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Necessary and impactful changes to the Irish Employment Investment Incentive Scheme (EIIS)

Insights - 29/11/2023

The Irish Employment Investment Incentive Scheme (EIIS) is a well-established and often utilised tax efficient investment scheme in Ireland, which essentially provides an investor with tax relief on their investment and sources of non-earned income such as dividends and rental income. The scheme aims to encourage individuals to provide equity based finance to Irish companies.

Following the Finance (No.2) Bill 2023 (the **Bill**), EIIS will see major changes in key areas – primarily to bring the scheme in line with EU State Aid rules. The most pressing points are set out below. It is important to note that the changes will have no impact on funding rounds currently in operation, or raised up to 31 December 2023.

Income Tax Relief Rate

The Bill replaces the blanket 40% income tax relief rate with a tiered system of relief based on the stage of the company that is the subject of the investment or the categorisation of the funding round of the company.

From 1 January 2024, the EIIS tax relief rates will be:

Current Relief Rate	New Relief Rate	Criteria
40%	50%:	Businesses that have "not operated in

		operated in any market".
40%	35%:	Businesses less than 7 years old and raising its first EIIS fundraise.
40%	30%:	For investments through a "Qualifying Investment Fund".
40%	20%:	Businesses fundraising its second or subsequent EIIS fundraise round.
40%	20%:	Businesses expanding into new markets or regions

The new 50% tax relief for businesses that have not operated in any market will likely be embraced by start-up companies and angels alike. The reduction of the relief rate for first time EIIS raises (from 40% to 35%) is not overly punitive, however the reduction of income relief for any 'follow on' investment or expansion to 20% is a fundamental shift. From an investor's perspective, the scheme has no doubt, become less attractive and this may have a detrimental effect on SME's in Ireland in search of key funding. Relevant companies may well have accounted for the 40% relief rate in their business plans and funding journeys. They will now need to adjust expectations in a macro environment where SME's are already facing challenges to funding.

In relation to the 30% relief rate for a qualifying investment fund, Elkstone Fund is currently the only fund in the State that qualifies as such.

Minimum holding period; increase in maximum investment limit for individual and company

- The Bill standardises the minimum holding period required to obtain relief to 4 years in all cases.
- The maximum investment total that an investor can claim relief on has doubled from €250,000 to €500,000 per year.
- The maximum investment limits at company level has been increased from €15m to €16.5m (lifetime) and from €5m to €5.5m (annual).

General Block Exemption Regulation (GBER) amendments

- The definition of 'eligible shares' has been amended to include only full risk ordinary shares. Preferential shares (as had been the market standard) are no longer permissible for direct investments, but may be issuable for fund investments
- An expansion risk finance investment will only be a qualifying investment if, based on the company's business plan, the amount to be raised through the issue of those shares is greater than 30% (this was previously 50%) of the group's annual turnover in the preceding 5 years provided the investment will meet certain environmental goals/initiatives.
- An extension of the relief is now available for companies that have been operating in any market for less than 10 years (this was previously capped at 7 years) from the date of incorporation.

What next?

The Bill entered Committee Stage on 7 November 2023 at which point it will become clear if there are any further changes or clarifications which may impact the changes to EIIS. For example, angel investor relief will encompass a new lower effective CGT rate of 16% (or 18% in the case of an investment through a partnership) for gains of up to twice the value of an initial investment in angel investments in innovative SMEs.

The key changes to EIIS, although inevitable to harmonise with the EU framework, will come as a disappointment to investors and SME's alike as the flat income tax relief was the 'unique selling point' which allowed EIIS to become such an attractive investment mechanism in recent years. Whether this will have a genuine impact on funding availability in the near term will need to be monitored closely.

Our Corporate team has significant expertise in EIIS investments. If you have any questions about the updates imposed by the Bill or EIIS more broadly, please contact one of our team via their contact details below.

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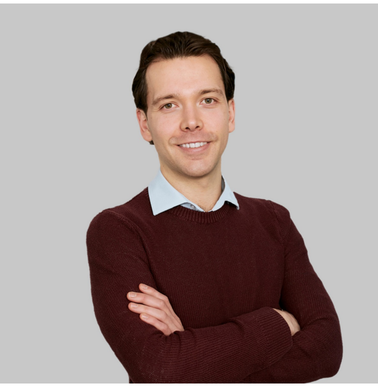

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