HOW COULD INVESTING IN AN SEIS-COMPANY HELP PROPERTY INVESTORS?

By specialist property accountant Stephen Fay FCA

SEIS is the 'Seed Enterprise Investment Scheme' introduced in 2012 and extended in 2014, that enables certain types of small companies to raise finance while offering generous tax incentives to investors.

This article looks at how SEIS tax reliefs work, both for income tax and capital gains tax; and the key amounts and dates to be aware of when considering making an SEIS investment.

WHAT EXACTLY IS THE SEIS?

The Seed Enterprise Investment Scheme (SEIS) was introduced on 6 April 2012, and offers tax reliefs to individuals who buy new shares in SEIS-qualifying companies. Such companies are typically in the very early stages of growth, and so often struggle to attract investors – SEIS tax reliefs help to make such investments more attractive to investors.

SEIS tax relief is not available to companies or partnerships.

SEIS tax relief is not available to investors who are employed by the SEIS company, or who hold 30% or more of the shares in the company.

SEIS is only available when the investor buys new shares in a SEIS-qualifying company, i.e., this is about taking an equity stake in a company, and so loans and other non-share lending are not eligible for SEIS tax relief.

Companies 'qualify' for SEIS status by submitting an application to HMRC, who then formally assess this and issue a SEIS reference, which can then be issued to investors.

Investing in SEIS offers BOTH income tax AND capital gains tax reliefs, as follows:

INCOME TAX RELIEF

The key features of SEIS income tax relief are:

- 50% tax relief is available on the cost of the shares, up to a maximum annual investment of £100,000.
- The tax relief works by reducing any existing tax bill – SEIS can't create a tax repayment.
- Unlike some tax reliefs, investors don't need to be UK-resident to qualify for SEIS tax relief.
- The shares must be held for three years from purchase for the initial tax relief to be retained.

CAPITAL GAINS TAX 'RE-INVESTMENT RELIEF'

This allows the proceeds of a capital gain to be re-invested into SEIS-qualifying shares, and thereby exempt the amount re-invested from capital gains tax.

This potentially allows a property investor who sold a property in the 2012 tax year to get all the capital gains tax they paid back, by re-investing the gain into SEIS-qualifying shares (subject to the £100,000 maximum exemption, and re-investment by 31 January 2019).

The rate of relief was halved in the 2014 tax year, but even so this relief could still be worth £50,000 for gains made in the 2014 tax year (if re-investment occurs by 31 January 2020).

And, the asset on which a capital gain is made does not have to be sold before the SEIS-shares are purchased – though it would be the norm for the asset to be sold first, and the funds released invested.

Note that this is an exemption – not just a deferral – of capital gains tax, and so is a very valuable tax relief. The capital gains tax Annual Exemption, plus any capital losses, can also be set off against any remaining capital gain after the re-investment relief is claimed.

TIME LIMITS AND 'CARRY-BACK' CLAIMS

An SEIS claim can be made up to five years after the 31st January following the tax year in which the investment was made. So, for example, income tax paid in the 2014 tax year could be recovered if an SEIS claim is made by 31 January 2020.

There is also a 'carry-back' option, to treat the costs of SEIS-qualifying shares purchased as done so in either the 2013 or 2014 tax years (subject to the rates applicable for each year) – note that as SEIS didn't exist in tax year 2012 and prior, no claim for 2012 and prior is possible.

SALE OF SEIS SHARES – 'DISPOSAL RELIEF'

The sale of SEIS-qualifying shares is free of capital gains tax if the shares are sold after having been held for 3 years.

A FINAL NOTE

The rules around SEIS – covering both the SEIS company at the time the shares are issued, and from thereon continuously, PLUS the rules covering the eligibility of investors for SEIS tax relief, are lengthy – take professional advice before investing to ensure you fully understand the tax position.

And, of course … only invest in a SEIS company if you are convinced of the commercial sense of making such an investment – AKA 'don't let the tax tail wag the dog'!

SUMMARY

Investing in SEIS-qualifying shares allows a reduction in income tax of up to £50,000, plus complete exemption from capital gains up to £100,000 (£50,000 for tax year 2014), assuming the various time limits and qualifying rules are considered. For property investors with substantial income tax bills, or who may have substantial capital gains tax bills from the sale of property, investing into SEIS shares can be a very astute piece of investing.

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