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WEALTH MANAGEMENT



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Investing in VCTs and EISs

Introduction

TAX-INCENTIVISED INVESTMENTS IN YOUNG, SMALL AND MICRO-SIZED COMPANIES

Over the years, governments have introduced, and then replaced, a variety of schemes to stimulate investment in new and small businesses. A key feature of all these schemes has been some type of tax incentive. The Treasury views these tax sweeteners as a necessary cost to attract 'patient capital' from private investors.

The net result is that today the rules governing the three current schemes – venture capital trusts (VCTs), enterprise investment schemes (EISs) and seed investment schemes (SEISs) – are highly complex. Before embarking on investment in any of this trio, it is crucial to understand the constraints that surround them, as well as the potential rewards.

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Risk and reward

The history of these schemes, which runs back over 40 years, is littered with battles between the creative minds of the financial services industry and HMRC. The former regularly devised structures to maximise tax benefits while minimising the risk, whilst the latter was kept busy closing down the creativity with Budget announcements. This cat and mouse game has almost entirely ended now as anti-avoidance legislation has increased and become more broadly targeted.

Risk

The Treasury does not give tax relief without good reason. In the case of VCTs, EISs and SEISs, that reason is the risk that the investor is expected to accept. This was underlined by a change to the legislation for all three schemes introduced by the Finance Act 2018. Broadly speaking, any underlying company in which investment is made must now satisfy a “risk to capital” requirement. This is a two-part test set by the government, which asks:

- whether the company has objectives to grow and develop over the long-term; and
- whether there is a significant risk that there could be a loss of capital to the investor of an amount greater than the net return.

The aim of this test is to prevent low risk, growth-averse companies from being established solely for the purpose of accessing the tax reliefs available. It has already had an effect, with VCT and EIS providers warning investors that the returns are likely to be more volatile than in the past and adjusting their dividend policies accordingly.

VCTs are listed in the London Stock Exchange (LSE), but trading in smaller issues can be thin, partly because of the

tax relief clawback rules. Normally VCT market prices are at discount to the underlying asset value. EIS and SEIS investments are not quoted on the LSE. Even if an EIS company is listed on the alternative investment market (AIM) or NEX (formerly PLUS and ISDX), trading is likely to be minimal.

Investment in VCT, EIS and SEIS should be regarded as long term – hence the term ‘patient capital’. The timescale needed to avoid clawback of income tax relief should not be regarded as the investment’s natural term. Levels and bases of, and reliefs from, taxation are subject to change.

Planning point

Venture capital and seed investment is high risk. Before investing you must be comfortable with the risks involved, and be able to afford to lose the capital you commit.

Reward

The rewards from investment in these schemes take two forms:

1. Tax relief

There are three elements to this, which vary between the schemes:

- Income tax relief: All three schemes offer income tax relief on the initial investment. This has become a key attraction for many high-income investors who find their scope for pension contributions has been constrained or eliminated completely by the reductions in the lifetime and annual allowances.

- Capital gains tax (CGT) relief: VCTs, EISs and SEISs all provide capital gains tax relief, albeit at different levels.
- Inheritance tax (IHT) relief: EIS and SEIS investments will usually qualify for business relief after a minimum ownership period.

2. Investment returns

While the focus tends to be on tax relief, investment returns from these schemes can be significant. The risks of investing in young, small companies are high, but they are not all on the downside. A good example of the potential upside was the 2020 disposal by a group of VCTs of their shareholdings in a company called Vectair Holdings. The VCTs had invested £1.12 million in Vectair, starting in 2005. When a consortium of US investors took over Vectair last year, the VCTs received £9.30 million for their shares – a multiple of 8.3 times its original investment and an internal rate of return of 22%.

VCT investment returns usually reach investors as tax-free dividends, whereas for tax reasons, EIS and SEIS returns are generally in the form of capital gains.

The value of your investments and income from them may go down and you may not get back the original amount invested. Past performance is not a reliable indicator of future performance. The value of tax reliefs depends on your individual circumstances. Tax planning is not regulated by the Financial Conduct Authority.

VENTURE CAPITAL TRUSTS

Venture capital trusts (VCTs) are listed investment companies which invest in small or early stage UK companies that are themselves either unquoted or listed on the AIM. VCTs were first launched on the stock market in 1995 and in the 2020/21 tax year raised £685 million, up 11% on the amount raised in the previous year.

There are various criteria that companies need to meet to qualify for VCT funding, including:

- They must be trading companies, or holding companies of trading companies, and have a permanent base in the UK.
- They must have gross assets of £15 million or less at the time of investment, or £16 million afterwards.
- They must have fewer than 250 full-time employees (500 employees for knowledge-intensive companies).
- They must be no more than seven years old (ten years for knowledge-intensive companies).
- Their business must not fall within a long list of excluded activities, including finance, property development and energy generation.

KNOWLEDGE INTENSIVE COMPANIES

The concept of knowledge intensive companies was introduced in 2015 to extend the scope for VCT, EIS and SEIS investment in high technology enterprises. To qualify, a company must have research and development (R&D) or innovation costs that are at least 15% of operating costs in at least one of the previous three years before investment, or at least 10% of operating costs in each of the previous three years, and either:

- have created, be creating or intending to create intellectual property; or
- have employees with a relevant Master's or higher degree who are engaged in R&D or innovation and constitute at least 20% of the company's total workforce.



Funds raised must be used to grow and develop the business of the recipient company and cannot finance acquisition of another company's existing shares. Currently, at least 80% of a VCT's investments must be in qualifying investments and the VCT must invest up to this level within three years of raising fresh capital. A minimum of 30% of all capital raised in a VCT's accounting period must be invested within 12 months following the end of that period. Failure to adhere to these rules could result in the loss of tax relief.

Income tax reliefs

Tax relief is given at the rate of 30% on investments of newly issued VCT shares. There is no tax relief for investing in existing shares listed on the LSE. The relief is given as a tax credit against the investor's tax liability. This means that:

- you must have an income tax liability at least equal to the tax credit claimed for the full VCT relief to be obtained; and
- you do not need to be a higher or additional rate taxpayer to claim the 30% relief.

Tax relief is clawed back if the shares are disposed of within five years of acquisition.

The maximum investment that can qualify for income tax relief is £200,000 each tax year, and there is no option to carry the relief back to the previous tax year.

EXAMPLE Income tax relief on VCTS

Caroline is a basic rate taxpayer and invests £20,000 in newly issued VCT shares in 2021/22. She receives the following tax relief:

Gross investment: £20,000

Tax relief (30%): £6,000

Net investment: £14,000

Provided her income tax bill is at least £6,000 (implying she has earned income of at least £42,500) she will receive the full relief.

Dividends on all VCT shares are free of income tax unless more than £200,000 has been invested in VCTs during the tax year.

Capital gains tax reliefs

Any disposal of VCT shares is exempt from CGT and losses are not allowable as a deduction against other investment gains or income.

Capital gains made within a VCT are free of CGT and are often distributed as tax-free dividends.

Planning point

Venture capital trusts can be regarded as forming part of the small company exposure of an investment portfolio.

Inheritance tax reliefs

There are no IHT benefits to holding VCT shares. Any income tax relief granted is not withdrawn if death occurs within five years of investment.

Types of VCT

Although all VCTs invest in smaller companies, there are differing investment strategies and they are categorised as either Generalist, AIM or Specialist.

- **Generalist VCTs** Approximately 76% of VCTs by assets fall into this category, which invest across a wide range of different industries.
- **AIM VCTs** These account for about 20% of VCTs by assets and focus on companies that are listed on the AIM (Alternative Investment Market).
- **Specialist VCTs** Specialist VCTs focus on narrow industry sectors such as healthcare or media.

ENTERPRISE INVESTMENT SCHEME (EIS)

The EIS structure first appeared in 1994 as a replacement for the business expansion scheme (BES). The most recently available data shows that, as at April 2020, the EIS had supported nearly 33,000 small companies, raising nearly £24 billion of funds.



There are currently two main forms of EIS offerings available to investors:

- individual unlisted companies which meet the EIS requirements; and
- various types of fund or portfolio, all of which invest in EIS qualifying companies.

There is a range of requirements that EIS qualifying companies need to satisfy at the time the shares are issued and over the subsequent three years. These are very similar to those which apply for VCTs.

Income tax relief

Income tax relief is given at the rate of 30% on investment in newly issued shares in EIS. The relief is given in the same way as applies for VCTs. Relief is clawed back if the shares are disposed of within three years of acquisition. It is possible to carry back some or all of the income tax relief to the previous tax year, regardless of when in the tax year the EIS investment is made.

An individual investor can claim EIS relief on up to £1 million of investment in any qualifying companies in a tax year. A further £1 million investment is allowed in knowledge-intensive industries. The legislative minimum investment in any one EIS company is £500, although in practice many schemes apply a £10,000 minimum.

EXAMPLE Tax relief on an EIS

Jeff invested £100,000 into an EIS company in 2018/19 and received the £30,000 income tax relief, reducing his net investment to £70,000.

In 2021/22 Jeff sells the EIS shares for £10,000, realising a gross capital loss of £90,000. The amount of losses, less the initial tax relief, can be offset against Jeff's other income in the tax year, i.e. $£90,000 - £30,000 = £60,000$.

Assuming Jeff has earnings of £250,000 in 2021/22 he can offset £60,000 of the EIS losses against this income, saving 45% in tax i.e. £27,000. Alternatively, Jeff could elect to offset the £60,000 net losses against any other capital gains made in that tax year, or the following tax year (but his maximum rate of tax relief on the loss would then be only 28% and in most cases 20%).

Jeff's overall position after the initial EIS relief, and subsequent loss relief, results in a tax saving of £57,000, i.e. $£30,000 + £27,000$. Adding back the £10,000 residual value of the EIS shares results in a net capital loss of £33,000 for Jeff's £100,000 gross investment.

Claims for tax relief are made through the investor's self-assessment tax return.



If shares are disposed of at a loss after three years, then the amount of the loss, less the initial income tax relief, can be set against taxable income or capital gain in the year the loss has arisen or the following year.

Capital gains tax reliefs

The disposal of EIS shares is exempt from CGT, provided income tax relief has not been withdrawn. As mentioned above, any loss realised may be offset against other capital gains or income.

Capital gains made on disposal of any type of asset can be deferred by reinvesting the gain in an EIS. The gain deferred is the gross gain, after deduction of any annual exemption. Gains made three years prior to the EIS investment or up to one year after the EIS investment can be deferred in this way.

EXAMPLE Deferred gains

Mary realises a gain of £215,000 from the sale of a buy-to-let property in 2021/22. She elects to defer the gain by reinvesting the gain, after deduction of the annual CGT allowance, into an EIS.

Total gain realised:	£215,000
CGT allowance 2021/22:	£12,300
Net gain deferred:	£202,700

The deferred gain becomes taxable when the EIS shares are sold or cease to be eligible, and the deferred gains are not taxable on death. The tax rates applicable on the EIS sale would be that relating to residential property gains (currently 18% and 28%), not the standard CGT rates (currently 10% and 20%).

There is no upper limit for this relief and, on eventual disposal of the EIS investment, the deferred gain becomes chargeable to CGT at the rates applicable at that time. This could mean that if CGT rates increase in the future – a possibility that has received growing attention, not least from the Office of Tax Simplification – deferral could result in a higher eventual tax bill.

Inheritance tax reliefs

As a general principle, EIS shares are free of IHT after two years of ownership under the business relief rules. The relief applies on death or lifetime transfer. There is no clawback of income tax relief or CGT deferral relief on death.

Planning point

The EIS allows investors to select individual companies in which to invest. This can be useful for those who have in depth knowledge of, or interest in, a particular industry sector.

SEED ENTERPRISE INVESTMENT SCHEME

The seed enterprise investment scheme (SEIS) was introduced from 6 April 2012 to help very small, early stage companies raise capital from private investors. Data available as at April 2020 shows the SEIS had raised £1,350 million for such small companies.

Eligible companies must:

- have fewer than 25 full-time employees;
- have been trading for less than two years;
- have gross assets of not more than £200,000;

- be carrying on a genuine new trade; and
- have not raised any money under the VCT or EIS schemes.

In a similar way to the EIS and VCT, the SEIS also excludes companies that perform certain trading activities.

Income tax reliefs

Tax relief is given at the rate of 50% on the amount invested in newly issued ordinary shares in the SEIS, which are not redeemable and have no special conditions attached. The relief is given in the same way as VCT and EIS relief, with a clawback period of three years.

It is also possible to carry back the investment and have it treated as if it was made in the previous tax year.

The maximum investment that can qualify for income tax relief is £100,000 per tax year, while the maximum SEIS investment any one company can raise is £150,000.

EXAMPLE

Tax relief on SEIS shares

Julian is an additional rate taxpayer in Wales (45%) and invests £100,000 in SEIS qualifying shares in 2021/22. He receives the following tax relief:

Gross investment: £100,000

Tax relief (50%): £50,000

Net investment: £50,000

Losses (net of tax reliefs) on disposal of SEIS shares can be set against taxable income or capital gain in the same way as EIS losses.



Capital gains tax reliefs

The first disposal of SEIS shares is exempt from CGT, provided income tax relief has not been withdrawn.

Up to 50% of gain that has arisen from the sale of another asset can be relieved by reinvesting the gain into SEIS shares (as opposed to 100% *deferral* under EIS).

Inheritance tax reliefs

SEIS shares enjoy the same IHT benefits as EIS shares. There is no clawback of IHT relief or reinvestment relief on death.

Planning point

Some management groups offer funds which combine investment in SEIS and EIS companies.

Investing in shares should be regarded as a long-term investment and should fit in with your overall attitude to risk and financial circumstances.

Levels and bases of, and reliefs from, taxation are subject to change and depend on your individual circumstances.

The Financial Conduct Authority does not regulate tax planning.



HOW WE CAN HELP

VCT, EIS and SEIS investment is a specialist area, and can only be conducted by authorised advisers. We can:

- Make specific VCT, EIS and SEIS recommendations as part of your overall tax and investment planning.
- Work with your accountant to ensure that our recommendations fit in with your overall tax position.
- Keep you informed of new EIS, SEIS and VCT investment opportunities.
- Advise you on other tax strategies linked to EIS, SEIS and VCT investments.

A BRIEF SUMMARY

A quick comparison of the different reliefs and terms across the three options is outlined below.

	VCT	EIS	SEIS
Income tax relief	30%	30%	50%
Maximum investment in tax year eligible for income tax relief	£200,000	£1,000,000 (+ extra £1,000,000 for knowledge intensive companies)	£100,000
Tax relief clawback period	5 years	3 years	3 years
Backdating of tax relief	Not available	Up to 100% to previous tax year	Up to 100% to previous tax year
CGT deferral relief	None	For gains made between 3 years before to 1 year after investment. No limit	None
CGT reinvestment relief	None	None	For 50% of gain made in the tax year of investment or the previous tax year
CGT on disposal	None	None after 3 years, other than on deferred gains	None after 3 years
Dividend payments	Tax-free for investments of up to £200,000 per tax year	Taxable at up to 38.1%	Taxable at up to 38.1%
IHT business relief	No	After 2 years' ownership	After 2 years' ownership



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