



# Enterprise Investment Scheme: Frequently Asked Questions

## Individuals

### How do I claim EIS tax reliefs?

Income tax relief claims can be made either by completing a self-assessment tax return or by completing pages 3 and 4 of form EIS3 and returning these to HMRC. EIS disposal and reinvestment relief claims are made by completing a self-assessment tax return.

### How soon can I claim EIS tax reliefs?

Once you receive your EIS 3 certificate from the company.

### How long do I have to claim EIS tax reliefs?

Claims for all reliefs must be made within 5 years from 31 January after the end of the tax year in which the shares were issued.

### For which tax year can I claim income tax relief?

Income tax relief applies for the tax year within which the shares were issued, however the EIS rules allow for income tax relief to be carried back to the prior tax year. Investors can choose how much relief they wish to claim in the current and/or preceding year.

### I only have a small income tax liability; will I be able to receive tax relief for the full amount of my EIS investment?

The amount of EIS income tax relief is capped by your income tax liability for the tax year (and the prior tax year where a claim to carry back is made).

### How long must I keep the EIS shares?

The later of: three years from the issue date of the shares and three years from the commencement of the company's trade.

### What happens if I become connected to the company or sell my shares before the expiration of the minimum holding period?

Any income tax relief claimed will be clawed back, capital gains deferred will come back into charge and capital gains tax will be payable on disposal of the shares.

### How can an individual be connected to the company?

- If the individual, directly or indirectly, and in combination with associates, possesses or is entitled to acquire, more than 30% of the share capital of the company, or rights to more than 30% of the assets in a winding up.
- If the individual is a director of the company – certain exceptions apply when becoming a director after making an EIS investment.
- If the individual is an employee of the company.
- If an investor already owns shares in the company, and these were not subscriber shares, nor shares acquired under a risk finance scheme (such as EIS), they will not be eligible for EIS on further investments.

### Can I borrow money to make the EIS investment?

Only if the availability of the loan, and the terms under which the loan is granted, are in no way connected to the making of the EIS investment.

### How much can an individual invest under the EIS?

£1,000,000 per tax year.

### How do the EIS shares need to be paid for?

Payment for EIS shares must be wholly in cash (bank transfer) and must be done at the same time as the shares are issued.

### Can I and my spouse/civil partner both invest into the same company?

Yes, however connection to the company will be tested by reference to both of you as a single unit. The same applies to other associates such as ancestors, lineal descendants or business partners.

### **If I buy or receive goods/services from the EIS company will this affect my EIS tax reliefs?**

If goods or services are provided to the investor on terms which are more favourable than those received by customers having no relationship with the EIS company, this will be considered a transfer of value to the investor and (depending on the amount of value) can result in the forfeiture of some or all of your EIS tax reliefs.

### **Would lending money to the EIS company affect my EIS tax reliefs?**

This is a complex question and the response will very strongly depend on the specific circumstances. Please take specific professional advice.

## **Companies:**

### **What confirmation does advance assurance provide?**

HMRC provides an opinion that based on the information presented to HMRC, the company's shares would qualify for EIS. It does not provide a statement of compliance of the scheme requirements, nor does it guarantee that an investor will receive tax relief. It does however provide an opportunity for any areas of non-compliance to be identified and rectified, and is therefore strongly advisable.

### **What kind of shares qualify for EIS?**

Shares must be irredeemable ordinary shares which do not carry any preferential rights that could protect the investment.

### **How much investment can a company raise under EIS?**

£5 million per 12 month period. This limit is reduced by any State Aid the company has received. Usually, a company can raise £12 million under EIS in total (a company classified as knowledge intensive can raise up to £20 million in total).

### **What forms need to be submitted to HMRC after the shares have been issued?**

The company needs to submit an EIS 1 form to HMRC. A separate EIS 1 must be completed for each share issue date. Once the EIS 1 has been approved, HMRC will issue forms EIS 2 and EIS 3 to the company. The EIS 2 authorises the company to issue the EIS 3 to investors who can use this to claim their tax reliefs.

### **How soon can an EIS 1 form be submitted to HMRC?**

Once the company has been trading for at least four months; trading usually starts from the point at which the company is in a position to provide its products or services to customers and is actively trying to do so.

### **What can the EIS investment be spent on?**

The EIS funds need to be employed for the purpose of the qualifying business activity within two years. Using the funds to acquire investments, other companies or businesses is not a qualifying use.

### **Our company has been trading for more than seven years; can it still raise investment under the EIS for the first time?**

Yes, so long as the amount of EIS investment received within a 30 day period exceeds 50% of the average annual turnover of the company over the last five years, and the funds are employed for the purpose of entering a new product or geographic market.

For more information, please contact:

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