The March 2016 Budget

Chancellor's Statement of 16 March 2016

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The 2015 Statements contained very significant changes to the legislation governing investments by VCTs and by individuals under the EIS. Those changes were designed to ensure that the VCT and EIS legislation is compliant with Articles 107 and 108 of the EU Treaty, and to keep the schemes focussed on growing companies. It was not expected that there would be many significant changes to the schemes in this Budget.

Today's Budget Statement confirms an announcement made at the Autumn Statement, and also contains measures to clarify certain aspects of the EIS and VCT rules which were introduced in last year's second Finance Act.

Energy generation

As announced at the 2015 Autumn Statement, with effect for investments made after 5 April 2016, all remaining energy generation activities (including the export of electricity and the production of gas or other fuel) will not be regarded as a qualifying trade. This affects investments under the EIS, the SEIS, and from VCTs; it will also affect investments under the Social Investment Tax Relief when expanded.

VCT non-qualifying investments

VCTs are permitted to hold up to 30% by VCT value of their investments in non-qualifying holdings. With effect for investments made on or after 6 April 2016, there will be new conditions applying to non-qualifying investments. The details of these conditions will be included in the Finance Bill when published.

Currently VCTs may hold non-qualifying investments in shares and securities which are listed on a main Stock Exchange market, and certain money market securities. Other non-qualifying investments in companies are currently subject to the permitted maximum age limit, the annual and lifetime investment limits, and there are restrictions on the use of funds invested by the investee company. It appears that the proposals will place further restrictions on the investments that VCTs can make.

Clarification for certain EIS and VCT investments

For EIS and VCT investee companies, it is necessary to consider their prior year results either where:

- the permitted maximum age limit is met due to the EIS/VCT investment being at least equal to half the average turnover of the last 5 years <u>and</u> the funds are used to enter a new market; or
- the investee company is deemed to be "knowledge intensive", which requires consideration of operating costs in the previous 3 years.

The Finance Bill 2016 will contain measures to clarify the method of determining the relevant 5 year period for the average turnover amount and the relevant 3 preceding years for the operating costs conditions for "knowledge intensive" companies. Generally it will be the most recently filed accounts of a company which are used to determine the end date of the relevant period, where that filing date falls within 12 months of the date of the proposed investment. This will take effect for investments on or after 18 November 2015 (which was when these conditions were first introduced).

The Finance Bill is due to be published next week, when further details of these changes will be apparent. We will be preparing a summary of the changes in due course.

Reporting of State Aid

The Finance Bill 2016 will introduce legislation permitting HMRC to collect information from businesses that receive State aid through the tax system, and to share and publish that information. This follows new European Commission reporting requirements. The requirements are set out in Article 9 of Commission Regulation 651/2014 (General Block Exemption Regulation (GBER)). The new rules apply to all aid notified under either GBER or certain other State aid guidelines, and take effect for State aid provided from 1 July 2016.

The EIS and VCTs are State aids falling within the EU reporting requirements and details of companies receiving total EIS/VCT investments above €500,000 will be published in due course. Details of individual EIS investors will not be published. HMRC will be providing further guidance and will be contacting VCTs shortly.

Further information can be found at

http://europa.eu/rapid/press-release_IP-14-588_en.htm

http://ec.europa.eu/competition/publications/cpb/2014/004_en.pdf

Capital gains tax rates

The Chancellor announced a reduction in the rate of capital gains tax on investments in unquoted companies. By investing under the SEIS and EIS, individual investors have the opportunity to exempt or defer capital gains, and can also obtain exemption from tax on gains on the SEIS or EIS investment itself, if the conditions are met.

These reliefs still remain valuable, and the changes to capital gains tax are expected to have a minimal impact on SEIS and EIS investing.

This is a summary only, and based on the Budget announcement, rather than on any legislation that will be enacted.