Budget 2009

HM Revenue & Customs

BN08

22 April 2009

IMPROVEMENTS TO THE VENTURE CAPITAL SCHEMES

Who is likely to be affected?

1. The measure will affect:
   - investors receiving tax relief under the Enterprise Investment Scheme (EIS), Corporate Venturing Scheme (CVS) and the Venture Capital Trust (VCT) scheme;
   - companies attracting investment under those schemes;
   - Venture Capital Trusts; and
   - EIS Investment Funds.

General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to make a number of improvements to the Venture Capital Schemes.

3. For EIS, the measure:
   - relaxes the time limits concerning the employment of money invested;
   - removes the link to other shares of the same class issued at the same time as qualifying shares;
   - extends the period for carry back of relief and allows the full amount subscribed (subject to the overriding limit) to be carried back; and
   - corrects an anomaly regarding the capital gains position for investors in the event of a share for share exchange.

4. For CVS and VCT, the measure relaxes the time limits concerning the employment of money by companies receiving investment.

Operative date

5. The measure in respect of the employment of money will have effect for EIS and CVS investments made on or after 22 April 2009. The removal of the link to other shares issued at the same time will apply to shares issued on or after 22 April 2009 and the correction of the capital gains anomaly to new holdings issued on or after 22 April 2009. In relation to the carry back of relief it will apply to the tax year 2009-10 and subsequent years. For VCT schemes the changes will apply to investments made out of funds raised by VCTs on or after 22 April 2009.

Current law and proposed revisions

EIS

6. The EIS currently requires that 80 per cent of the money raised by the issue of shares be employed for the purposes of a qualifying activity within 12 months of the issue of the shares or, if later, of the commencement of a qualifying activity. The balance is required to be employed within a further 12 months. Finance Bill 2009 will replace these rules with a single requirement that all of the money raised by the issue of shares be wholly employed within two years of the issue of shares or, if later, within two years of the commencement of a qualifying activity.

7. In addition, the investee company is currently required to use money raised from the issue of other shares on the same day and of the same class as the EIS shares within the same time limits. This link is being removed and there will be no restriction on the use of money raised by the issue of non EIS shares.

8. Currently an investor may carry back income tax relief to the previous year by claiming that qualifying shares are treated as having been issued in the previous year. This is restricted to shares issued before 6 October and subject to a limit of half of the subscriptions in that period, up to an overall limit of £50,000 subscribed. Finance Bill 2009 will remove these restrictions. The total investment that can be taken into account for the purposes of calculating income tax relief for any particular year will remain subject to a limit, currently £500,000 subscribed.

9. It is currently possible that a charge to capital gains tax can occur on a share for share exchange where such a gain would not normally be charged. Finance Bill 2009 removes the rules that prevent the normal share for share exchange capital gains tax rules from applying to the gain on the disposal of shares when all deferral relief has been recovered. Now on the occasion of a qualifying (under sections 135 and 136 of the Taxation of Chargeable Gains Act 1992) share for share exchange any deferral relief given will be recovered as before but no gain or loss will be brought into charge in respect of the disposal of the shares that form the subject of the exchange.

CVS and VCT

10. The CVS and VCT schemes currently require that 80 per cent of the money received by the investee companies must be wholly employed for the purposes of the relevant trade within 12 months and the balance within a further 12 months. Finance Bill 2009 will replace these rules with a single requirement that all the money raised must be wholly employed within two years, or, if later, within two years of the commencement of the qualifying activity.

Further advice

11. These improvements were identified following consultation undertaken in 2008 with representatives of the Venture Capital Schemes industry bodies

12. If you have any questions about this change, please contact David Halliday on 020 7147 2626 (email: david.halliday@hmrc.gsi.gov.uk), Kathryn Robertson on 020 7147 2589 (email kathryn.robertson@hmrc.gsi.gov.uk) or Des Ryan on 020 7147 0818 (email: des.ryan@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk