EIS & SEIS – COMPARISON

This note summarises the main requirements to qualify for the Enterprise Investment Scheme (EIS) and the Seed Enterprise Investment Scheme (SEIS) and the tax benefits for the individual investor.

The intention of the note is to compare and summarise the two reliefs. The conditions for each relief are not detailed and further advice should be sought before implementation.

Background
The EIS and SEIS reliefs were introduced to provide incentives to investors to invest in small unquoted companies, which are generally perceived to be higher-risk investments.

There are numerous conditions to be met by both the issuing company and the investor in order to qualify for the tax reliefs associated with EIS and SEIS investments.

These conditions differ between EIS and SEIS and as such professional advice should always be taken when determining if the company and the investor qualify

The reliefs
In order to compare the reliefs the table below analyses the following:

- Income tax relief on the amount invested and when it may be withdrawn;
- The capital gains tax exemption and/or utilisation of capital losses on the disposal of the shares;
- Deferral relief, provided the relevant conditions (explained below) are met; and
- Business property relief from inheritance tax (IHT), where certain conditions are met.

Risk to Capital
- Finance Act 2018 introduced a new Risk to Capital condition for companies, which applies to shares issued on or after 15 March 2018.
- The risk to capital condition has 2 legs at the time the shares are issued, if it "would be reasonable to conclude" that:
    - Issuing company has objectives to grow and develop its trade in the long-term; and
    - There is significant risk of a capital loss greater than the net investment return.

Key points
An individual can invest annually up to £1 million in an EIS company and up to £100,000 in an SEIS company.

For both EIS and SEIS it is possible to carry back some or all of the relief to the preceding year, subject to the overriding limit for relief in that year.

Certain types of trade do not qualify for EIS or SEIS relief. These include certain financial activities, property development, hotels and providers of legal or accountancy services.

A 'disqualifying arrangements' test has been introduced to exclude EIS or SEIS that do not invest in qualifying companies and are set up solely for the purpose of giving investors tax relief.

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	EIS RELIEF	SEIS RELIEF
Income Tax	Income tax relief at 30% of the invested in subscribing for new shares (maximum annual investment for an individual is £1million). By election, where an EIS investment is made in one year it can be treated as though it was an investment made in the immediately preceding tax year, subject to the overall limit for that year. Dividends paid on EIS shares are taxable.	Income tax relief at 50% of invested in subscribing for new shares (maximum annual investment for an individual is £100,000). By election, where an investment is made under SEIS in one year, it can be treated as though it was an investment made in the immediately preceding tax year, subject to the overall limit for that year. Dividends paid on SEIS shares are taxable.
Income Tax reducer withdrawn	Where the EIS shares are sold within three years, the EIS investor receives value or an option is placed over the shares, then the EIS tax reducer is clawed back. The clawback is the lower of: • Original income tax reducer; and • 30% x sale proceeds received (Only applicable) if sold for a loss). There can also be a claw-back if the company loses its EIS status within three years.	Where the SEIS shares are sold within three years, the SEIS investor receives value or an option is placed over the shares, then the SEIS tax reducer is clawed back. The clawback is the lower of: • Original income tax reducer; and • 50% x sale proceeds received (only applicable if sold for a loss). There can also be a claw-back if the company loses its SEIS status within three years.
Capital Gains Tax (CGT) relief	An EIS investor is entitled to exemption from CGT on a disposal of those shares, provided he has held them for three years. Therefore, any growth in value is effectively tax free.	A SEIS investor is entitled to exemption from CGT on a disposal of shares, provided he claimed income tax relief on the shares and has held them for three years. Therefore, any growth in value is effectively tax free.
Relief for capital losses on disposals	Relief is given for allowable losses arising on the disposal of the shares against either income of the tax year of disposal (or of the previous tax year) or chargeable gains, provided all the relevant conditions referred to below are met. The capital loss is reduced by any income tax relief obtained under EIS and not withdrawn.	Relief is given for allowable losses arising on the disposal of the shares against either income of the tax year of disposal (or of the previous tax year) or chargeable gains, provided all the relevant conditions referred to below are met. The capital loss is reduced by any income tax relief obtained under SEIS and not withdrawn.
Deferral relief	The tax due on a gain on any asset can be deferred by subscribing for shares in EIS qualifying companies, in a period beginning one year before and three years after the disposal of the original asset.	From 6 April 2014 re-investment relief is available on 50% of the gain reinvested in SEIS qualifying shares (up to a maximum of £50,000, i.e. 50% of the £100,000 annual limit). For this relief to be available the individual must be eligible for, and claim, SEIS income tax relief for the year in which the disposal is made.
Business property relief	Shares in EIS companies held for at least two years will normally qualify for 100% business property relief for IHT purposes.	Shares in SEIS companies held for at least two years will normally qualify for 100% business property relief for IHT purposes.