

EIS and SEIS: Tax Efficient Investing

An Introduction



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Where a start-up or SME company is looking for external investment, and one or more individuals are looking for investment opportunities which can provide significant tax advantages, it is well worth considering the Enterprise Investment Scheme (“EIS”) or the Seed Enterprise Investment Scheme (“SEIS”).

Both EIS and SEIS are arrangements approved by HM Revenue & Customs, and so can offer tax advantages to the investor without using aggressive tax planning. We have set out some initial questions to help in considering if EIS or SEIS may work for you, and some initial points to note about both schemes, as follows:

What type of investment can qualify for EIS and SEIS?

An individual subscribing in cash for ordinary shares in a UK private company or an AIM listed company, but which isn't listed on the Stock Exchange.

How long does the investor have to hold onto the shares?

Usually for at least 3 years, to get the tax advantages.

What are the tax reliefs?

They include:

- income tax relief at 30% (EIS) or 50% (SEIS) of the amount of the investment, and
- relief from capital gains tax on disposal of the EIS/SEIS qualifying shares.

Who can invest?

An individual:

- who is not an employee of the company;
- for EIS only, who is not a director - subject to a couple of exceptions for ‘unpaid’ or ‘business angel’ directors; and
- who doesn't have more than a 30% stake in the company, in terms of shareholding, voting rights, and certain other economic tests.

Which companies can take EIS/SEIS investment?

The company qualifying conditions include the following:

- it must be a trading company or holding company of a trading group, which isn't controlled by another company; and
- which doesn't carry on an 'excluded activity' to a substantial extent ('excluded activities' includes among others banking and certain financial activities, property development, dealing in land, and providing insurance); and
- see the table below on certain limits on size of the company, which differ for EIS and SEIS.

Do you need HMRC approval?

Yes, for both EIS and SEIS; the company can also apply to HMRC for advance assurance, prior to the investment, that it will satisfy the company qualifying conditions.

Once EIS or SEIS relief has been obtained, can it be withdrawn later?

There are some disqualifying trigger events set out in the legislation which can lead to a clawback or loss of the tax reliefs for the investor. These should be monitored during the qualifying period of share ownership.

We have set out a comparison by way of brief headlines on some of the key points on the tax reliefs and qualifying conditions for EIS and SEIS in the table below¹. If you would like further details or advice, please contact us.



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¹ Neither that table nor the other comments in this introductory note are an exhaustive list of all the various EIS and SEIS qualifying conditions, which should be checked in advance of any investment. They are not intended to be specific advice for any individual, company or other party, and are subject to any subsequent changes in law.

Some Key Points to Note	EIS	SEIS
Income Tax Relief	<ul style="list-style-type: none"> Relief against income tax liability for 30% of amount invested 	<ul style="list-style-type: none"> Relief against income tax liability for 50% of amount invested
CGT Relief	<ul style="list-style-type: none"> CGT free disposal of qualifying EIS shares 	<ul style="list-style-type: none"> As per EIS
CGT Reinvestment Relief	<ul style="list-style-type: none"> CGT deferred where gain re-invested in qualifying EIS shares 	<ul style="list-style-type: none"> CGT exemption where gain re-invested into SEIS shares in same tax year
How much can be invested per tax year?	<ul style="list-style-type: none"> £1M max* per person 	<ul style="list-style-type: none"> £100k max per person
How much can the company raise in total?	<ul style="list-style-type: none"> £5M max* (including EIS, SEIS and VCT) annual limit and £12M max* lifetime limit 	<ul style="list-style-type: none"> £150k max
Any cap on size of the company (including group companies)?	<ul style="list-style-type: none"> Gross assets £15M/£16M max immediately before/after investment Fewer than 250 employees*, at date of investment 	<ul style="list-style-type: none"> Gross assets £200k max immediately before investment Fewer than 25 employees, at date of investment
Who can invest?	<ul style="list-style-type: none"> Can't be an employee Can be an "unpaid" or "business angel" director post-investment Mustn't have more than 30% of shares, voting rights, or certain economic rights in the company 	<ul style="list-style-type: none"> Can't be an employee Can be a director As per EIS
What type of company can you invest in?	<ul style="list-style-type: none"> UK trading company or holding company of trading group List of 18 categories of 'excluded activities' - must check Must not be controlled by another company 	<ul style="list-style-type: none"> As per the points for EIS, plus... Any trade must be less than 2 years old at date of investment Must not have carried on any trade other than the new trade
Can there be EIS and SEIS in the same company?	<ul style="list-style-type: none"> Can claim EIS after a SEIS investment in same company 	<ul style="list-style-type: none"> Can't claim SEIS after an EIS (or VCT) investment in same company
Can relief be withdrawn later?	<ul style="list-style-type: none"> Yes; check various disqualifying events 	<ul style="list-style-type: none"> As per EIS
How long should the shares be held for?	<ul style="list-style-type: none"> Broadly speaking hold shares for at least 3 years for tax reliefs 	<ul style="list-style-type: none"> As per EIS

* more generous caps for a 'knowledge intensive company'

