

EXPLANATORY NOTE

**CLAUSE 27 AND SCHEDULE 8: VENTURE CAPITAL SCHEMES:
AMENDMENTS 13 TO 17**

SUMMARY

1. These amendments ensure that the relaxations made by Clause 27 and Schedule 8 to the qualifying conditions for the Enterprise Investment Scheme (EIS) apply in the same way to EIS reinvestment relief as they do to EIS income tax relief.

DETAILS OF THE AMENDMENTS

2. Amendment 13 is the main amendment. It inserts new paragraphs A1 – A3 into Schedule 8 to the Finance Bill, which already makes changes to paragraph 9 of Schedule 5B to TCGA 1992, so that Schedule 8 to the Bill also amends paragraphs 1(2) and 1A of Schedule 5B.
3. The effect is to replicate, for EIS reinvestment relief, the changes to EIS income tax relief already made by paragraph 3 of Schedule 8, that is
 - Replacing the requirement that 80% of the money raised from an EIS reinvestment relief share issue is used in a qualifying business activity within 12 months, and 100% of it within 2 years, by a requirement that all the money be used within 2 years; and,
 - Removing this requirement completely for money raised from the issue of non-EIS reinvestment relief shares issued on the same day as EIS reinvestment relief shares.
4. The other amendments make consequential changes and repeals, and provide for the amended provisions to have effect for shares issued on or after 22 April 2009.
5. Amendment 14 removes a provision requiring the provision of information which is redundant following the changes made by amendment 13.
6. Amendment 15 repeals a number of provisions that are no longer needed because they made amendments to legislation now being repealed.
7. Amendment 16 provides for the changes to the conditions for both EIS income tax relief and EIS reinvestment relief to apply to shares

issued on or after 22 April 2009. It replaces the previous commencement provision, which only applied to the conditions for the changes to EIS income tax relief, but does not change the date.

8. That provision is removed by amendment 17.

BACKGROUND NOTE

9. Alongside the other venture capital schemes (the Venture Capital Trusts and Corporate Venturing Schemes), the Enterprise Investment Scheme (EIS) is designed to assist smaller higher risk trading companies to raise finance by offering a range of tax reliefs to investors.
10. In particular, the Scheme allows income tax relief, based on the amount subscribed for shares in a qualifying company, and reinvestment relief, where a the gain from the sale of an asset is used to purchase such shares.
11. A consultation on the EIS was held in 2008 (*The Enterprise Investment Scheme: A Consultation Document*) and the Government's response was published in November 2008. The proposed changes to the EIS in the Finance Bill were set out in that response document.
12. Schedule 8 implements the changes announced in the response document. It
- simplifies the rule requiring 80% of the money raised from a share issue to be employed with 12 months, and 100% within two years (the 'employment of money condition'), by removing the 80% requirement;
 - removes the rule applying the same condition to money raised by the issue of non EIS shares on the same day as EIS shares;
 - corrects an anomaly regarding the treatment of share-for-share exchanges; and,
 - removes restrictions on setting amounts subscribed for shares in one against income of the previous year ('carry-back').
13. The relaxations to the employment of money condition also apply to the CVS and VCT schemes.
14. The schemes were notified to the European Commission as State aid and received approval on 29 April 2009.

Mr Stephen Timms

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Schedule 8, page 101, line 4, leave out from beginning to 'is' in line 5 and insert—

- 'A1 Schedule 5B to TCGA 1992 (enterprise investment scheme: re-investment) is amended as follows.
- A2(1) Paragraph 1(2) (application of Schedule) is amended as follows.
- (2) For paragraphs (g) and (h) substitute "and
- (g) all of the money raised by the issue of the shares (other than any of them which are bonus shares) is, no later than the time mentioned in section 175(3) of ITA 2007, employed wholly for the purpose of that activity,".
- (3) In the words following the paragraphs, for "conditions in paragraphs (g) and (h) above do" substitute "condition in paragraph (g) above does".
- A3(1) Paragraph 1A (failure of conditions of application) is amended as follows.
- (2) In sub-paragraph (4)—
- (a) omit "or (h)", and
- (b) for "sub-paragraph (4A) below" substitute "section 175(3) of ITA 2007".
- (3) Omit sub-paragraph (4A).
- 1(1) Paragraph 9 (other reconstructions and amalgamations)'.

Mr Stephen Timms

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Schedule 8, page 101, line 18, at end insert—

'1A In paragraph 16 (information), omit sub-paragraph (4A).'

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Schedule 8, page 102, line 19, at end insert—

'Consequential repeals

5A In consequence of the amendments made by paragraphs A2, A3 and 1A, omit—

- (a) in FA 2001, in Schedule 15, paragraphs 26 to 28,
- (b) in FA 2004, in Schedule 18, paragraph 13(1)(f), and
- (c) in ITA 2007, in Schedule 1, paragraph 345(2)(b), (3)(a) and (13)(b).'

Mr Stephen Timms

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Schedule 8, page 102, line 20, at end insert—

'5B The amendments made by paragraphs A2, A3, 1A, 3, 4 and 5A have effect in relation to shares issued on or after 22 April 2009.'

Mr Stephen Timms

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Schedule 8, page 102, line 32, leave out paragraph 8.