

Enterprise Investment Scheme - Income Tax

This Help Sheet explains how to claim Income Tax relief under the Enterprise Investment Scheme. It also gives some guidance on the circumstances in which an investor is eligible to make a claim. For more information go to www.hmrc.gov.uk. The Small Company Enterprise Centre (phone **029 2032 7400**) can also provide further information.

There are several references below to form EIS3. This form is used by the company invested in to certify that certain conditions of the scheme are satisfied. If, exceptionally, your investment was made through an approved investment fund, the company will issue form EIS3 to the fund manager instead, and you will receive form EIS5 from the manager.

The circumstances in which you can claim the relief

If you have received a form EIS3 or EIS5 for any investment you made in shares issued during the year (or, in some cases, during the six months following the end of the year - see page 2), you can claim relief provided:

- your subscriptions for shares issued by the company in the year in question totalled at least £500 (this does not apply if the investment was made through an approved investment fund), and
- you are eligible for relief in respect of the shares (see below).

How to claim the relief

Enter in box 2 in the 'Other tax reliefs' section on *Additional information* page Ai 2, the total amount of the subscriptions on which you are now claiming relief (but not more than the maximum figure of £400,000). Include any amount for which you received relief by way of an increase in your PAYE code or a reduction of a payment on account. But exclude any amount for which you are claiming relief for the previous year and not the current year.

Then enter details of each investment in the 'Any other information' box, box 19 on page TR6 of the Tax Return.

The details required in respect of each investment are:

- the name of the company invested in
- the amount on which you are claiming relief for this year
- the date of issue of the shares
- the name of the HM Revenue & Customs office authorising the issue of the certificate, and their reference (as shown on the certificate)
- if you have subscribed more than £400,000 for shares on which relief could be claimed, how you want the relief attributed to them. See 'How much relief can you get for your subscriptions for shares' on page 3 of this helpsheet.

List all subscriptions on which relief is claimed, even if you had to restrict the amount you entered in box 2 in the 'Other tax reliefs' section on page Ai2 because it would have exceeded the maximum.

We may ask to see form EIS3 (or EIS5) to support your claim, so keep it safe.

If you made an investment in shares issued during the year for which you have not yet received a form EIS3 or EIS5, you cannot claim relief for it until you do. If you receive the form after you have sent your Tax Return, complete the claim form which is incorporated in it and send it to us.

Who can claim Income Tax relief

You are eligible to claim the relief unless any of the following apply:

- you do not 'qualify' for relief (see below*)
- you did not subscribe for the shares for commercial purposes, or you subscribed as part of a scheme or arrangement for avoiding tax
- you have obtained a loan which would not have been made, or would not have been made on the same terms, were it not for the investment in the shares
- an option has been granted to you under which you can require someone else to buy the shares from you
- you are affected by the 'replacement capital' rules which apply to previous owners of the company's business
- arrangements were made in connection with the share issue which
 - secure a return on your investment
 - will enable you to dispose of your shares at some future date, or
 - provide protection against the normal commercial risks attaching to an investment of this kind.

To qualify for relief you must not (except in one set of circumstances, described below*) have been 'connected' with the company at any time in the period starting two years before the shares were issued.

You are connected with a company:

- at any time when you, or an associate of yours, is an employee, partner or 'paid director' of the company (or of any subsidiary of the company), or
- at any time when you, and/or your associate, control the company or possess more than 30% of the ordinary share capital, or loan capital and issued share capital, or voting power in the company, or would be entitled to more than 30% of the assets of the company in a winding-up. (This does not apply, subject to certain conditions, at any time when the only shares issued are the original subscriber shares.)

For this purpose, an associate includes a spouse or civil partner, lineal ancestor or descendant, a business partner and certain persons with whom the individual has connections through a trust.

A paid director is one who receives, or is entitled to receive, any form of payment from the company other than certain items such as reimbursements of expenses allowable for tax purposes.

* The circumstances in which you can qualify for relief despite being connected with the company are where the connection is solely by virtue of you, or your associate, being a director of the company (or of any subsidiary of the company), who is paid for services rendered as a director or employee, and:

- you are not so connected until *after* the issue of the shares, or
- you qualified for relief in the above way in respect of a previous issue of shares and the termination date related to that issue has not yet been reached.

What if the shares were issued to you and someone else jointly?

Where shares are issued to joint owners, they are treated as if each of them had subscribed the same amount in respect of an identical number of shares. For example, if £2,000 is subscribed in respect of 2,000 shares in the name of a married couple, each is regarded as having subscribed £1,000 for 2,000 shares. That is so even if one of them paid the whole amount.

In order to claim relief each joint owner should obtain form EIS3 from the company.

Can you choose to have the tax relief for a different year?

The general rule is that the relief is available for the tax year in which the shares are issued. But if they are issued between 6 April and 5 October (inclusive), you can treat up to half of them as issued in the previous year, provided the total cost of all shares treated in this way does not exceed £50,000.

You will find the date of issue of your shares recorded on form EIS3 or EIS5.

If you want to make use of this option:

- limit the amount on which you are claiming relief on your Tax Return accordingly, and
- complete the claim form which is incorporated in form EIS3 (or EIS5) to show the amount on which you are claiming relief for the previous year and send it to us.

How much relief can you get for your subscriptions for shares?

Subject to what follows, you can get relief at the rate of 20% on the aggregate of the amounts claimed in respect of shares issued to you in 2007-08 (after taking account of any claims to treat shares as issued in the year prior to their actual issue).

However, you cannot get relief on more than £400,000, and if your tax liability is not high enough to absorb all the relief you have to forgo the excess. In either of these cases, you can opt for the relief to be attributed to certain shares, or to be attributed proportionately to all the shares. For example, if you had subscribed £200,000 for shares in each of four companies, but you are limited to claiming relief on £400,000, you could opt for relief to be given at 20% on the subscriptions for all the shares in two of those companies, or you could opt for relief to be given at 10% on all the shares in the four companies. You may wish to take professional advice on which course to take.

Also, if you have received value from the company the amount on which you claim relief must be restricted (the company will have stated the amount on form EIS3).

The notes on forms EIS3 and EIS5 explain situations when your relief might be withdrawn or reduced, and in which you would be obliged to make a report to us.

These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.