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Policy paper

Income Tax: Enterprise Investment Scheme and Venture Capital Trusts

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Who is likely to be affected

This measure will affect companies and individual investors using the Enterprise Investment Scheme (EIS) and Venture Capital Trust (VCT) scheme, EIS fund managers and VCTs.

General description of the measure

The measure ensures the EIS and VCT legislation introduced by the Finance (No.2) Act 2015 works as intended:

- the method of determining the 5 year period for the average turnover amount and the relevant 3 preceding years for the operating costs conditions will be clarified for both EIS and VCTs to ensure that the most recently filed accounts of a company are generally used to determine the end date of the relevant period
- a new condition will be introduced to clarify the non-qualifying investments a VCT may make for liquidity management purposes

Policy objective

The changes ensure that the EIS and VCT legislation reflects the policy announced at Summer Budget 2015.

Background to the measure

The Summer Budget 2015 announced a number of changes to the EIS and VCT rules. The new rules were introduced by Schedules 5 and 6 to the Finance (No.2) Act 2015. The need to clarify the legislation has emerged since Royal Assent on 18 November 2015.

Detailed proposal

Operative date

The measure will have effect from:

- 18 November 2015 for shares issued under EIS and for investments made by VCTs for determining the relevant accounting period of a company, however an investee company may elect to apply the existing legislation for investments received between 18 November 2015 and 5 April 2016 inclusive
- 6 April 2016 for non-qualifying investments made by a VCT

Current law

The current EIS legislation is contained in Part 5 of the Income Tax Act (ITA) 2007. The current VCT legislation is contained in Part 6 of ITA 2007.

Proposed revisions

Legislation will be introduced in Finance Bill 2016 to ensure that, in general, the following periods end immediately before the beginning of an investee company's last accounts filing period:

- the 5 year period for determining the average turnover amount in relation to condition B of the permitted maximum age requirement in section 175A and section 294A and the permitted maximum age condition in section 280C
- the relevant 3 preceding years for the operating costs conditions that must be met by knowledge-intensive companies in section 252A and section 331A

However, if the end of the last accounts filling period falls more than 12 months before the date on which the investment is made, the 5 and 3 year periods end 12 months before the date the investment is made.

Legislation will also be introduced in Finance Bill 2016 to clarify the investments a VCT may make for liquidity management purposes, where the investment is not a qualifying holding. A new condition will be introduced in section 274(2) specifying the non-qualifying investments a VCT may make. These investments are those currently specified in section 274(3A).

Summary of impacts

Exchequer impact (£m)

2016 to 2017	2017 to 2018	2018 to 2019	2019 to 2020	2020 to 2021

2016 to 2017	2017 to 2018	2018 to 2019	2019 to 2020	2020 to 2021
nil	nil	nil	nil	nil

This measure is not expected to have an Exchequer impact.

Economic impact

This measure is not expected to have any significant macroeconomic impacts.

Impact on individuals, households and families

There is negligible impact on individual investors. The changes to the determination of relevant years are technical in nature and should be more advantageous to the company in most cases. The new rules may prevent a small number of older established companies from being eligible for investments under the EIS. Companies can elect to apply the current rules for investments received before 6 April 2016 in the unlikely event that the current rules are more advantageous.

The changes to VCT non-qualifying holdings do not affect individual investors. The measure is not expected to impact on households, family formation, stability or breakdown.

Equalities impacts

The changes to the schemes are not likely to change the impacts of this measure on any group. After careful consideration, the government has concluded that there are no significant impacts on groups of people sharing protected characteristics differently to other groups, and has not identified any equalities impacts.

From the data available it is reasonable to conclude that these changes will not have any further impact on those groups affected by equality legislation.

Impact on business including civil society organisations

This measure is expected to have a negligible impact on businesses.

The method to determine the relevant years for calculating the average turnover and operating costs of a company is clarified to ensure the legislation operates in the way intended . This measure will affect only a small number of older companies. The changes to the VCT non-qualifying holdings rules ensure the legislation operates in the way intended.

There is no impact on civil society organisations.

Operational impact (£m) (HM Revenue and Customs (HMRC) or other)

The costs to HMRC of implementing these changes are anticipated to be negligible.

Other impacts

Other impacts have been considered and none have been identified.

Monitoring and evaluation

The rules introduced in Finance (No.2) Act 2015 will be monitored through information collected from tax returns. An evaluation of the EIS and VCT schemes will be completed in accordance with the State aid evaluation requirements. This report should be published by the end of 2019.

Further advice

If you have any questions about this change, please contact Cathy Wilson on Telephone: 03000 536678 or email: cathy.wilson@hmrc.gsi.gov.uk.