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Client Briefing Note

Social Investment Tax Relief

Individuals making an eligible investment in a social enterprise, such as a community interest company, community benefit society or charity, may be able to take advantage of generous tax breaks under Social Investment Tax Relief (SITR). SITR was introduced from 6th April 2014 to help social enterprises raise external funding by offering tax relief to investors.

SITR may be applied to eligible investments made during the period from 6th April 2014 to 5th April 2019 in the form of new qualifying shares or new qualifying debt. The shares or debt investments must be fully paid at the time of issue.

The shares issued must be ordinary shares with no rights to a fixed return or to the assets of the social enterprise in the event of a winding up. Debt investments in the form of debentures must not carry more than a commercial rate of interest and cannot carry any charge over assets. The shares and debt investments will rank equally with each other but below the other debts of the social enterprise in the event of the social enterprise being wound up. They will not rank above the other shares of the social enterprise.

The investments must be held by the individual for a minimum period of three years from acquisition for the tax relief to be retained. Disposal of the investment within three years of acquisition or failure to meet the conditions during that period will result in the tax relief being withdrawn.

Various conditions must be met by both the social enterprise and the individual investor in order for the investments made by the individual to qualify for SITR. The conditions that the social enterprise must meet are not covered in this briefing note however they are required to demonstrate compliance to HM Revenue & Customs in order to obtain approval to issue the relevant compliance certificates to their investors. The investor is not able to claim tax relief for the investment until the relevant compliance certificate has been issued to them.

The tax relief available under SITR covers both income tax and capital gains tax.

Income Tax Relief

To provide income tax relief, the investor's income tax liability is reduced by 30% of the amount invested in qualifying shares or debt, up to a maximum investment of £1 million. The investor must have a UK tax liability to set the relief against and relief can be claimed either in the tax year in which the investment was made or in the preceding tax year. As the legislation was not introduced until 2014/15 it is not possible to carry relief back before that year.

The individual investor and any associates cannot be an employee, partner, remunerated director or trustee of the social enterprise during the period from twelve months before to three years after the investment is acquired. In addition, the investor and any associates must not have control over the social enterprise or hold more than a 30% interest in the company share capital, loan capital or voting power in that same period. Associates include business partners, spouse, civil partner, ancestors and lineal descendants.

Relief is not available where the investor directly or indirectly owned the trade before it came to be owned by the social enterprise. Various provisions also apply to prevent pre-arranged exits, risk avoidance protection, linked loans and collusion with non-qualifying investors.

Capital Gains Tax Relief

This can take two forms: holdover relief and disposal relief.

Holdover Relief: chargeable gains arising on the disposal of other assets, up to a maximum of £1 million per tax year, may be deferred if the gains are reinvested in a social enterprise. This treatment effectively freezes the gain until such time as the investment in the social enterprise is disposed of, cancelled, redeemed or repaid when it will come back into charge.

In order to qualify, the deferred gains must arise during the period from 6th April 2014 to 5th April 2019 and the social enterprise investment must be made during the period commencing one year prior to and ending three years after the date on which the gain being deferred arose. The investor must be UK resident both when the gain accrues and when the social enterprise investment is made.

It is not necessary to also make a claim for SITR income tax relief on the investment but the investment must qualify for income tax relief.

Disposal Relief: any gain arising on the disposal of the investment will not be chargeable to capital gains tax providing that a claim for income tax relief has been made on the investment, the investment has been held for the minimum holding period of three years and the conditions for SITR to apply have been met during that period.

It should however be noted that income tax must be paid in the normal way on any dividend income or interest income received from the investment.

The purpose of this briefing note is to provide an overview of the tax relief that may be available to investors under the SITR legislation. It should not be relied upon and individual advice should always be sought before entering into any transaction. For further information please contact either Mark Thompson at mark.thompson@renniewelch.co.uk or Lynn Miller at lynn.miller@renniewelch.co.uk or by telephone on 01573 224391.