SEED ENTERPRISE INVESTMENT SCHEME

The Seed Enterprise Investment Scheme (SEIS) is designed to help small, early-stage companies to raise equity finance by offering a range of tax reliefs to individual investors.

COMPANY

What sort of company can use the Scheme?

The company must be unquoted at the time the shares are issued. Unquoted means it cannot be listed on the London Stock Exchange or any other recognised stock exchange (the Alternative Investment Market (AIM) is not considered to be a recognised stock exchange).

In addition, the company must meet the following conditions:

- It must not control another company without that company being a 'qualifying subsidiary' (i.e. the company must have more than 50% of the ordinary share capital of the subsidiary).
- The company must not be controlled by another company and there must not be any arrangements in existence at the time SEIS shares are issued that could result in this occurring.
- The gross assets of the company cannot exceed £200,000.
- It must have fewer than 25 full-time employees at the time of issue.
- The company must not have had any investment from a Venture Capital Trust (VCT), or is issued any shares in respect of which it has submitted an EIS compliance statement.
- Any trade being carried on by the company at the date of issue of the shares must be less than two years old at that date.
- The company must not have carried on any other trade before it started to carry on the new trade.

The company must exist wholly for the purpose of carrying on a qualifying trade and be UK resident or have a 'permanent establishment' in the UK:

- It has a fixed place of business in the UK through which the company's business is wholly or partly carried on; or
- An agent acting on or behalf of the company has and habitually exercises their authority to enter into contracts on behalf of the company.

How much can the company look to raise?

The company may not receive more than £150,000 in total under the scheme.

- This must also take account of any other State Aid received by the company in the three years preceding the relevant share issue.
- If the share issue takes the total over £150,000, the excess will not qualify for relief.

Companies which benefit from DECC Renewable Obligations Certificates or Renewable Heat Incentive subsidies are prevented from also benefiting from investment via SEIS.

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What can the funds be used for?

The money raised by the share issue must be used either for the purpose of a new qualifying trade or for the activity of preparing to carry on such a trade, including research and development (R&D) intended to lead to such a 'qualifying trade' being carried on.

- Funds must be used within three years of the relevant share issue either by the issuing company of by a 90% subsidiary.
- If these requirements are not met then investors will not be eligible for relief on the cost of their shares and any relief given will be withdrawn.

What is a qualifying trade?

The trade must be conducted on a commercial basis with a view to the realisation of profits. Most trades will therefore qualify. Those that do not are termed 'excluded activities' and include:

- Dealing in land, commodities or futures.
- Dealing in goods, other than in an ordinary trade of retail or wholesale distribution.
- Providing legal or accountancy services.
- Farming or market gardening.
- Shipbuilding.
- Coal production.
- Providing services to another person whose trade is substantially an excluded activity and who also controls the company providing the service.
- Financial activities such as banking and insurance.
- Leasing or letting assets on hire, except in the case of certain ship-chartering activities.
- Property development.
- Holding, managing or occupying woodlands.
- Operating or managing hotels and nursing homes.
- Steel production.
- Generating or exporting electricity which will attract a 'Feed-in Tariff' (subject to certain exceptions).

Note. The company can carry on some excluded activities but these must not be a 'substantial' part of the company's trade (HMRC take substantial to mean more than 20%).

HM Revenue & Customs approval

The Small Company Enterprise Centre (SCEC) administers the Scheme and decide if a company and a share issue qualifies.

- SCEC operates an advance assurance scheme whereby companies can submit details of their plans and the SCEC will advise on whether these are likely to qualify.
- The company must complete a form SEIS1 and submit this to SCEC once:
    - It has been trading for at least four months; or
    - If it is not yet trading, It has spent at least 70% of the funds raised by the share issue.
- If the SCEC approves this, it will issue a form SEIS2 and supply sufficient forms SEIS3 for the company to send to its investors so they can claim tax relief.
- The process is repeated each time the company issues shares it wishes to attract EIS relief for.

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INVESTOR

The investment

All shares must be fully paid up in cash when they are issued:

- Shares must be full-risk ordinary shares and may not be redeemable or carry preferential rights in the event of a winding-up.
- There must be no arrangements at the time of the investment for the shares to be sold at the end of the relevant period.
- The shares may not be acquired using a loan made available on terms which would not have applied other than in connection with the acquisition of the shares in question.
- The shares must not be issued under any reciprocal arrangements, where company owners agree to invest in each other's company in order to obtain tax relief.

What tax reliefs are available?

Income Tax Relief	• Relief is at 50% of the cost of the shares to be set against the Income Tax liability for the tax year in which the investment is made. • A maximum of £100,000 can be invested. • All or part of the cost of the shares can be carried back to the preceding year for relief to be given in that year (subject to overriding limits). • The shares must generally be held for three years from the date of issue to avoid relief being withdrawn. • The investor cannot be connected with the company.
Capital Gains Tax exemption	• Gains on disposal are free from Capital Gains Tax (CGT) if Income Tax has been received on the cost of the shares (and not subsequently withdrawn) and the shares have been held for the required three years.
Capital Gains Tax deferral relief	• Gains arising on the disposal of any kind of asset can be deferred when it is invested in shares of an SEIS qualifying company. • The investment must be made in the same year as the gain. • A maximum of £100,000 can be invested. • No minimum period for which the SEIS shares must be held, but the deferred gain is brought back into charge on disposal of the SEIS shares. • It does not matter whether the investor is connected with the company.

Connection with the company

You are not eligible for Income Tax relief if you are connected with the company.

Connected by financial interest	You are connected with the company if, in the period beginning two years before and ending three years after the issue, you: • Control the company; or • Hold more than 30% of the share capital or voting rights; or • Are entitled to more than 30% of the assets in the event of a winding up.
Connection by employment	You are connected if you are a partner, director or employee of the company (during the same period noted above).

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How to claim tax relief?

You cannot claim relief until the company sends you a form SEIS3.

- Claim relief via the Tax Return for the year in which the shares were issued.
- If the shares were issued in a previous year and/or the claim is for CGT deferral relief, the claim part of the form SEIS3 must be completed and sent to your tax office.
- Claims to relief can be made up to five years after the first 31 January following the tax year in which the investment was made.

When is relief reduced or withdrawn?

Tax relief will be withdrawn or reduced if during the three years from the date of issue:

- You or an associate become connected with the company.
- The company loses its qualifying status.
- Any of the shares are disposed of (unless to a spouse or civil partner).
- You or an associate 'receive value' from the company or someone connected with it. This might include receiving a loan or benefit from the company or the company selling an asset to you at less than market value (or conversely you selling it an asset at more than market value).

SEIS funds

Instead of investing directly in a company, you can also invest through an SEIS fund.

- The fund will invest on your behalf in a number of qualifying companies.
- You remain the owner of the shares and the process for claiming relief is unchanged.