Seed Enterprise Investment Scheme

The Seed Enterprise Investment Scheme ("SEIS") is designed to help early-stage unquoted trading companies raise initial seed capital, by providing generous tax incentives to investors.

Reliefs

SEIS provides three tax reliefs to individual investors:

- an "income tax relief" applied when the investment is made;
- a "disposal relief" applied when the shares in the SEIS company are sold; and
- a capital gains tax "re-investment relief".

The income tax relief takes the form of a reduction in the individual's UK income tax liability, equal to 50% of the amount of the subscription price of the shares. The maximum investment on which an investor can claim relief is £100,000 per tax year.

The disposal relief means that gains on the disposal of qualifying SEIS shares are exempt from UK capital gains tax. Any capital losses on disposal will be allowable (albeit reduced by the amount of income tax relief previously received) and the loss may be set against income, subject to making the appropriate claim.

The reinvestment relief works as follows: where an individual disposes of an asset, realises a capital gain, and reinvests all the gain into acquiring SEIS shares, half of the gain will not be taxable.

In certain circumstances, the amount of relief available may be restricted. For example, if the shares are sold within the first three years following their issue or the money raised is not fully spent for the purpose of the company's business within three years of the share issue, all the tax reliefs will be withdrawn entirely.

Companies may raise a maximum of £150,000 under the SEIS. A company cannot issue shares under the SEIS if it has already issued shares under the Enterprise Investment Scheme ("EIS"- see separate publication) or has received investment from a Venture Capital Trust.

Case studies

We have substantial experience in providing advice about SEIS requirements and structuring. The relief is very generous and attractive for investors, but there are many pitfalls that require careful planning for. Examples of the work we have recently performed in this area are given as follows:

Interior design start-up

Issue

We were approached by a group of individuals looking to start an interior design business.

Solution

As part of our discussions we advised them about how they could benefit from SEIS reliefs by effectively reducing the amount of capital each person was risking in this new venture.

Due to the nature of the business, it was also necessary to provide guidance about the activities that were being planned, to ensure that none of them would jeopardise compliance with SEIS requirements.

Mobile phone application business

Issue

A client who had developed an innovative application was looking to raise funding to market the software.

Solution

We advised the company on the requirements of the SEIS and also how SEIS interacts with EIS including the practical steps to ensure that any funding in excess of the maximum SEIS threshold could qualify for EIS. We also advised the founder shareholders on the implications for their personal tax positions arising from investors paying a significant premium for the shares.

Requirements

In order to qualify for the relief, the company issuing the shares, the shares being issued, and the investor must all meet certain criteria.

The principal requirements are as follows:

Company requirements

- The company must exist for the purpose of carrying on a qualifying trade, or be the parent company of a group whose business does not consist wholly, or to a substantial part, in the carrying on of non-qualifying activities.
- Any trade carried on by the company at the date of issue of the shares must be less than two years old. The issuing company must not have carried on any other trade before it started to carry on the new trade.
- Before the shares are issued, the value of the company's (or group's, if the issuing company is a parent company) gross assets must not exceed £200,000. The group may not employ more than 25 full-time equivalent employees or directors.
- The company must have a permanent establishment in the UK at the date of the share issue and throughout the following three years.
- The company must be unquoted, and must not have control over any companies besides 51% subsidiaries.
- The company must not be a member of a partnership.
- The company must not previously have issued shares under the EIS or received any investment from a Venture Capital Trust.

Investor requirements

- Neither the investor nor any associates may be employees of the company or any subsidiary during the three years following the share issue. Directors are not treated as employees for the purposes of SEIS relief.
- An investor (together with any associates) must not hold an interest in the company of more than 30% at any time from incorporation of the company until the third anniversary of the share issue.

Share requirements

- The shares must be ordinary shares, with no preferential right to assets in a winding-up, and must not be subject to any pre-arranged exit arrangements. They must be fully paid-up and subscribed for wholly in cash on the date of issue.
- The shares must be issued to raise money for the purpose of a qualifying business activity, and these monies must be fully spent for that purpose within the three years from the date of the share issue.

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