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Enterprise Investment Scheme (EIS)

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EIS is designed to help smaller trading companies to raise finance by offering a range of tax reliefs to investors purchasing new shares in those companies.

What are the main features of EIS?

Income Tax Relief – Individuals subscribing for new shares can claim up to 30% income tax relief on the amount of their investment up to a maximum investment of £1 million (up to £2 million in knowledge intensive companies), in the year of investment or the previous year.

Capital Gains Tax Exemption – Where income tax relief has been received and the shares are held for at least three years, any gains on disposal are entirely free from Capital Gains Tax.

Loss Relief – If shares are disposed of at a loss, subscribers can elect for the amount of the loss, less any income tax relief previously given, to be set against income for the year of disposal or the previous year, rather than being restricted to using such losses against future capital gains only.

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. The gain can arise from the disposal of any kind of asset but the investment must be made within the period of one year before and three years after the gain arises.

Who may participate in EIS?

Unconnected shareholders should be entitled to all of the reliefs above. For connected shareholders income tax relief and the CGT exemption are not normally available.

Connection may be by financial interest or by employment with the company. Financial interest occurs where the subscriber and their associates (such as spouses, civil partners, parents, grandparents, children, grandchildren and business partners) control more than 30% of the company.

Employment includes directorships and also precludes the employment of associates (as defined

above). However there is an exemption for business angels.

Which companies can participate in EIS?

The main criteria which companies must satisfy are:

- They must be unquoted and independent.
- Have gross assets of no more than £30 million immediately before the share issue and no more than £35 million immediately after the issue, except for specified companies where the £15 million and £16 million limits continue to apply.
- Have fewer than 250 full-time equivalent employees, or fewer than 500 for knowledge-intensive companies.
- Carrying on a “qualifying trade”. Most trades will qualify but HMRC have listed some exceptions so individual advice must be taken.
- The company and investment must also satisfy the risk-to-capital condition, meaning the company must have long-term growth and development objectives and the investment must carry a significant risk of capital loss.

Funding limits?

Companies can generally raise up to £10 million in any 12-month period under EIS and other relevant venture capital schemes, or other relevant risk finance investment, with a £20 million annual limit for knowledge-intensive companies. Specified companies remain subject to the previous £5 million annual limit, or £10 million for knowledge-intensive specified companies.

Companies are also subject to lifetime investment limits, generally £24 million, or £40 million for knowledge-intensive companies, with lower limits continuing for specified companies.

The funds raised must usually be used for a qualifying business activity within two years of the investment, or within two years of the company starting to trade if later.

EIS is a specialist area and advice should always be obtained before investment is sought. Hillier Hopkins LLP have extensive experience here and can assist with obtaining advance clearance from HMRC that the company will qualify under EIS which can be an important prerequisite in raising external investment.

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