20,000 gain if they decide to sell your shares.

Deferral

They will not have to pay Capital Gains Tax until a later date if they dispose of an asset (any asset) and use the gain they made on that asset to invest in shares in your company that qualifies for EIS. They will usually have to pay the Capital Gains Tax when they dispose of the EIS shares.

Loss relief

If the business performs poorly and they lose money on their investment, they may claim loss relief.

The loss relief they can claim is at the equivalent rate to the highest rate of income tax they pay. So if they pay income tax at a rate of 45%, they can claim up to 45% of their net loss in income tax relief.

For example, if they make a £20,000 investment and your business fails meaning their investment is no longer worth anything they could claim loss relief. Firstly they could claim the 30% income tax relief (£6,000 in this example). They can then claim loss relief on the remaining £14,000 of an amount equal to their income tax bracket – in this scenario 45% or £6,300, meaning you total loss is only £7,700.

Before you issue shares and raise money

Your investors will only be able to claim tax relief if you meet the conditions for EIS.

Contact us before applying and we will help you through the process and ensure you meet all conditions applicable to EIS.

When you issue shares

- The shares you issue must be paid up in full, in cash, when they're issued. Your company should have a way to accept payment before shares are issued
- Your shares for EIS investments must be full risk ordinary shares which are not redeemable and carry no special rights to your assets
- The shares you issue can have limited preferential rights to dividends. However, the rights to receive dividends cannot be allowed to accumulate or allow the dividend to be varied.

There cannot be an arrangement:

- to guarantee the investment or protect the investor from risk
- to sell the shares at the end of, or during the investment period
- to structure your activities to let an investor benefit in a way that's not intended by the scheme
- for a reciprocal agreement where you invest back in an investor's company to also gain tax relief
- to raise money for the purpose of tax avoidance - the investment must be for a genuine commercial reason.

Seed
Enterprise
Investment
Scheme

Seed Enterprise Investment Scheme (SEIS)

SEIS is designed to help your company raise money when it's **starting to trade**. It does this by offering tax relief to individual investors who buy **new** shares in your company.

£150
Thousand

Under SEIS, you can raise up to £150k in total in your company's lifetime.

25
employees

Your company must not have more than 25 full-time employees.

£200
thousand

Your company must not have more than £200k of gross assets at the time that the shares are issued.

2
years

Your company must not have been carrying out a new **qualifying trade** for longer than 2 years.

Can I use the scheme?

Your company can use the scheme if it:

- carries out a new **qualifying trade**
- is established in the UK
- is not trading on a recognised stock exchange at the time of the share issue
- has no arrangements to become a quoted company or a subsidiary of one at the time of the share issue
- does not control another company unless that company is a qualifying subsidiary
- has not been controlled by another company since the date of your company being incorporated.

Your company and any **qualifying subsidiaries** must:

- not have gross assets over £200,000 when the shares are issued
- not be a member of a partnership
- have less than 25 full-time equivalent employees in total when the shares are issued.

If you've received investment through the Enterprise Investment Scheme (EIS) or from a venture capital trust, you cannot use SEIS.

What can I use the money for?

The money you raise from the investment must be spent within 3 years of the share issue. You must spend the money on either:

- a qualifying trade
- preparing to carry out a qualifying trade
- research and development that's expected to lead to a qualifying trade.

You cannot use the investment to buy shares, unless the shares are in a qualifying 90% subsidiary that uses the money for a qualifying business activity.

What are the rules for your investors?

To qualify for these tax benefits, investors must abide by the following rules:

- They can only invest up to a maximum of £100,000 in any number of qualifying companies in each tax year
- They must hold the shares for a minimum of 3 years. If they sell or gift the shares within the 3 year period, they will be subject to relief claw-back
- They cannot carry-forward their SEIS tax relief
- They must be a UK taxpayer.

What are the benefits for your investors?

Income tax relief

Your investors could claim back up to 50% of the value of their investment in the form of income tax relief. If they invested £20k, for example, they could save £10k in income tax.

Capital gains relief

Disposal

Depending on your investors personal circumstances, if they sell the shares purchased after holding them for at least 3 years, then they may have no Capital Gains Tax to pay on their investment gains. Please be aware that if they sell or gift their shares within the 3 year period, they will be subject to relief claw-back.

Reinvestment

If your investor chooses to reinvest gains from other non-SEIS investments into your SEIS eligible company, they will receive 50% Capital Gains Tax relief on the original investments. Therefore, if their prior investment has given them a gain of £20k, all of which they decide to reinvest in your SEIS eligible company, 50% of that £20k gain will be exempt from Capital Gains Tax.

Loss relief

If your company performs poorly and your investors lose money on their investment, they may claim loss relief. The loss relief they can claim is at the equivalent rate to the highest rate of income tax they pay. So if they pay income tax at a rate of 45%, they can claim up to 45% of their net loss in income tax relief.

For example, if they make a £20k investment and your company fails meaning their investment is no longer worth anything, firstly they could claim the 50% income tax relief (£10,000 in this example). Then of the remaining £10,000 they can claim 45% income tax relief on this £10,000 loss, so their total loss is only £5,500.

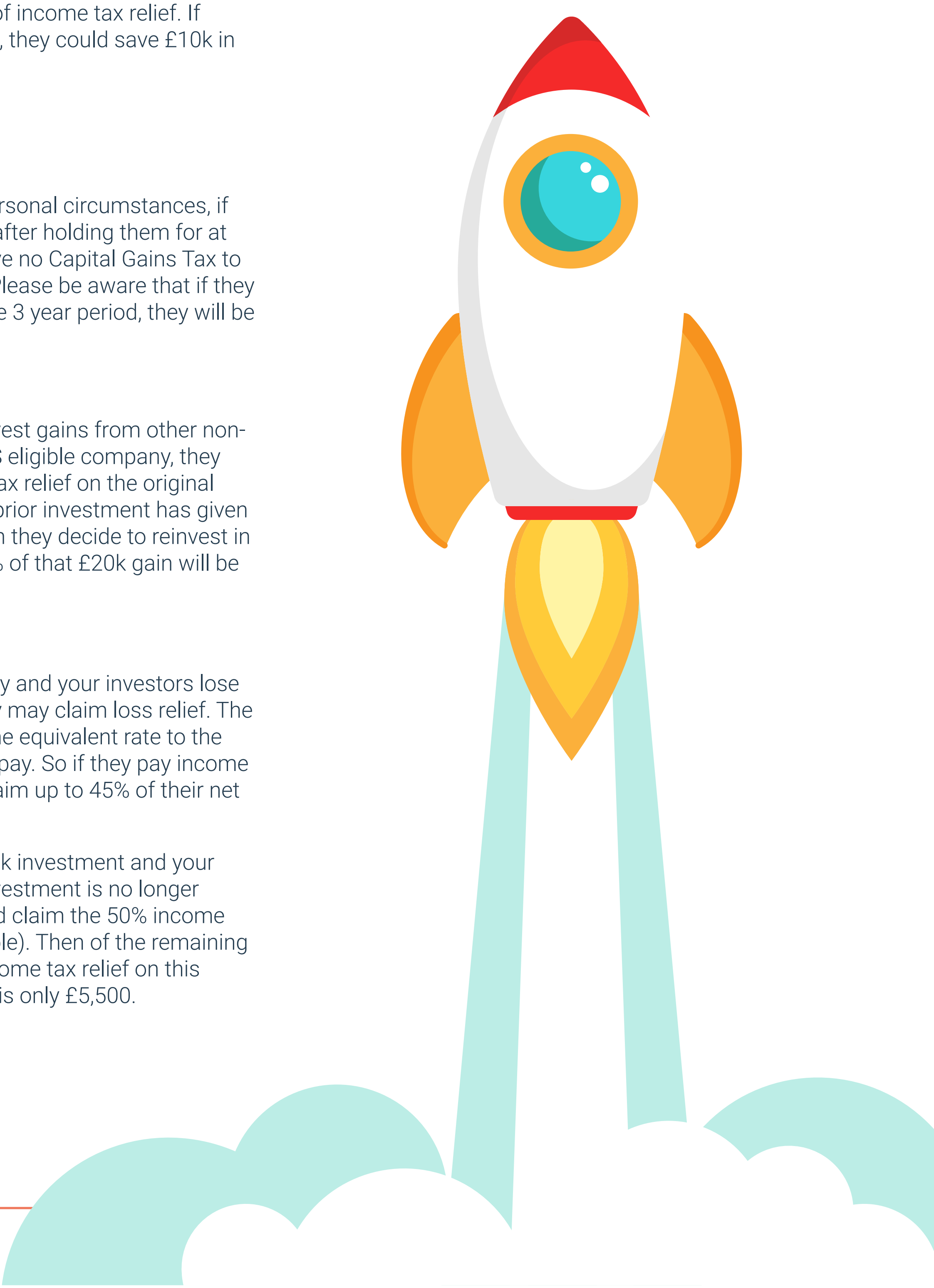
Before you issue shares and raise money

Your investors will only be able to claim tax relief if you meet the conditions for SEIS.

Contact us before applying and we will help you through the process and ensure you meet all conditions applicable to SEIS.

When you issue shares

The shares you issue must meet the **same requirements as shares issued under EIS**.



The Process

Initial fact find call to gather information and discuss the scheme and process in more detail

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We'll check you qualify

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We'll provide you with a breakdown of the supporting information we need from you to prepare an application

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We'll prepare an Advanced Assurance Application for submission to HMRC

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Once approved, HMRC will send a statement which can be shown to investors saying the investment is likely to qualify for relief. This typically takes 3-6 weeks

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On completion of your fundraising, we will help you to issue shares to your investors

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We'll prepare and file a compliance statement with HMRC

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Once approved, HMRC will provide authority to send compliance certificates to give to your investors

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We'll prepare the compliance certificates and work with you to send them out to investors. Investors can't claim the tax relief until they receive the compliance certificates

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You must ensure that the company continues to meet the eligibility criteria for at least 3 years after the initial investment

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