Briefing: Social Investment Tax Relief

Social investment tax relief (SITR) is a tax relief for social investment which encourages individuals to support social enterprises and helps them access new sources of finance.

What follows is a brief guide for potential investors and social enterprises. The briefing does not cover all aspects of the legislation. Organisations and investors should seek professional advice before seeking or making an investment.

What is a social enterprise for SITR purposes?

A social enterprise for SITR is a charity, community interest company or a community benefit society which:

- has fewer than 500 full time equivalent employees
- has not more than £15m of gross (group) assets immediately before the investment and
- has not more than £16m of gross (group) assets immediately after the investment.

Additionally, the organisation must not be controlled by another company, have arrangements in place to be controlled by a company, or control another company that isn't a qualifying subsidiary. Neither can it be or become a member of a partnership.

The nature and amount of the investment

SITR may be available on investments by way of subscription for shares or debt in a social enterprise, providing that:

- if in shares, they can be redeemable but there mustn't be any priority or fixed dividend and must carry no priority on winding up
- if by way of debt, the debt is unsecured
- the shares or debt do not carry arrangements to protect against normal investment risks

- the shares or debt do not have arrangements for sale at end of the first three years
- the shares or debt do not offer a return above a reasonable commercial rate
- the shares or debt are paid for in full and in cash at the time the investment is made
- the shares or debt are newly issued shares or newly qualifying debt investments.

The investment is subject to a cap of c£270,000 (reduced by other state aid) and provided the investment has not received tax relief already through EIS or VCT.

The uses to which the investment can be put

All the money raised from the investment must be used within 28 months of the date of the investment and used solely for the chosen qualifying trade (or preparing to carry on that trade, which must start within 2 years of the date of the investment) carried on by either the social enterprise itself a or 90% social subsidiary of the social enterprise.

What's a qualifying trade?

All the money raised from the investment must be used within 28 months of the date of the investment and used solely for the chosen qualifying trade (or preparing to carry on that trade, which must start within 2 years of the date of the investment) carried on by either the social enterprise itself a or 90% social subsidiary of the social enterprise.

To be qualifying, a trade must be run commercially and with a view to making a profit. Most trades qualify, but not if the trade consists wholly, or substantially*, of excluded activities including:

- Dealing in land, commodities, futures, shares, securities or other financial instruments.
- Banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities.
- Property development.
- Fishery and aquaculture activities.
- The subsidised generation or export of electricity.
- Road freight transport for hire or reward.
- Providing services or facilities to another business whose business consists substantially of one of the excluded activities.

* HMRC won't normally view activities as 'substantial' unless they amount to more than 20% of the trade.

The investor

The investor must be an individual:

- who is not an employee, partner, trustee or remunerated director of the social enterprise or any of its subsidiaries. This also applies to associates of the investor

- and does not directly or indirectly, including associates, acquire more than 30% of share or loan capital or voting power in the social enterprise during the period from one year before to three years after the investment.

Benefits to the investor

Providing all the conditions are met by the social enterprise at the time of and for the three years following the investment (and the social enterprise has the appropriate HMRC compliance certificate) and the investment is kept for a minimum of three years, the individual investor can claim either or both of the following:

- Income tax relief of 30% of the investment.
- To defer payment of tax on a capital gain to the extent that the gain is reinvested in shares / debt qualifying for SITR relief. The SITR investment can be made in the period 1 year before or 3 years after the capital gain arose.

Any capital gain deferred because of a SITR investment will come back into charge on disposal of the SITR investment. The gain can, however, be subject to a new hold over claim if a further SITR investment is made. Additionally, there is no capital gains tax on a SITR qualifying investment held for a minimum of three years. An individual can invest up to £1m pa in SITR qualifying investments. There is no minimum individual investment.

The steps social enterprises should follow to make a claim to SITR

Before the investment is made: check that the organisation & the debt / shares meet all legislative requirements

Errors cannot be rectified after the investment is made. The organisation may choose to apply to HMRC for an ‘advance assurance’: a preliminary opinion as to whether the organisation and proposed investment are likely to qualify for SITR.

This optional step is generally recommended as it enables the organisation to identify any problems and once obtained gives the investors certainty.

After the investment is made: complete a ‘compliance statement’ (within the time limit)

You must send a compliance statement HMRC giving details of your organisation and the investment. This must be done within the time limit, or investors will not be able to claim relief. f everything is in order, HMRC will provide a letter allowing your social enterprise to issue a ‘compliance certificate’ to each investor.

Finally, issue a ‘compliance certificate’ to each investor

The organisation will receive these from HMRC. The social enterprise is required to complete them and send one to each investor. The compliance certificates enable the investors to claim SITR on their investment.

Further Information

Considerations for Scotland: *http://www.socialinvestmentscotland.com/thinking-of-investing/*

Cabinet Office intro: *https://www.youtube.com/watch?v=xorQG_NnRIY*

Big Society Capital webinar: *https://www.youtube.com/watch?v=cayDkhagUiI*

Processes for social enterprises to follow to get SITR: *https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/477078/se-process.pdf*

Guide to SITR for social enterprises: *https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378085/se-guide.pdf*

Guidance to investors: *https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389931/investors-process.pdf*

Main Gov UK factsheet: *https://www.gov.uk/government/publications/social-investment-tax-relief-factsheet/social-investment-tax-relief*

For help with SITR you can call HMRC's Small Company Enterprise Centre on 03000 588 907 or email: enterprise.centre@hmrc.gsi.gov.uk.

Postal address for submitting your applications:
Small Company Enterprise Centre (Admin team)
Mid-size Business S0777
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This guide was produced for Growing Together by Peter Bayliss, Peter is a former HMRC national technical specialist and now supports many community organisations including Ponthafren and ROCBF. He also sits on the board of a large Housing Association, as well as running a self catering farm stay enterprise Cwm Bigga.