



EMPLOYMENT AND INVESTMENT INCENTIVE— EII

WHAT IS IT?

The Employment and Investment Incentive Scheme or EII is a very attractive Income Tax Relief for those with money to invest on the one hand and for start-up companies or companies seeking to expand an existing business seeking finance. The scheme is open to most small to medium-sized trading companies seeking investment capital. It provides Income Tax Relief to investors on investments over €250 up to a maximum of €150,000 in any one tax year. **The amount of relief available is as follows:**

- **Income Tax deduction of 30% for the year in which the investment is made, And**
- **A further 11% in year four provided it can be shown that employment levels have increased at the company at the end of the 3 Year holding period or where evidence is provided that the company used the capital raised for expenditure on Research and Development.**

WHO CAN BECOME AN EII INVESTOR?

An individual can qualify for the relief if :

- They are Irish resident for the tax year for which the claim for tax relief is made,
- They subscribe on their own behalf for eligible shares in a qualifying company, and
- They are not during the relevant 3 year holding period, (i.e. 3 years from the date of issue of the shares), connected with the company

An individual will be regarded as **connected** with the company if :

- They or an associate of theirs is a partner of the company,
- They possess, or are entitled to acquire, including in the event of a company winding up, more than 30% of (a) the issued ordinary share capital or (b) the loan capital and issued ordinary capital of the company or (c) the voting power in the company,
- They control the company, or
- They are investing in the company as part of a reciprocal arrangement with another person who in turn invests in a separate company with which the individual is connected.

Note: Relatives are specifically excluded from the definition of 'Associate' for the purposes of this relief in establishing if an individual is connected with the company. In addition, there is scope in certain circumstances for employees and directors of the company to obtain tax relief where the amounts subscribed for the issued share capital and the loan capital of the company do not in total exceed €500,000.

In order for the shares to be 'eligible shares' they must be new ordinary shares which do not carry any preferential rights as to dividends or redemption. They cannot be immune to risk.

WHAT IS A QUALIFYING COMPANY?

A qualifying company is a company:

- That is a Micro, Small or Medium Sized Enterprise within the European Commission definition.
- That is incorporated in the State or other European Economic Area (EEA) State.
- That is not regarded as a firm in difficulty.
- That throughout the 3 Year holding period, carries out relevant trading activities, or holds shares in a qualifying subsidiary or both.
- That is an unquoted company whose issued share capital is fully paid up,





The types of enterprises mentioned over leaf are defined as follows:

Enterprise Type	No. of Employees	Annual Turnover/Balance Sheet Total
Micro Enterprise	Less than 10 employees	Not Exceeding €2,000,000
Small Enterprise	Less than 50 Employees	Not Exceeding €10,000,000
Medium Enterprise	Less than 250 Employees	Not Exceeding €50,000,000/ €43,000,000

The above definitions are important in light of EU State aid rules. A medium sized enterprise located in a non-assisted area may only raise funds via EII investors during its seed/start-up stage of development. Non-assisted areas are counties Dublin, Meath, Kildare, Cork city and county. Assisted areas are all other areas of the State.

It should be noted that if a company has EII investors in place at the time an application for other State Aid funding is made then that State Aid will be subject to the accumulation rules and restricted as follows:

- **50% in 'non-assisted areas or 20% in the rest of Ireland.**

A company will not cease to be a qualifying company if it is wound up or dissolved in the 3 year holding period provided if it is done for bona fide commercial reasons and does not form part of a scheme or arrangement the main purpose of which is the avoidance of tax.

WHAT ARE THE EII MONIES TO BE USED FOR?

The money raised via EII investment must be used for carrying on 'relevant trading activities'. Where 'relevant trading activities' broadly means the majority of trading activities but specifically excludes, adventures or concerns in the nature of trade, dealing in commodities or futures in shares, securities or other financial assets, financing activities, professional service companies, dealing in or developing land, forestry, operating or managing hotels or general provision of accommodation type activities, operating or managing nursing homes, operations carried on in the coal industry, shipbuilding or steel sectors and the production of films. The money raised may also be used for the purpose of the trade of a subsidiary provided certain conditions are met.

If the company has not yet commenced to trade it must be used on Research and Development. The use of the funds must contribute directly to the maintenance or creation of employment in the company.

WITHDRAWAL OF THE INCOME TAX RELIEF GRANTED

If the conditions regarding the individual, the company, the trade and subsidiary are not met for a period of 3 years from the date of issue of the shares to avoid a withdrawal of the tax relief granted to the investor. The relief will also be withdrawn if the investor receives value from the company in the form of a repayment of capital, receives the repayment of a debt owed to them or is made a loan by the company, or the company makes any attempt to pass money back to the investor with in the 3 year holding period. Reasonable payments to employees and directors in their capacities as employees/directors are allowed.

For further information regarding this relief or any other tax matter please contact a member of our Tax Department.

