

ENTERPRISE INVESTMENT SCHEME - INCOME TAX RELIEF

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. However, it is only an introduction and does not cover everything. If you need further help on this subject you may find our booklet IR137: The Enterprise Investment Scheme useful.

There are several references below to form EIS 3(1998). This form incorporates a certificate to the effect that certain conditions of the scheme are satisfied, and is issued to investors by the company invested in. If, exceptionally, your investment was made through an approved investment fund, form EIS 3(1998) will be issued to the fund manager, and you will receive form EIS 5(1998) from the manager.

THE CIRCUMSTANCES IN WHICH YOU CAN CLAIM THE RELIEF

You can claim the relief for any investment you made in shares issued by a company during the year (or, in some cases, during the following six months - see below), provided:

- you have received a form EIS 3(1998) relating to the shares,
- 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 15.8 the total amount of the subscriptions on which you are now claiming relief (but not more than the maximum of £150,000). Include any amount for which you have already received relief in your PAYE code or by repayment 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 'Additional information' box on page 8 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 Inland Revenue office authorising the issue of the certificate, and their reference (as shown on the certificate).

List **all** relevant subscriptions, even if you had to restrict the amount you entered in box 15.8 because it would have exceeded the maximum.

Remember, your Inland Revenue office may ask to see form EIS 3(1998) 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 EIS 3(1998), you cannot claim relief for it now. If you receive the form after you have sent in your Tax Return, complete the claim form which is incorporated in it and send the claim form to your Inland Revenue office.

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 bona fide 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*) be connected with the company at any time within either the two years before the shares are issued or the following five years.

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**

** 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 have already qualified for relief in the above way in respect of shares which were issued to you less than five years before the share issue in question.

- 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 husband or wife, 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.

WHAT IF THE SHARES WERE ISSUED TO ME AND SOMEONE ELSE JOINTLY?

Where shares are issued to joint owners, each of them is treated as having subscribed an equal share in respect of an equal 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 1,000 shares. That is so even if one of them paid the whole amount.

In order to claim relief each joint owner should obtain a form EIS 3(1998) from the company.

CAN I 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) in any year, 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 £25,000, **and**
- the maximum of £150,000 for the previous year is not exceeded.

You will find the date of issue of your shares recorded on form EIS 3(1998).

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 EIS 3(1998) to show the amount on which you are claiming relief for the previous year and send it to your Inland Revenue office.

HOW MUCH RELIEF CAN I GET FOR MY SUBSCRIPTIONS FOR SHARES?

Subject to what follows, you can get relief at the rate of 20% on the aggregate of the amounts which you subscribed (or which you are treated as having subscribed, after taking account of amounts carried back to or from the year). However, you cannot get relief on more than £150,000, 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, whatever relief is available is treated as attributable proportionately to the subscriptions, if there is more than one, and within each issue as attributable equally to all shares comprised in the issue).

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 EIS 3(1998)).

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