Bradley Tax Consulting

Employment and Investment Incentive ("EII") and Seed Capital Scheme ("SCS")

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On the 31st March 2014 Mr. Michael Noonan announced the commencement of public consultation processes regarding the EII and SCS. These schemes are subject to review as the uptake has been poor and well below expectations.

The EII grants tax relief for those who invest equity in qualifying trading companies. Initially, qualifying individuals are granted 30% tax relief on the initial investment. They are entitled to a further 11% relief if, after the holding period of 3 years, it can be proved that the sum invested "for the purpose of carrying on relevant trading activities" has increased employment levels or that the capital has been used for Research and Development purposes. The amount one can invest is capped at €150,000 per annum.

The objective of SCS is to encourage current employees or those recently unemployed to invest in or start their own business. An employee who leaves employment and invests monies in shares in a qualifying new business may claim a refund of income tax paid in previous years. The maximum relief in any one year is €100,000. The individual must also work for the company on a full time basis and control at least 15% of the issued share capital of the business.

The poor take up of both EII and SCS could be due to the following issues

- The qualifying requirements are unclear; especially regarding what constitutes a 'qualifying business'.
- The requirements are difficult to meet, especially for smaller companies.
- Both schemes are not widely known.
- If a loss is made on EII investments, the tax relief is taken into consideration when calculating the Capital Gains Tax (CGT) loss available for offset.
- Investors under the SCS must wait until the next tax year to receive their tax relief.
- Non PAYE tax payers cannot avail of the SCS.

The Irish Tax Institute recommends the following improvements in relation to EII.

1. Grant full 41% relief in the year of investment.
2. Consider extending the 3-year holding period to 5 years.
3. Provide additional guidance on the interpretation of the 'use of funds' requirements.
4. Revise the CGT treatment of losses made on investments.

The following recommendations have been made regarding the SCS

1. Tax relief should be provided as soon as the investment is made in order to help the cash flow of the business.
2. Non PAYE tax payers should be entitled to claim the relief.

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