

COMMUNITY INVESTMENT TAX RELIEF

Calculation of de minimis aid for companies

If the legislation in the draft Finance Bill published on 11th December is passed the from 1 April 2013 companies investing in Community Investment Finance Institutions (CDFIs) will need to comply with the new limit for relief to be introduced. This will introduce a new section, s220B in CTA 2010, which will limit the relief to a maximum of €200,000 in any three year period. This will only apply to investments made on or after 1 April 2013.

The limit is being introduced to ensure the scheme is compliant with the de minimis limit for unnotified State aid. CITR was previously an approved State aid, but such approval has now expired. Following discussions with the European Commission it has been decided to bring the aid within the de minimis rules. This is the €200,000 limit mentioned in the previous paragraph.

Investment into CDFIs can be made either by equity or by loan. Different calculations will apply depending on the method of investment.

Relief under CITR is given over a five year period, but the de minimis calculation will only require a company to take account of a three year period and not the whole amount of the relief due in the full period.

1. Equity investment

The amount of relief will be the tax relief that the company will receive for investing in a CDFI. Although at the time of investment the relief may be predictable, (e.g. £100,000 investment gives £25,000 relief) subsequent events may alter the amount of relief, for example a qualifying disposal.

The relief for the de minimis calculation should thus be calculated on a year by year basis and the relevant three years taken into consideration. The de minimis limit is expressed in euros. For the purposes of the calculation any sterling relief should be converted into euros at the investment date and anniversaries thereafter.

So the calculation becomes, using the £100,000 investment and an exchange rate of €1.25 to £1 and no disposal

Years 1 to 5 each year---5% of £100,000 = £5,000, a euro equivalent of €6,250

The de minimis aid will be

Year 1---€6,250

Year 2---€12,500 (the sum of years 1 and 2)

Year 3---€18,750 (the sum of years 1, 2 and 3)

Year 4---€18,750 (the sum of years 2, 3 and 4)

Year 5---€18,750 (the sum of years 3, 4 and 5)

2. Loan investment

Although the amount of relief on a loan is equivalent to that on equity, the calculation is made in a different manner and compares the rate of return (the CITR and interest received) with a commercial rate* that we would expect a fully commercial lender to invest in the accredited body at. As with the equity calculation this needs to be done on a year by year basis and the relevant

three years taken into consideration. Also any sterling relief should be converted into euros at the investment date and anniversaries thereafter.

Using the following the calculation becomes:

Loan £2,000,000

CITR 5% pa

Interest receivable from CDFI 5% pa

Interest at commercial rate 8% pa

Euro exchange rate €1.25 to £1

Years 1 to 5

CITR	100,000	
Interest	100,000	

Total	200,000	
Comm Int	160,000	

Net	40,000	a euro equivalent of €60,000

The de minimis aid will be

Year 1---€60,000

Year 2---€120,000 (the sum of years 1 and 2)

Year 3---€180,000 (the sum of years 1, 2 and 3)

Year 4---€180,000 (the sum of years 2, 3, and 4)

Year 5---€180,000 (the sum of years 3, 4 and 5)

3. Relief available

In the above examples the de minimis limit is not exceeded so the full relief will be available at 5% per year. If the de minimis limit is exceeded then the relief will need to be restricted. Say, for example the euro equivalent on the loan was €75,000 per year, then in year 3 the sum would be €225,000 and subject to the restriction to

€200,000. So the available relief in year 3 would be $50/75 \times 5\%$ of the loan. Subsequent years would also need to calculate a possible restriction.

All de minimis aid needs to be taken into account for this calculation be it from CITR post April 2013 or any other type of de minimis aid to which the company is entitled.

**However, we know that there have been some issues in establishing what commercial rate should be applied to this calculation (the 8% used is just an example). In establishing a rate it is reasonable to calculate a rate based upon what you would expect a fully commercial lender to apply (one which*

does not place a value on the social outcomes of the body). We know that banks, for example, are often not prepared to lend in the CDFI space, and where they do the rates are prohibitive. However where this is a barrier Responsible Finance can support a CDFI to provide an investor with cross sector evidence to support setting a reasonable rate, and can seek a view from Government on the robustness of the underlying methodology.

If you would like further information on this please email
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