Finance Bill 2017

The first draft of the 2017 Finance Bill was published on 5 December 2016. As announced at the Autumn Statement on 23 November there are measures designed to smooth some of the technical difficulties of the SEIS, EIS and VCT rules.

There is a consultation taking place over the next eight weeks regarding the advance assurance process.

Share conversions for SEIS and EIS

The Finance Bill 2017 includes amendments in respect of share conversion rights for SEIS and EIS investment. For shares issued on or after 5 December 2016, a right to a future conversion into shares of another class will not be regarded as an arrangement for the disposal of the shares. If shares have rights to conversion, this will not now be treated as a pre-arranged exit, which would prohibit claiming SEIS or EIS relief on investment.

Circumstances where share conversions may take place include a reorganisation of share capital prior to a flotation or exit or for a fund raising round. It should be noted that a conversion of shares is regarded by HMRC as a disposal of shares, and so tax reliefs can be withdrawn when a conversion takes place. We have discussed this with HMRC on many occasions, and we are pleased that this matter is now being addressed.

VCT investment following a new holding company

There has been a difference of interpretation between the EIS and VCT rules where a new 'mirror image' holding company is superimposed. Under the EIS rules, HMRC have treated a new holding company as having the funding history of the old company, which then can allow it to receive further follow on funding. This has not been the case for VCTs, but the Finance Bill 2017 aims to give the equivalent provisions for VCT investment for investments made after 5 April 2017. Again this amendment is welcome.

VCT investments: exchanges of shares and securities

The Finance Bill 2017 makes provision for the VCT Exchange of Shares and Securities Regulations to be amended. Currently the Regulations apply to transactions in VCT qualifying holdings only. The Finance Bill will allow the scope of the Regulations to be widened to include exchanges in respect of non-qualifying holdings. The process to amend the Regulations can begin after Royal Assent to the Finance Bill, expected in the summer of 2017, so it is likely to be around 12 months before the revised Regulations will be in force.

The Regulations may also be updated to reflect changes to the VCT legislation made in recent years. Updating the Regulations should provide more certainty to VCTs where investments are restructured or acquired.

Advance assurances consultation

HMRC are undertaking a consultation into options to streamline and prioritise the advance assurance service. The consultation document can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574564/Tax-advantaged_venture_capital_schemes_-_streamlining_the_advance_assurance_service.pdf

A number of questions are posed, including whether the advance assurance service should continue. A paid for service has been ruled out. The deadline for comments is 1 February 2017.

In our view the advance assurance service is essential and should be retained. The SEIS, EIS and VCT rules are highly complex, and especially those rules introduced in 2015 to meet State aid requirements. Other than very limited exceptions, the rules do not allow a correction after an investment is made. Many of the conditions are a matter of judgment, which HMRC themselves determine. We would encourage companies and investors to make representations to HMRC regarding the advance assurance process.

Expansion of the Social Investment Tax Relief

The Finance Bill 2017 does not yet include amendments relating to SITR. These are expected in the new year.

This note is a brief summary only, based on draft legislation which may be amended before enactment.