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a fresh look at accountancy

Social investment tax relief – could you and your community benefit?

Limited tax relief for investing in community projects has been available for some years via Community Investment Tax Relief, but since April 2014 far more generous tax breaks have been made available, as the Government seeks to encourage people to put money into 'social enterprises'. Could you benefit from the new rules?

The social investment tax relief (SITR) offers investors upfront tax breaks and capital gains tax exemptions, similar to those given for buying shares in Enterprise Investment Schemes. Potentially you could reclaim one or more of the following:

- income tax relief at 30% of the amount you invest
- capital gains hold-over relief (depending on when the investment was made and when the gain arose)
- capital gains disposal relief.

SITR will be in place for investments made, or capital gains arising, in the period from 6 April 2014 to 5 April 2019.

What qualifies as a 'social enterprise'?

SITR is available for investments by individuals (but not companies or partnerships) in 'Social Enterprises'. In essence, the company or organisation in which the investment is made must provide services for the 'benefit of society', such as housing, community transport, youth organisations, sporting facilities or healthcare, so typically they will be charities or community benefit societies. The Social Enterprise need not necessarily be in the UK, and there is no defined list of what qualifies.

There is a list of activities that do not qualify, but the good news is that if you are an investor you will not need to worry about judging whether the recipient of your investment meets the conditions, because any organisation offering SITR qualifying investments to the public should have already gone through an HMRC clearance process in order to be able to do so.

This process was made available to social investment organisations in July 2014, and the limited options for investment have since grown.

When you make an investment, the Social Enterprise will give you a Compliance Certificate in respect of your investment in it, confirming they have met the conditions. You won't be able to claim for any of the tax reliefs without such a certificate.

How can you make an investment?

As an investor you can claim SITR if you have invested in shares or qualifying debt.

Shares must be fully paid for in cash at the time the Social Enterprise issues them to you. They must not have preferential terms such as fixed or guaranteed dividends.

A 'debt investment' is where you lend money to the Social Enterprise. The amount lent must not be secured on any assets, and, again there are rules preventing preferential terms. For example, the rate of interest must not be more than a reasonable commercial rate.

You must inform HMRC of the date the investment is made.

What tax reliefs can you claim?

Income tax relief

This is available at 30% of the amount you invest. There is no minimum investment limit but the maximum annual limit is £1 million.

You can claim income tax relief if you subscribe for qualifying shares, and/or make qualifying debt investments and have a UK tax liability to claim the relief against. You must hold your investment for at least three years from the date of issue. You don't need to be a UK resident.

You can claim tax relief up to 5 years after the 31 January following the tax year you made your investment. Since 5 April 2015, investors have been able to carry back some or all of the tax relief to the year prior to that in which the investment was made.

Capital gains hold-over relief

You can defer payment of tax on a capital gain if the gain is reinvested in shares or debt investments that would also qualify for SITR income tax relief. The gain can arise from the disposal of any kind of asset but it must arise in the period between 6 April 2014 and 5 April 2019, and the SITR qualifying investment must be made in the period one year before or three years after the gain arose.

The deferred capital gain is brought back into charge when the earliest of the following apply:

- you dispose of the investment (other than to a spouse or civil partner)
- the investment is cancelled, redeemed or repaid
- the social enterprise stops meeting the SITR conditions.

If you make a new investment in a social enterprise, you may claim for this 'reinstated gain' to be held-over once more, subject to the qualifying condition.

Capital gains disposal relief

If you've had income tax relief on the cost of your investment, and you dispose of your investment after you've held it for at least three years, any gain you make on your investment is free from capital gains tax. This means you don't need to make a claim for capital gains disposal relief, as the gain is already deemed to be exempt (to be exempt from capital gains tax on disposal, the investment must first have had SITR income tax relief attributable to it).

None of these reliefs is available if you have had relief for the investment under the Enterprise Investment Scheme, the Seed Enterprise Investment Scheme or Community Investment Tax Relief.

What other qualification conditions apply?

There are various conditions that need to be met if you are to qualify for SITR, relating to the terms on which you invest, and your relationship to the Social Enterprise. These include:

- you or anyone who is your associate must not be a partner, trustee, director or employee in the Social Enterprise or one of its subsidiaries (an 'associate' could be a business partner or a family member)
- you must not own more than 30% of the enterprise's ordinary share capital, loan capital or voting rights. (There are also rules in place to prevent two parties agreeing to invest in each other's Social Enterprises, in order to get around the 30% criteria.)
- your money must be genuinely put at risk in the Social Enterprise. Rules in this area include a prohibition on any arrangements in place for the three years from the date of the investment for you to sell your investment during that period
- the investment must not be part of a tax avoidance scheme
- the investment can't be bought with a loan which has special terms relating to the investment that wouldn't apply to a normal commercial loan.

HMRC can withdraw your tax relief completely or partially if you or the Social Enterprise cease to meet the conditions at any time during the three years from the date of the investment – for example, if you become employed by the enterprise.

There are also numerous conditions that apply to the social enterprise and limits in the total investments received under the scheme. HMRC guidance for investors can be found at **www.gov.uk/government/publications/social-investment-tax-relief-investors**

SITR represents a new but potentially growing opportunity to help community projects whilst also saving tax. As ever, ensuring that you qualify can be a complex process. Contact us to discuss this and other tax-saving ideas.

Other investment schemes

The SITR is a relatively new scheme, but other Government-approved investment schemes are well-established.

Tax breaks aimed at encouraging new risk capital mean that the Enterprise Investment Scheme (EIS), the Seed Enterprise Investment Scheme (SEIS) and Venture Capital Trusts (VCTs) may have a place in your investment strategy.

The Enterprise Investment Scheme

Subject to various conditions, EIS investments attract income tax relief, limited to a maximum 30% relief on £1 million of investment per annum. The effective maximum investment for 2016/17 is £2 million, if £1 million is carried back for relief in 2015/16 – speak to us for more details, as restrictions apply.

In addition, a deferral relief is available to rollover any chargeable gain where all or part of the gain is invested in the EIS shares.

Although increases in the value of shares acquired under the EIS up to the £1 million limit are not chargeable to CGT (as long as the shares are held for the required period), relief against chargeable gains or income is available for losses.

Venture Capital Trusts

With similar restrictions on the type of company into which funds can be invested, VCTs allow 30% income tax relief on investments up to £200,000 each tax year but no CGT deferral.

Seed Enterprise Investment Scheme

This provides income tax relief of 50% for individuals who invest in shares in qualifying companies, with an annual investment limit of £100,000. SEIS is aimed at small, new companies and the total amount of investment made under SEIS in the company must not exceed an aggregate of £150,000. The investor may also claim a 50% CGT relief on gains realised on disposals of assets in 2016/17 and invested through the SEIS. A gain on the disposal of SEIS shares will be exempt from CGT as long as:

- the shares obtained income tax relief, which has not been withdrawn, and
- the shares are held for at least three years.

To discuss the best course of action for you, please contact us.