HM Revenue & Customs

Enterprise Investment Scheme (EIS)
Venture Capital Trust (VCT) - Reforms

Budget 23 March 2011

Announcements and Question and Answers

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Introduction

Enterprise Investment Scheme (EIS)

and

Venture Capital Trust (VCT) - Reforms

This document has been produced to bring together all the information published at Budget 23 March 2011, and to answer some frequently asked questions.

The aim of this measure is to help smaller, riskier UK companies to compete for finance by increasing the incentive for people to invest in smaller companies, which face barriers in raising external finance. This will be achieved by increasing the EIS rate and the investment limits and company size thresholds for both EIS and VCTs.

In addition it is proposed to help the EIS and VCT scheme focus better on higher risk companies and target tax relief more appropriately. Feed In Tariff based trades will be excluded. This will help prevent these schemes funding activity which receives the benefit of a subsidy.

Chapter 1

The following entries appear in the Overview of Tax Legislation and Rates (OOTLAR) published on 23 March 2011.

OOTLAR Chapter 1;
New tax changes announced in Budget 2011 for Finance Bill 2011

1.1 Enterprise Investment Scheme and Venture Capital Trusts — Legislation will be introduced in Finance Bill 2011 to increase the rate of income tax relief given under the Enterprise Investment Scheme (EIS) from 20 per cent to 30 per cent with effect from 6 April 2011, subject to State aid approval. OOTLAR Chapter 3 includes details of wider changes to EIS and Venture Capital Trusts planned for Finance Bill 2012. A Tax Information and Impact Note for this measure is available in OOTLAR Annex A .

OOTLAR Chapter 3;
New tax changes announced in Budget 2011 (changes in future years)

3.6 Enterprise Investment Scheme and Venture Capital Trusts — Subject to State aid approval, legislation will be introduced in Finance Bill 2012 making the following changes to the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCT) which will have effect on and after 6 April 2012:

- an increase in the thresholds for the size of qualifying company for both EIS and VCTs to fewer than 250 employees and to the company having no more than £15million of gross assets before the investment;
- an increase in the annual amount that can be invested though both EIS and VCTs in an individual company to £10million; and
- an increase in the annual amount that an individual can invest through EIS to £1million.

The Government will consult on further changes to the schemes including proposals to give additional support through the EIS for seed investment.
Legislation will also be introduced in Finance Bill 2012 providing that companies whose trade consists wholly or substantially in the receipt of feed-in tariffs (FITs) or similar subsidies will only be eligible for the two schemes where commercial electricity generation commences before 6 April 2012. Shares issued before 23 March 2011 will not be affected.

The full OOTLAR document is available on HMRC website at
http://www.hmrc.gov.uk/budget2011/overview.htm

Chapter 2

Frequently asked Questions and the HMRC Answers

Q1	Why can't we simply give the 30 per cent relief from 6 April?
A1	Relief under the EIS is a State aid – to increase the amount of relief without approval from the European Commission would be illegal, and the Commission could require it to be recovered.
Q2	Why not make the increase start from the date that approval is received?
A2	The Government want the increased relief to apply from the earliest date possible.
Q3	I normally complete a Tax Return, what should I do to make sure I get the correct tax relief?
A3	If you are claiming EIS relief for shares issued on or after 6 April 2011, simply go ahead as normal and claim relief through your self-assessment return
Q4	I do not normally complete a Tax Return, how do I make sure I get the 30 per cent tax relief?
A4	If you are claiming EIS relief for shares issued on or after 6 April 2011, then contact HMRC to make your claim. If your claim is made before the Commission's approval is received HMRC will adjust your tax code to give you tax relief at 20 per cent and note your record for review once a decision has been made by the Commission – then, if appropriate, HMRC will adjust your tax code again to give you the extra 10 per cent relief.
Q5	If I subscribe for shares in 2011-12 but claim EIS relief in 2010-11 under the carry back rules, what rate of relief will I get for the 2010-11 investment?
A5	You will get relief at 20 per cent, the rate applying for 2010-11, because the shares will be treated as having been issued in that year.
Q6	Are there any circumstances when I will be able to get relief under EIS or VCTs for a feed-in tariff (FIT) based business where the shares are issued after 6 April 2012?
A6	No. Where shares are issued after 6 April 2012, or electricity generation commences after that date, the trade will be excluded from relief under both schemes
Q7	My company generates renewable electricity and sells Renewable Obligations Certificates (ROCs) for the electricity it generates. Will these constitute a "similar subsidy" to feed-in tariffs (FITs) and prevent my company from being able to benefit under the EIS or VCTs?
A7	No. ROCs are not a similar subsidy to FITs.

Chapter 3

Tax Information and Impact Note (TIIN)
Published Budget 23 March 2011
Enterprise Investment Scheme and Venture Capital Trusts

Who is likely to be affected?

Companies raising money under the Enterprise Investment (EIS) and Venture Capital Trust (VCT) schemes, and individuals investing under the schemes.

General description of the measure

Legislation will be introduced in Finance Bill 2011 to increase the rate of income tax relief given under EIS from 20 per cent to 30 per cent of the amount subscribed for shares, subject to State aid approval.

Subject to State aid approval legislation will be introduced in Finance Bill 2012 to increase:

- the thresholds for the maximum size of qualifying company for both EIS and VCTs;
- the maximum annual amount that can be invested in an individual company; and
- the annual amount that an individual can invest under the EIS.

These changes will apply from 6 April 2012.

The Government will bring forward and consult on further changes to the schemes including proposals to give additional support through the EIS for seed investment.

Legislation will also be introduced in Finance Bill 2012 providing that companies whose trade consists wholly or substantially in the receipt of Feed-In Tariffs (FITs) or similar subsidies will only be eligible for the two schemes where commercial electricity generation commences before 6 April 2012. Shares issued before 23 March 2011 will not be affected.

Policy objective

The aim of this measure is to help smaller, riskier UK companies to compete for finance.

- To increase the incentive for people to invest in smaller companies, which face barriers in raising external finance, helping these companies to be established and to grow, the EIS rate and the investment limits and company size thresholds for both EIS and VCTs will be increased.
- To help the EIS and VCT schemes focus better on higher risk companies and target tax relief more appropriately, FIT based trades will be excluded. This will help prevent these schemes funding activity which receives the benefit of a subsidy.

Background to the measure

The changes were announced in Budget 2011 following consideration by the Government of responses to:

- a consultation document *Financing a Private Sector Recover*y, published on 26 July 2010 on the website of the Department for Business Innovation and Skills (BIS).
- *Financing business growth: The Government's response to 'Financing a private sector recovery'*, published on the BIS website on 3 October 2010.
- *The path to strong, sustainable and balanced growth* (the "Growth Review"), published on the Treasury and BIS websites on 29 November 2010.

A review of FITs[1] was announced by the Department for Energy and Climate Change (DECC) on 7 February 2011.

Detailed proposal

Operative date

The increase in the rate of EIS income tax relief will have effect for shares issued on or after 6 April 2011, subject to State aid approval.

The increases to the investment limits will, subject to State aid approval, have effect for shares issued on or after 6 April 2012.

The exclusion of FIT based trades will apply where commercial electricity generation commences on or after 6 April 2012. Shares issued before 23 March 2011 will not be affected.

Current law

The EIS and VCT legislation is in Parts 5 and 6 (respectively) of the Income Tax Act (ITA) 2007.

The EIS rate (currently 20 per cent) is set by section 158 ITA, as is the limit (currently £500,000) on the annual amount of relief which an individual can invest under EIS.

The company size threshold (gross assets of no more than £7million immediately before the share issue and £8million after) is set by section 186 ITA (for EIS) and section 297 ITA (for VCTs).

The limit on the number of employees (currently, fewer than 50) is at sections 186A ITA and 297A ITA. The £2million limit on the amount of investment that a company can raise under both schemes is defined at section 173A (for EIS) and section 292A (for VCTs).

[1] Feed-in tariffs (FITs) subsidise the owners of small scale plant generating electricity from renewable sources (such as solar power). The cost of the subsidy is borne by electricity suppliers and passed on to consumers.

Section 192 ITA (for EIS) and section 300 ITA (for VCTs) defines which activities, carried on by an investee company, exclude it from qualifying for relief.

Proposed revisions

Legislation to be included in Finance Bill 2011 will increase the EIS rate to 30 per cent. This change will apply to shares issued on or after 6 April 2011.

Legislation to be included in Finance Bill 2012 will increase:

- the employee limit to fewer than 250 employees;
- the size threshold to gross assets of no more than £15 million before investment;
- the maximum annual amount that can be invested in an individual company to £10 million; and
- the annual amount that an individual can invest under the EIS to £1million.

These changes will, subject to State aid approval, apply to shares in investee companies that are issued on or after 6 April 2012.

Legislation will also be introduced in Finance Bill 2012 providing that companies whose trade consists wholly or substantially in the receipt of Feed-In Tariffs (FITs) or similar subsidies will only be eligible for the two schemes where commercial electricity generation commences before 6 April 2012. Shares issued before 23 March 2011 will not be affected.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	0	-105	-115	-110	-120
Economic impact	Smaller companies tend to face barriers in raising equity finance. This is due to a number of factors, in particular lack of publicly available information about companies' prospects. Tax relief is therefore given to incentivise such investment. The enhancements to the schemes will improve incentives to invest in small companies, helping new and more established businesses to invest to expand, become more productive and increase employment. Excluding companies whose trade consists wholly or substantially of the receipt of FITs will reduce the incentive to individuals to invest in lower risk investments which receive other forms of subsidy.				
Impact on individuals and households	Individuals and households investing in companies under EIS will benefit from April 2011 by being able to claim increased income tax relief. Individuals investing under both schemes will be able to invest more, and in a wider range of companies, from April 2012. Around 10,000 individuals invested through EIS in 2008-09, the last year for which				

	figures are available and around 6,300 through VCTs.
Equalities impacts	Compared to the self-assessment population, EIS and VCT investors tend to be male, located in the South of England and have higher overall income levels. The changes to the schemes are not likely to change that position. We have no data to suggest that there will be impacts on other groups. From the data available therefore do not think these changes will have a disproportionate impact.
Impact on business including third sector	The change will increase the amount of equity investment in smaller companies (including potentially some acting in the third sector). There is no administrative impact on them, since the relief is claimed by investors rather than the investee companies. Around 2,000 companies raise funds under EIS each year and around 1,600 though VCTs for all years up to 2007/08.
Operational impact (£m) (HMRC or other)	The increase, from 2011, in the rate of EIS relief will require some minor changes to HM Revenue & Customs (HMRC's) IT systems. Investors subscribing for shares from 6 April 2011, who claim relief before the measure receives State aid approval and do not complete an annual Tax Return will immediately receive relief at 20 per cent and will be given the additional 10 per cent relief following State aid approval. There will be some costs in updating the forms and guidance.
Other impacts	There will be a positive impact for smaller firms receiving investment under the Enterprise Investment Scheme, as individuals will have a greater incentive to make such investments and have a wider range of investments available. The changes should not have any impact on competition as they do not affect or limit suppliers' ability to compete.

Monitoring and evaluation

Uptake of the reliefs in terms of numbers of investors and investees, amounts of investment and the distribution of levels of investment, are regularly monitored, and published as National Statistics.

Further advice

If you have any questions about this change, please contact David Harris on 020 7147 2562 (email: david.harris@hmrc.gsi.gov.uk), Kathryn Robertson on 020 7147 2589 (kathryn.robertson@hmrc.gsi.gov.uk) or Des Ryan on 020 7147 0818 (des.ryan@ hmrc.gsi.gov.uk)