Finance Bill 2020

The first draft of the Finance Bill 2020 was published today (19 March 2020). As anticipated, it contains amendments to the legislation dealing with EIS approved funds as well as setting out the framework for the new EIS approved fund for investment in “knowledge intensive” companies, as announced in the Autumn Budget 2017 and as part of the government’s response to the Patient Capital Review. This review was carried out to re-focus the venture capital schemes on higher risk, growing and innovative firms. The new rules were consulted on in 2018 with HMRC reporting that the stakeholder consensus was that additional tax reliefs were not needed but that new flexibilities would be helpful.

The draft Finance Bill 2020 is subject to parliamentary process and Royal Assent; there is an intention to approve the Bill in a short period of time, due to the current COVID-19 virus.

Existing EIS approved funds

From 6 April 2020, it is proposed that there will be no provision for any new EIS approved funds 'to close' under the current and historical structure. It is unlikely that any pending approvals for funds will gain approval from HMRC, although this is not explicitly mentioned in the draft Finance Bill. However, it is expected that existing EIS funds (which have ‘closed' prior to 6 April 2020) will be able to continue investing funds in accordance with the previous rules.

New approved knowledge-intensive fund

If enacted, it is expected that the new provisions will take effect for EIS approved funds closing on or after 6 April 2020, with the main features including:-

- at least 80% of the funds raised will need to be invested, within two years, in shares in companies which are “knowledge intensive” companies at the time the shares are issued;
- at least 50% of the funds raised by the fund will need to be invested, within 12 months of the fund closing, in shares in companies which are “knowledge intensive” companies at the time the shares are issued;
- un-invested money must be held in cash;
- the fund will be required to report to HMRC (in a format yet to be confirmed) to demonstrate that it continues to meet the relevant conditions;
- investors can elect to claim the income tax relief in the tax year in which the fund closes, or the previous tax year but they won’t be able to make the claim until 90% of the individual investor’s investment in the fund has been invested (note this could take up to two years before a claim can be made).

It will remain to be seen how popular this fund will be. Although there is the ability to carry back the tax relief, it is proposed that investors will not be able to make a claim for relief until the fund is at least 90% invested, which could take more than two years from the fund closing. Investors will generally have to claim the tax relief by amending a previously submitted income tax return.

It should be noted that the fund maybe subject to EU State aid requirements.

The draft Finance Bill 2020 can be found here.

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