HM Revenue & Customs

Enterprise Investment Scheme and Venture Capital Trusts: Better Focus

Who is likely to be affected?

Companies raising money under the Enterprise Investment (EIS) and Venture Capital Trust (VCT) schemes, and individuals investing under the schemes.

General description of the measure

This measure will better focus the EIS and VCT schemes through:

- introducing a new disqualifying purpose test for the schemes;
- providing that acquiring shares in another company (other than by subscription in a subsidiary) will not be a qualifying activity; and,
- providing that receipt of Feed-In Tariffs (FiTs) or similar subsidies will not generally be a qualifying activity.

Policy objective

The aim of this measure is to focus the EIS and VCT schemes better on higher risk activities, preventing tax relief being provided for investment in companies or activities outside the purpose of the schemes and so helping smaller, higher-risk UK companies to obtain finance.

Background to the measure

The Government announced in Budget 2011 its intention to improve the focus of the reliefs, and proposals were included in a consultation document *Tax-advantaged venture capital schemes: a consultation* published on the Treasury website on 6 July 2011.

Comments received in response to that document have been reflected in the measure. In particular, the overall approach taken on the purpose test has been revised.

Detailed proposal

Operative date

Purpose test: For both EIS and VCTs the new disqualifying purpose test will apply to shares in underlying investee companies issued on or after 6 April 2012.

Share acquisition: The exclusion of share acquisition as a qualifying activity will apply, for EIS, to shares issued on or after 6 April 2012 and for VCTs, to money invested in a VCT on or after that date.

Exclusion of FiTs based activity: For both EIS and VCTs, the exclusion will apply to all shares in underlying investee companies issued on or after 6 April 2012. The exclusion will also apply to shares issued between 23 March 2011 and 6 April 2012 where the investee company has not commenced subsidised electricity generation before 6 April 2012.

Current law

The EIS and VCT legislation is in Parts 5 and 6 (respectively) of the Income Tax Act (ITA) 2007.

Section 192 ITA (for EIS) and section 300 ITA (for VCTs) defines which activities, carried on by an investee company, exclude it from qualifying for relief.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to:

- introduce a new disqualifying purpose test. The test will disqualify shares which are issued subject to arrangements whose main purpose is to generate access to the reliefs in circumstances where either the benefit of the investment is passed to another party to the arrangements, or the business activities would otherwise be carried on by another party;
- amend the definition of qualifying business activity to exclude acquiring existing shares in another company; and,
- provide that activity comprising receipt of FiTs or similar subsidies will not generally be a qualifying activity. There are a number of exceptions to this. Electricity generated by anaerobic digestion or hydro power, and projects operated by community interest companies, co-operative societies, community benefit societies or Northern Ireland industrial and provident societies will not be affected.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2011-12</td><td>2012-13</td><td>2013-14</td><td>2014-15</td><td>2015-16</td></tr>
<tr><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="5">The figures were set out as part of a wider reform to the EIS and VCTs in Table 2.1 of Budget 2011 and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Budget. This element of the reform is expected to increase receipts by approximately £30 million per annum.</td></tr>
<tr><td>Economic impact</td><td colspan="5">Smaller, higher risk companies tend to face barriers in raising equity finance, and tax relief is given under the EIS and VCT schemes to incentivise such investment.

If companies carrying out lower risk activities can obtain investment under the schemes, the schemes may fail to serve their purpose.

Excluding companies carrying out lower risk activities (for example, because they are already in receipt of another subsidy, as with FiTs, or because arrangements have been made for the company to receive a guaranteed income stream) should focus investment on those companies that are the real target of the schemes.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="5">Around 10,000 individual investors invested through EIS in 2008-09, the last year for which figures are available and around 6,300 through VCTs. Individuals investing under the schemes benefit from a range of tax reliefs including income tax relief on the amount subscribed for shares in eligible companies and favourable capital gains tax treatment on eligible investment.</td></tr>
</table>

Equalities impacts	Compared to the self-assessment population, EIS and VCT investors tend to be male, located in the south of England and have higher overall income levels. The changes to the schemes are not likely to change that position. No further data is available to suggest that there will be impacts on other groups. From the data available it is therefore envisaged that these changes will not have any further impact on those groups affected by equality legislation.
Impact on business including civil society organisations	The changes proposed will exclude certain companies and activities from the benefit of the reliefs and will therefore have some impact on those companies, although this is necessary to ensure that the reliefs remain properly targeted and the impact of the changes will be fairly small, within the existing framework of the reliefs. The legislation excluding investment in FiTs subsidised trades will not apply to certain classes of company which are established with public or social benefit in mind. Such companies will be able to continue to receive investment under the venture capital schemes. VCTs will incur some one off administrative costs since they will need to ensure that their investments meet the new conditions (though these are expected to be negligible). Around 2,000 companies raise funds under EIS each year, and in total around 1,600 through VCTs for all years up to 2007-08.
Operational impact (£m) (HMRC or other)	There will be some small costs in updating forms and guidance.
Other impacts	Small firms impact test: EIS and VCTs are reliefs intended to help small firms, and changes to them may therefore have an impact on such firms. Carbon assessment: The provisions excluding investment in FiTs subsidised trades will mean less support for investment in solar photovoltaic and wind turbines. Other low carbon technologies – including hydroelectricity and anaerobic digestion – will continue to receive support. The overall environmental impact of these changes therefore depends on whether, and to what extent, investment is diverted between technologies. Competition assessment: The changes should not have any impact on competition as they do not affect or limit suppliers' ability to compete.

Monitoring and evaluation

Uptake of the reliefs in terms of numbers of investors and investees, amounts of investment and the distribution of levels of investment are regularly monitored and published as National Statistics.

Further advice

If you have any queries about this change, please contact Kathryn Robertson on 020 7147 2589 (email: kathryn.robertson@hmrc.gsi.gov.uk) or Des Ryan on 020 7147 0818 (email: des.ryan@ hmrc.gsi.gov.uk).

HM Revenue & Customs

Enterprise Investment Scheme and Venture Capital Trusts: Simplification

Who is likely to be affected?

Companies raising money under the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs) and individuals investing under the schemes.

General description of the measure

This measure will amend the EIS to:

- relax the rules defining when a person is connected to a company through an interest in its capital; and,
- widen the definition of shares which qualify for relief.

It will also remove the £1 million limit on investment by a VCT in a single company (except for companies in a partnership or a joint venture).

Policy objective

The aim of the EIS and VCT schemes is to help smaller, riskier UK companies to compete for equity finance, recognising a market failure in the supply of such finance.

The measure simplifies the rules of the schemes making them easier for companies, VCTs and investors to use.

Background to the measure

The Government announced its intention to consult on simplification of the scheme in Budget 2011, and a consultation document, *Tax-advantaged venture capital schemes: a consultation* was published on the Treasury website on 6 July 2011.

The measure takes account of views expressed in the consultation.

Detailed proposal

Operative date

The changes to EIS will apply to shares issued on or after 6 April 2012. The change to the VCT scheme will apply to shares issued on or after 1 April 2012.

Current law

The EIS is in Part 5 of the Income Tax Act (ITA) 2007.

Within that part, the rule defining when an individual is "connected" to a company (and so not eligible under EIS for relief on investment in the company) is at section 170 ITA. In particular, it provides that an individual must not possess or be entitled to acquire more than 30 per cent of the loan capital and issued share capital of the company (s170(1)(b)).

The rule defining the type of shares which can qualify for relief under the scheme is at section 173 ITA. It provides (at s173(2)) that the shares must not be entitled to any present or future preferential rights to dividends.

The Venture Capital Trust Scheme is in Part 6 of ITA 2007.

Within that part, the rules defining what investments, by a VCT, in a company, count as "qualifying holdings" are in Chapter 4. In particular, section 287 - the "maximum qualifying investment requirement" - provides that in any period, up to £1million may be invested by a VCT in a company as part of the VCT's qualifying holdings. If the company is a member of a partnership or joint venture, this amount is divided between the members so that the partnership or joint venture as a whole cannot receive more than £1million of investment.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to:

- disregard loan capital for the purposes of the limit on the proportion of a company's capital which an investor can hold without being treated as "connected";
- allow shares to carry a preferential right to dividends providing their amount and the date that they are payable is not dependent on a decision of the company, the holder or anyone else, and providing that the dividends are not cumulative; and,
- remove the £1 million limit for VCT investment for companies not in partnership.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2011-12</td><td>2012-13</td><td>2013-14</td><td>2014-15</td><td>2015-16</td></tr>
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<tr><td colspan="5">The figures were set out as part of a wider reform to the Enterprise Investment Scheme and Venture Capital Trusts in Table 2.1 of Budget 2011 and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Budget. This element of the reform is expected to have a negligible impact on receipts.</td></tr>
<tr><td>Economic impact</td><td colspan="5">Smaller, higher risk companies tend to face barriers in raising equity finance, and tax relief is given under the EIS and VCT schemes to incentivise such investment.

The legislation which ensures that the reliefs are properly targeted is lengthy and, in places, complicated. The Government is committed to simplifying it wherever possible. By relaxing the rules under which relief is given, and aligning them more closely with commercial practice, the changes in this measure will make it easier for companies and individuals to benefit under EIS and VCTs and therefore easier for companies to raise equity for investment and growth.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="5">Individual investors investing under EIS and VCTs will benefit from these simplifications to the rules of the schemes.

Around 10,000 individuals invested through EIS in 2008-09, the last year for which figures are available, and around 6,300 through VCTs.</td></tr>
<tr><td>Equalities impacts</td><td colspan="5">Compared to the self-assessment population, EIS investors tend to be male, located in the south of England and have higher overall income levels. The changes to the schemes are not likely to change that position.

From the data available it is reasonable to conclude that these changes will not have any further impact on those groups affected by equality legislation.</td></tr>
</table>

Impact on business including civil society organisations	The simplification proposals set out here are deregulatory overall although the level of any savings will be small. There may be a one-off administrative impact in familiarisation with the new rules, though this is expected to be negligible. HM Revenue & Customs operates an advance assurance system for the schemes under which companies can seek advice before making a share offer and this will assist companies in using the new definition of eligible shares. Shares which would have previously qualified will continue to do so. Around 2,000 companies raise funds under EIS each year and in total around 1,600 through VCTs for all years up to 2007-08.
Operational impact (£m) (HMRC or other)	There will be some small costs in updating forms and guidance.
Other impacts	The EIS is designed to incentivise investment in smaller companies. The changes being introduced are based on consultation with this sector and should have a positive effect. The changes should not have any impact on competition as they do not affect or limit suppliers' ability to compete.

Monitoring and evaluation

Uptake of the reliefs in terms of numbers of investors and investees, amounts of investment and the distribution of levels of investment are regularly monitored, and published as National Statistics.

Further advice

If you have any queries about this change, please contact Kathryn Robertson on 020 7147 2589 (email: kathryn.robertson@hmrc.gsi.gov.uk) or Des Ryan on 020 7147 0818 (email: des.ryan@hmrc.gsi.gov.uk).

HM Revenue & Customs

Enterprise Investment Scheme and Venture Capital Trusts: Increases to Thresholds

Who is likely to be affected?

Companies raising money under the Enterprise Investment (EIS) and Venture Capital Trust (VCT) schemes, and individuals investing under the schemes.

General description of the measure

This measure will increase the annual amount that an individual can invest under the EIS. Subject to state aid approval, legislation will also be introduced in Finance Bill 2012 to increase:

- the thresholds for the maximum size of qualifying company for both EIS and VCTs; and,
- the maximum annual amount that can be invested in an individual company under all the venture capital schemes.

Policy objective

The aim of EIS and VCTs is to help smaller, riskier UK companies, which face barriers in raising external equity finance, to compete for finance, making it easier for these companies to be established and to grow.

Background to the measure

Budget 2011 announced a number of changes to the EIS and VCT rules, including increases to the company size limits, the rate of EIS income tax relief and the annual EIS investment limit, as well as proposals to focus the reliefs better and simplify the rules, which were consulted on in summer 2011.

State aid approval for the increases in the rate of EIS relief and the EIS annual amount was received in September 2011.

Detailed proposal

Operative date

The increases to the company size limits, and the annual amount of investment that a company may receive will, subject to state aid approval, have effect for investee company shares issued on or after 6 April 2012.

The increase in the annual amount that an individual can invest under the EIS has already received state aid approval and will apply to the tax year 2012-13 and subsequent years.

Current law

The EIS and VCT legislation is in Parts 5 and 6 respectively of the Income Tax Act (ITA) 2007.

The limit (currently £500,000) on the annual amount which an individual can invest under EIS) is set by section 158 ITA.

The company size threshold (gross assets of no more than £7 million immediately before the share issue and £8 million after) is set by section 186 ITA for EIS and section 297 ITA for VCTs.

The limit on the number of employees (currently, fewer than 50) is at sections 186A ITA and 297A ITA.

The £2 million limit on the amount of investment that a company can raise under both schemes is defined at section 173A ITA for EIS and section 292A ITA for VCTs.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to increase:

- the employee limit to fewer than 250 employees;
- the size threshold to gross assets of no more than £15 million before investment and £16 million after; and,
- the maximum annual amount that can be invested in an individual company, to £10 million.

Subject to state aid approval these changes will apply to shares in investee companies that are issued on or after 6 April 2012.

Legislation will also increase the annual amount that an individual can invest under the EIS to £1million. This has already received State aid approval and will apply to the tax year 2012-13 and subsequent years.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2011-12</td><td>2012-13</td><td>2013-14</td><td>2014-15</td><td>2015-16</td></tr>
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<tr><td colspan="5">The figures were set out as part of a wider reform to the EIS and VCTs in Table 2.1 of Budget 2011 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Budget. This element of the reform is expected to decrease receipts by approximately £70 million each year.</td></tr>
<tr><td>Economic impact</td><td colspan="5">Smaller, higher risk companies tend to face barriers in raising equity finance, and tax relief is given under the EIS and VCT schemes to address this market failure and incentivise such investment.

The Government is proposing to increase company size and investment thresholds because of evidence that the market failure goes wider than the companies and investments included by the current limits.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="5">Around 10,000 individual investors and households invested through EIS in 2008-09, the last year for which figures are available and around 6,300 through VCTs.

Individuals investing under the schemes benefit from a range of tax reliefs including income tax relief on the amount subscribed for shares in eligible companies and favourable capital gains tax treatment on eligible investment.</td></tr>
</table>

Equalities impacts	Compared to the self-assessment population, EIS and VCT investors tend to be male, located in the south of England and have higher overall income levels. The changes to the schemes are not likely to change that position. The Government has no data to suggest that there will be impacts on other groups. From the data available it is reasonable to conclude that these changes will not have any further impact on those groups affected by equality legislation.
Impact on business including civil society organisations	The change should increase the amount of equity investment in smaller companies, including potentially some acting in the civil society. There is no administrative impact on EIS companies, since the relief is claimed by investors rather than the investee companies. VCTs have to apply the rules to determine whether or not a potential investee company will qualify. However, as they already apply limits, albeit lower ones, there should be only a one-off administrative impact of familiarisation with the higher limits, which is expected to be negligible. Around 2,000 companies raise funds under EIS each year and in total around 1,600 through VCTs for all years up to 2007-08.
Operational impact (£m) (HMRC or other)	There will be some small costs in updating the forms and guidance.
Other impacts	There will be a positive impact for smaller firms receiving investment under the EIS, as individuals will be able to invest higher amounts and a wider range of companies will be able to benefit from investment. The changes should not have any impact on competition as they do not affect or limit suppliers' ability to compete.

Monitoring and evaluation

Uptake of the reliefs in terms of numbers of investors and investees, amounts of investment and the distribution of levels of investment are regularly monitored, and published as National Statistics.

Further advice

If you have any questions about this change, please contact Kathryn Robertson on 020 7147 2589 (email: kathryn.robertson@hmrc.gsi.gov.uk) or Des Ryan on 020 7147 0818 (email: des.ryan@hmrc.gsi.gov.uk)

1 Enterprise investment scheme

Schedule 1 contains provision about the enterprise investment scheme (including provision about deferral relief under Schedule 5B to TCGA 1992).

SCHEDULE 1

Section 1

ENTERPRISE INVESTMENT SCHEME

PART 1

ENTERPRISE INVESTMENT SCHEME

Introduction

1 Part 5 of ITA 2007 (enterprise investment scheme) is amended as follows.

Increase in amount of relief

2 (1) In section 158 (form and amount of EIS relief), in subsection (2)(b) for "£500,000" substitute "£1 million".

(2) Accordingly, section 31 of FA 2008 is repealed.

Loan capital

3 In section 170 (person interested in capital etc of company)—

(a) in subsection (1)(b), omit "loan capital and", and

(b) omit subsections (8) and (10).

Overview of Chapter 3

4 In section 172 (overview of Chapter 3), omit the "and" at the end of paragraph (e) and after paragraph (f) insert ", and

(g) no disqualifying arrangements (see section 178A)."

Relaxation of the shares requirement

5 (1) Section 173 (the shares requirement) is amended as follows.

(2) In subsection (2), for paragraph (a) (but not the "or" after it) substitute—

"(a) any present or future preferential right to dividends that is within subsection (2A),

(aa) any present or future preferential right to a company's assets on its winding up,"

(3) After that subsection insert—

"(2A) A preferential right to dividends carried by a share in a company is within this subsection if—

(a) the amount of any dividends payable pursuant to the right, or the date or dates on which they are payable, depend to any extent on a decision of the company, the holder of the share or any other person, or

(b) the amount of any dividends that become payable at any time pursuant to the right includes any amount that became payable at any earlier time pursuant to the right, but has not been paid."

Increase in the maximum amount permitted to be raised annually

6 In section 173A (the maximum amount raised annually through risk capital schemes requirement), in subsection (1) for "£2 million" substitute "£10 million".

No disqualifying arrangements requirement

7 After section 178 insert—

"178A The no disqualifying arrangements requirement

(1) The relevant shares must not be issued in consequence of, or otherwise in connection with, disqualifying arrangements.

(2) Arrangements are "disqualifying arrangements" if—
  (a) the main purpose, or one of the main purposes, of any person ("P") in being a party to them is to secure—
    (i) that the issuing company, or a qualifying 90% subsidiary of that company, carries on a business which consists of or includes the relevant qualifying business activity, and
    (ii) that one or more persons (whether or not including P) may obtain relevant tax relief in respect of shares issued by the issuing company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a VCT, and
  (b) one or both of conditions A and B are met.

(3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the relevant shares being employed as required by section 175, an amount representing the whole or the majority of the amount raised is paid to or for the benefit of a party to the arrangements or a person connected with such a party.

(4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the component activities of the relevant qualifying business activity would have been carried on as part of another business (whether by P or any other person).

(5) For the purposes of this section it is immaterial whether the issuing company is a party to the arrangements.

(6) In this section—
  "component activities" means—
    (a) if the relevant qualifying business activity is activity A (see section 179(2)), the carrying on of a qualifying trade, or preparing to carry on such a trade, which constitutes that activity, and

(b) if the relevant qualifying business activity is activity B (see section 179(4)), the carrying on of research and development which constitutes that activity;

"qualifying holdings", in relation to the issuing company, is to be construed in accordance with section 286 (VCTs: qualifying holdings);

"relevant qualifying business activity" means the activity for the purposes of which the issue of the relevant shares raised money;

"relevant tax relief", in respect of shares, means one or more of the following—

(a) EIS relief in respect of the shares;
(b) SEIS relief under Part 5A in respect of the shares;
(c) relief under Chapter 6 of Part 4 (losses on disposal of shares) in respect of the shares;
(d) relief under section 150A or 150E of TCGA 1992 (enterprise investment scheme) in respect of the shares;
(e) relief under Schedule 5B to that Act (enterprise investment scheme: reinvestment) in consequence of which deferral relief is attributable to the shares (see paragraph 19(2) of that Schedule)."

Qualifying business activity

8 (1) Section 179 (meaning of "qualifying business activity") is amended as follows.

(2) In subsection (1), for "subsections (3) and (5)" substitute "subsection (2A)".

(3) After subsection (2) insert—

"(2A) But activity A is not a qualifying business activity if, and to the extent that—

(a) it consists of an acquisition of shares or stock in a company, and
(b) the acquisition is not an acquisition of shares or stock by subscription—
(i) immediately before which the company is not a qualifying 90% subsidiary of the issuing company or carrying on, or preparing to carry on, a qualifying trade, and
(ii) immediately after which the company is a qualifying 90% subsidiary of the issuing company."

(4) In subsection (6)(a), after "subsection (2)(b)" insert "(but not subsection (2A)(b)(i))".

Increase in the gross assets limits

9 In section 186 (the gross assets requirement)—

(a) in subsections (1)(a) and (2)(a), for "£7 million" substitute "£15 million", and

(b) in subsections (1)(b) and (2)(b), for “£8 million” substitute “£16 million”.

Relaxation of restriction on number of employees

10 In section 186A (the number of employees requirement), in subsections (1) and (2), for “50” substitute “250”.

Subsidised generation or export of electricity

11 (1) Section 192 (meaning of “excluded activities”) is amended as follows.

(2) In subsection (1), omit “and” at the end of paragraph (k) and after that paragraph insert—

“(ka) the subsidised generation or export of electricity, and”.

(3) In subsection (2), omit the “and” at the end of paragraph (e) and after paragraph (f) insert “, and

(g) section 198A (subsidised generation or export of electricity).”

12 After section 198 insert—

“198A Excluded activities: subsidised generation or export of electricity

(1) This section supplements section 192(1)(ka).

(2) Electricity is exported if it is exported onto a distribution system or transmission system (within the meaning of section 4 of the Electricity Act 1989).

(3) The generation of electricity is “subsidised” if a person receives a FIT subsidy in respect of the electricity generated.

(4) The export of electricity is “subsidised” if a person receives a FIT subsidy in respect of the electricity exported.

(5) But the generation or export of electricity is not to be taken to fall within section 192(1)(ka) if Condition A, B or C is met.

(6) Condition A is that the generation or export is carried on by—

(a) a community interest company,
(b) a co-operative society,
(c) a community benefit society, or
(d) a NI industrial and provident society.

(7) Condition B is that the plant used for the generation of the electricity relies wholly or mainly on anaerobic digestion.

(8) Condition C is that the electricity is hydroelectric power.

(9) For the purposes of this section—

“anaerobic digestion” means the bacterial fermentation of organic material in the absence of free oxygen (excluding anaerobic digestion of sewage or material in a landfill);

“community benefit society” means—

(a) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 as a community benefit society, or

(b) a pre-2010 Act society (as defined at section 4A(1) of that Act) which meets the condition in section 1(3) of that Act;

"co-operative society" means—

(a) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 as a co-operative society, or

(b) a pre-2010 Act society (as defined at section 4A(1) of that Act) which meets the condition in section 1(2) of that Act;

"FIT subsidy" means—

(a) a financial incentive under a scheme established by virtue of section 41 of the Energy Act 2008 (powers to amend licence conditions etc: feed-in tariffs) to encourage small-scale low-carbon generation of electricity, or

(b) a financial incentive under a similar scheme established in a territory outside the United Kingdom to encourage small-scale low-carbon generation of electricity;

"NI industrial and provident society" means a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.));

"small-scale low-carbon generation" has the meaning given by section 41(4) of the Energy Act 2008."

13 In section 199 (excluded activities: provision of services or facilities for another business), in subsection (1)(a), for "(k)" substitute "(ka)".

Powers to amend

14 In section 200 (power to amend by Treasury order), the existing provision becomes subsection (1) and after that subsection insert—

"(2) An order under this section may—

(a) make different provision for different cases or purposes, or

(b) include such transitional provision as the Treasury consider appropriate."

Information

15 In section 243 (power to require information in other cases)—

(a) in subsection (1), omit the "or" at the end of paragraph (d) and after that paragraph insert—

"(da) section 178A (no disqualifying arrangements), or", and

(b) in subsection (4), at the appropriate place in the table, insert—

"Subsection (1)(da)	The claimant, the company, any person controlling the company and any person whom an officer of Revenue and Customs has reason to believe may be a party to the arrangements in question"

Interpretation

16 In section 257 (minor definitions etc), in subsection (1), for the definition of "arrangements" substitute—

""arrangements" includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable);".

Commencement and transitional provision

17 (1) The amendments made by paragraphs 2 to 10 and 15 have effect in relation to shares issued on or after 6 April 2012.

(2) For the purposes of paragraphs 4, 7 and 15 it does not matter whether the disqualifying arrangements were entered into before or on or after 6 April 2012.

18 (1) Subject to sub-paragraph (2), the amendments made by paragraphs 11 to 13 have effect in relation to shares issued on or after 23 March 2011.

(2) Those amendments do not have effect in relation to shares issued before 6 April 2012 if the issuing company, or a qualifying 90% subsidiary of that company, first began to carry on activities of the kind mentioned in section 192(1)(ka) of ITA 2007 before that day.

(3) Until such time as section 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force, section 198A(6) of ITA 2007 (inserted by paragraph 12 of this Schedule) has effect as if for paragraphs (b) and (c) there were substituted—

"(b) a society registered under the Industrial and Provident Societies Act 1965,".

19 (1) The amendment made by paragraph 16 is to be treated as having come into force on 6 April 2012.

PART 2

ENTERPRISE INVESTMENT SCHEME: REINVESTMENT RELIEF

Introduction

20 Schedule 5B to the TCGA 1992 (enterprise investment scheme: re-investment) is amended as follows.

Maximum annual investment

21 In paragraph 1 (application of Schedule), in sub-paragraph (2)(da), for "£2 million" substitute "£10 million".

No disqualifying arrangements

22 After paragraph 11 insert—

"*Disqualifying arrangements*

11A (1) Where an individual subscribes for eligible shares ("the shares") in a company ("the company"), the shares are to be treated as not being eligible shares for the purposes of this Schedule if the shares are issued in consequence of, or otherwise in connection with, disqualifying arrangements.

(2) Arrangements are "disqualifying arrangements" if—

(a) the main purpose, or one of the main purposes, of any person ("P") in being a party to them is to secure—

(i) that the company, or a qualifying 90% subsidiary of the company, carries on a business which consists of or includes the relevant qualifying business activity, and

(ii) that one or more persons (whether or not including P) may obtain relevant tax relief in respect of shares issued by the company which raise money for the purposes of that activity or that such shares may comprise part of the qualifying holdings of a venture capital trust, and

(b) one or both of conditions A and B are met.

(3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the shares being employed as required by paragraph 1(2)(g), an amount representing the whole or the majority of the amount raised is paid to or for the benefit of a party to the arrangements or a person connected with such a party.

(4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the component activities of the relevant qualifying business activity would have been carried on as part of another business (whether by P or by any other person).

(5) For the purposes of this paragraph, it is immaterial whether the company is a party to the arrangements.

(6) In this paragraph—

"component activities" means—

(a) if the relevant qualifying business activity is activity A (see section 179(2) of ITA 2007), the carrying on of a qualifying trade, or preparing to carry on such a trade, which constitutes that activity, and

(b) if the relevant qualifying business activity is activity B (see section 179(4) of that Act), the carrying on of research and development which constitutes that activity;

"qualifying holdings", in relation to the issuing company, is to be construed in accordance with section 286 of ITA 2007 (VCTs: qualifying holdings);

"qualifying 90% subsidiary" has the meaning given by section 190 of ITA 2007;

"relevant qualifying business activity" means the activity for the purposes of which the issue of the shares raised money;

"relevant tax relief", in respect of shares, means one or more of the following—

(a) relief under this Schedule in consequence of which deferral relief is attributable to the shares;

(b) relief under section 150A or 150E (enterprise investment scheme or seed enterprise investment scheme) in respect of the shares;

(c) relief under Chapter 6 of Part 4 of ITA 2007 (losses on disposal of shares) in respect of the shares;

(d) EIS relief (within the meaning of Part 5 of that Act) in respect of the shares;

(e) SEIS relief (within the meaning of Part 5A of that Act) in respect of the shares."

Information

23 In paragraph 16 (information)—

(a) in sub-paragraph (6), for "or 11(1)" substitute ", 11(1) or 11A",

(b) in sub-paragraph (7), omit the "and" at the end of paragraph (b) and after that paragraph insert—

"(ba) in relation to paragraph 11A, the claimant, the company, any person controlling the company and any person whom an officer of Revenue and Customs has reason to believe may be a party to the arrangements in question; and", and

(c) in that sub-paragraph, for "and (b)" substitute ", (b) and (ba)".

Meaning of "arrangements"

24 In paragraph 19 (interpretation), in sub-paragraph (1) for the definition of "arrangements" substitute—

""arrangements" includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable);".

Commencement

25 (1) The amendments made by paragraphs 21 to 23 have effect in relation to shares issued on or after 6 April 2012.

(2) For the purposes of paragraphs 22 and 23 it does not matter whether the disqualifying arrangements were entered into before or on or after that date.

26 The amendment made by paragraph 24 is treated as having come into force on 6 April 2012.

EXPLANATORY NOTE

ENTERPRISE INVESTMENT SCHEME

SUMMARY

1. This clause and Schedule make a range of changes to the Enterprise Investment Scheme (EIS). This increases the annual amount an investor may invest under the EIS, and provides for two simplifications to the EIS rules. The acquisition of shares will become a non-qualifying activity, as will trades which consist substantially in the receipt of feed-in tariffs (with certain exceptions). A "no disqualifying arrangements" test is introduced. The Schedule also raises the thresholds for eligible companies under the scheme. The increases in these thresholds are subject to State aid approval.

DETAILS OF SCHEDULE

Part 1

2. Paragraph 1 introduces the changes to be made to Part 5 of the Income Tax Act 2007, dealing with EIS income tax relief.

3. Paragraph 2 of the Schedule increases from £500,000 to £1million the annual amount that an investor may invest under the EIS.

4. Paragraph 3 amends the EIS "connected person" rules so that any loan capital that the investor has in the company is not taken into account when computing whether they are excluded from EIS income tax relief through having a 30 per cent interest in the company.

5. Paragraph 5 widens the definition, for EIS, of the sorts of shares for which investors can subscribe under the scheme to include shares carrying certain preferential rights to dividends. Shares are still excluded if: a) they carry preferential right to assets on winding up; or b) if the amount and timing of the dividends depend on a decision of the company or any other person; or c) if the rights to dividends are cumulative (that is, the right to receive a dividend rolls forward to future periods if the company has insufficient profits to pay the dividend) The new definition is the same as that introduced, for VCTs, in Finance (No 3) Act 2010.

6. Paragraph 6 increases, for EIS, the annual amount of investment that a company may raise under the VC schemes from £2million to £10million. The increase is subject to State aid approval.

7. Paragraph 7 introduces a "no disqualifying arrangements" requirement. Arrangements are "disqualifying" if they are entered into with the purpose of ensuring that any of the venture capital

schemes tax reliefs are available in respect of the relevant company's business, and either: all or most of the monies raised under the scheme are paid to or for the benefit of a party to the arrangements; or in the absence of the arrangements, it would be reasonable to expect that the business would be carried on as part of another business.

8. Paragraph 8 amends the definition of "qualifying business activity" at section 179 Income Tax Act 2007, to exclude the acquisition of shares other than_shares by subscription in a new 90 per cent qualifying subsidiary.

9. Paragraph 9 increases the gross assets limit for EIS from £7million before the EIS investment and £8million afterwards to £15million and £16million respectively. The increases are subject to State aid approval.

10. Paragraph 10 increases the limit on the number of employees that a qualifying company may have from fewer than 50 to fewer than 250. The increase is subject to State aid approval.

11. Paragraphs 11 and 12 exclude as qualifying trades, any which consist substantially in the generation or export of electricity in respect of which the company receives a feed-in tariff under a UK government scheme or a similar overseas scheme. This applies generally where the relevant shares are acquired on or after 6 April 2012. For shares issued on or after 23 March 2011 and before 6 April 2012, a holding will still qualify providing the subsidised generation or export begins before 6 April 2012. Trades where the electricity is generated by anaerobic digestion or hydroelectric power are not excluded by the legislation. Irrespective of the means by which electricity is produced, trades carried on by community interest companies, co-operative societies, community benefit societies or Northern Irish industrial and provident societies are not affected by the legislation.

12. Paragraph 15 amends the information powers at section 243 of the Income Tax Act 2007, to allow HMRC to seek information in relation to the "disqualifying arrangements" requirement from relevant parties.

13. Paragraph 16 amends the existing definition of "arrangements" to make it clear that "arrangements" includes a single transaction or a series of transactions.

Part 2: Enterprise Investment Scheme: Reinvestment Relief

14. Paragraph 20 introduces the changes to be made to Schedule 5B to the Taxation of Chargeable Gains Act 1992, dealing with EIS deferral relief.

15. Paragraph 21 increases, for reinvestment relief under Schedule 5B TCGA 1992, the annual amount of investment that a company may raise under the VC schemes from £2million to £10million. The increase is subject to State aid approval.

16. Paragraph 22 introduces a “no disqualifying arrangements” requirement. Arrangements are “disqualifying” if they are entered into with the purpose of ensuring that any of the venture capital schemes tax reliefs are available in respect of the relevant company’s business, and either: all or most of the monies raised under the scheme are paid to or for the benefit of a party to the arrangements; or in the absence of the arrangements, it would be reasonable to expect that the business would be carried on as part of another business.

17. Paragraph 23 amends the information powers at Paragraph 11 of Schedule 5B, to allow HMRC to seek information in relation to the “disqualifying arrangements” requirement from relevant parties.

18. Paragraph 24 amends the existing definition of “arrangements” to make it clear that “arrangements” includes a single transaction or a series of transactions.

BACKGROUND NOTE

19. The Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs) encourage investment into small, higher risk trading companies by offering tax incentives to investors in qualifying companies.

20. Following consideration of responses to a consultation document "Financing a Private Sector Recovery", published on 26 July 2010 and to a further consultation, “The path to strong, sustainable and balanced growth" (the “Growth Review”), published on 29 November 2010, the Chancellor announced in his Budget on 23 March 2011 that subject to State aid approval, limits on the size of companies which can benefit under the schemes would be increased.

21. A further consultation document, "Tax-advantaged venture capital schemes: a consultation" was published on the Treasury website on 6 July 2011 seeking views on ways in which the EIS and VCTs might be improved.

22. If you have any questions about this change, or comments on the draft legislation, please contact Kathryn Robertson on 020 7147 2589 (email KathrynRobertson@hmrc.gsi.gov.uk) or Des Ryan on 020 7147 0818 (email Des.Ryan@hmrc.gsi.gov.uk).

1 Venture capital trusts

Schedule 1 contains provision about venture capital trusts.

SCHEDULE 1

Section 1

VENTURE CAPITAL SCHEMES

Introduction

1 Part 6 of ITA 2007 (venture capital trusts) is amended in accordance with paragraphs 2 to 13.

Qualifying holdings: introduction

2 In section 286 (qualifying holdings: introduction), in subsection (3), omit the "and" at the end of paragraph (k) and after paragraph (l) insert ", and

(m) no disqualifying arrangements (see section 299A)."

Relaxation of maximum qualifying investment requirement

3 (1) Section 287 (maximum qualifying investment requirement) is amended as follows.

(2) In subsection (1), after "that" insert ", if the condition in subsection (1A) is met,".

(3) After that subsection insert—

"(1A) The condition is that—

(a) at the time of the issue of the relevant holding the relevant company or any of its qualifying subsidiaries was a member of a partnership or a party to a joint venture,

(b) the trade which meets the requirement of section 291 was at that time being carried on, or to be carried on, by those partners in partnership or by the parties to the joint venture, and

(c) the other partners or parties to the joint venture include at least one other company."

(4) In subsection (2)—

(a) for "Subject to subsection (7), the" substitute "The", and

(b) after "exceeds" insert "the relevant fraction of".

(5) After that subsection insert—

"(2A) The relevant fraction is—

$$\frac{1}{N}$$

where "N" is the number of companies (including the relevant company) which, at the time when the relevant holding was issued

were members of the partnership or, as the case may be, parties to the joint venture."

(6) Omit subsections (6) and (7).

Qualifying activity

4 (1) Section 291 (the carrying on of a qualifying activity requirement) is amended as follows.

(2) In subsection (2), at the end, insert—

"This is subject to subsection (3A)."

(3) In subsection (3), after "subsections" insert "(3A),".

(4) After that subsection insert—

"(3A) An activity is not a qualifying activity by virtue of subsection (2) or (3) if, and to the extent that—

(a) it consists of an acquisition of shares in a company, and

(b) the acquisition is not an acquisition of shares by subscription—

(i) immediately before which the company is not a qualifying 90% subsidiary of the relevant company or carrying on, or preparing to carry on, a qualifying trade, and

(ii) immediately after which the company is a qualifying 90% subsidiary."

(5) In subsection (6), after "subsection (4)(a)" insert "(but not subsection (3A)(b))".

Increase in the maximum amount permitted to be raised annually

5 In section 292A (the maximum amount raised annually through risk capital schemes requirement), in subsection (1) for "£2 million" substitute "£10 million".

Increase in the gross assets limits

6 In section 297 (the gross assets requirement)—

(a) in subsections (1)(a) and (2)(a), for "£7 million" substitute "£15 million", and

(b) in subsections (1)(b) and (2)(b), for "£8 million" substitute "£16 million".

Relaxation of restriction on number of employees

7 In section 297A (the number of employees requirement), in subsections (1) and (2), for "50" substitute "250".

No disqualifying arrangements requirement

8 After section 299 insert—

“299A The no disqualifying arrangements requirement

(1) The relevant holding must not have been issued in consequence of, or otherwise in connection with, disqualifying arrangements.

(2) Arrangements are “disqualifying arrangements” if—

(a) the main purpose, or one of the main purposes, of any person (“P”) in being a party to them is to secure—

(i) that the relevant company, or a qualifying 90% subsidiary of that company, carries on a business which consists of or includes the relevant qualifying activity, and

(ii) that shares or securities issued by the relevant company may be comprised in any company’s qualifying holdings or that one or more persons may obtain relevant tax relief in respect of such shares which raise money for the purposes of that activity, and

(b) one or both of conditions A and B are met.

(3) Condition A is that, as a (direct or indirect) result of the money raised by the issue of the relevant holding being employed as required by section 293(1)(b), an amount representing the whole or the majority of the amount raised is paid to or for the benefit of a party to the arrangements or a person connected with such a party,

(4) Condition B is that, in the absence of the arrangements, it would have been reasonable to expect that the component activities of the relevant qualifying activity would have been carried on as part of another business (whether by P or any other person)

(5) For the purposes of this section it is immaterial whether the relevant company is a party to the arrangements.

(6) In this section—

“arrangements” includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable);

“component activities” means—

(a) if the relevant qualifying activity is within section 291(2), the carrying on of a qualifying trade which constitutes that activity, and

(b) if the relevant qualifying activity is within section 291(3), the preparations to carry on a qualifying trade which constitute that activity;

“relevant qualifying activity” means the relevant qualifying activity by reference to which the requirement in section 293(1)(b) (money raised to be employed within two years for relevant qualifying activity) is met in relation to the relevant holding;

“relevant tax relief”, in respect of shares, means one or more of the following—

(a) relief under Chapter 6 of Part 4 (losses on disposal of shares) in respect of the shares;

(b) EIS relief (within the meaning of Part 5) in respect of the shares;

(c) SEIS relief (within the meaning of Part 5A) in respect of the shares;

(d) relief under Schedule 5B to TCGA 1992 in consequence of which deferral relief is attributable to the shares;

(e) relief under section 150A or 150E of that Act (enterprise investment scheme and seed enterprise investment scheme) in respect of the shares."

Subsidised generation or export of electricity

9 (1) Section 303 (meaning of "excluded activities") is amended as follows.

(2) In subsection (1), omit "and" at the end of paragraph (k) and after that paragraph insert—

"(ka) the subsidised generation or export of electricity, and".

(3) In subsection (2), omit the "and" at the end of paragraph (e) and after paragraph (f) insert ", and

(g) section 309A (subsidised generation or export of electricity)."

10 After section 309 insert—

"309A Excluded activities: subsidised generation or export of electricity

(1) This section supplements section 303(1)(ka).

(2) Electricity is exported if it is exported onto a distribution system or transmission system (within the meaning of section 4 of the Electricity Act 1989).

(3) The generation of electricity is "subsidised" if a person receives a FIT subsidy in respect of the electricity generated.

(4) The export of electricity is "subsidised" if a person receives a FIT subsidy in respect of the electricity exported.

(5) But the generation or export of electricity is not to be taken to fall within section 303(1)(ka) if Condition A, B or C is met.

(6) Condition A is that the generation or export is carried on by—

(a) a community interest company,

(b) a co-operative society,

(c) a community benefit society, or

(d) a NI industrial and provident society.

(7) Condition B is that the plant used to generate the electricity relies wholly or mainly on anaerobic digestion.

(8) Condition C is that the electricity is hydroelectric power.

(9) For the purposes of this section—

"anaerobic digestion" means the bacterial fermentation of organic material in the absence of free oxygen (excluding anaerobic digestion of sewage or material in a landfill);

"community benefit society" means—

(a) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 as a community benefit society, or

(b) a pre-2010 Act society (as defined at section 4A(1) of that Act) which meets the condition in section 1(3) of that Act;

"co-operative society" means—

(a) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 as a co-operative society, or

(b) a pre-2010 Act society (as defined at section 4A(1) of that Act) which meets the condition in section 1(2) of that Act;

"FIT subsidy" means—

(a) a financial incentive under a scheme established by virtue of section 41 of the Energy Act 2008 (powers to amend licence conditions etc: feed-in tariffs) to encourage small-scale low-carbon generation of electricity, or

(b) a financial incentive under a similar scheme established in a territory outside the United Kingdom to encourage small-scale low-carbon generation of electricity;

"NI industrial and provident society" means a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.));

"small-scale low-carbon generation" has the meaning given by section 41(4) of the Energy Act 2008."

11 In section 310 (excluded activities: provision of services or facilities for another business), in subsection (1)(a), for "(k)" substitute "(ka)".

Powers to amend

12 In section 311 (power to amend Chapter by Treasury order), the existing provision becomes subsection (1) and after that subsection insert—

"(2) An order under this section may—

(a) make different provision for different cases or purposes, or

(b) include such transitional provision as the Treasury consider appropriate."

Information

13 After section 312 insert—

"312A Power to require information relating to disqualifying arrangements

(1) Subsection (2) applies if an officer of Revenue and Customs has reason to believe that the relevant company has issued the relevant holding to the investing company in consequence of or, or otherwise in connection with, disqualifying arrangements (within the meaning of section 299A(2)).

(2) The officer may by notice require any person concerned to supply the officer within such time as may be specified in the notice with—
(a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, such arrangements exist or have existed, and
(b) such other information as the officer may reasonably require for the purposes of section 299A and as that person has or can reasonably obtain.

(3) The period specified in a notice under subsection (2) must be at least 60 days.

(4) A "person concerned" means—
(a) the relevant company,
(b) the investing company,
(c) any person connected with either of those companies, and
(d) any person whom the officer has reason to believe is or was a party to the arrangements in question."

Consequential amendment

14 In section 98 of TMA 1970 (special returns, etc), in the first column of the Table, before the entry for "regulations under Chapter 5 of Part 6 of ITA 2007" insert—

"section 312A of ITA 2007;".

Commencement and transitional provision

15 (1) The amendments made by paragraphs 2, 3, 5 to 8 and 13 have effect for the purpose of determining whether shares or securities issued on or after 6 April 2012 are to be regarded as comprised in a company's qualifying holdings.

(2) For the purposes of paragraphs 2, 8 and 13 it does not matter whether the disqualifying arrangements were entered into before or on or after 6 April 2012.

16 (1) Paragraph 4 is to be treated as having come into force on 6 April 2012.

(2) The amendments made by that paragraph do not have effect in relation to an investment made by a VCT of protected money.

(3) "Protected money" means—
(a) money raised by the issue before 6 April 2012 of shares in or securities of the VCT, and
(b) money derived from the investment of such money.

17 (1) Subject to sub-paragraph (2), the amendments made by paragraphs 9 to 11 have effect in relation to a relevant holding issued on or after 23 March 2011.

(2) Those amendments do not have effect in relation to any relevant holding issued before 6 April 2012 if the relevant company, or a qualifying 90% subsidiary of that company, first began to carry on activities of the kind mentioned in section 303(1)(ka) of ITA 2007 before that day.

(3) Until such time as section 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 comes into force, section 309A(6) of

ITA 2007 (as inserted by paragraph 10 of this Schedule) has effect as if for paragraphs (b) and (c) there were substituted—

“(b) a society registered under the Industrial and Provident Societies Act 1965,”.

EXPLANATORY NOTE

VENTURE CAPITAL TRUST SCHEME

SUMMARY

1. This clause and Schedule which makes a range of changes to the Venture Capital Trust scheme (VCT). The acquisition of shares will become a non-qualifying activity, as will trades which consist substantially in the receipt of feed-in tariffs (with certain exceptions). A "no disqualifying arrangements" test is introduced. The Schedule also raises the thresholds for eligible companies under the scheme. The increases in these thresholds are subject to State aid approval.

DETAILS OF SCHEDULE

2. Paragraph 3 removes the restriction that prevents a VCT investing more than £1million per annum in any single company. The restriction continues to apply where the company is a member of a partnership or joint venture that carries on the qualifying trade.

3. Paragraph 4 amends the definition of "qualifying business activity" at section 179 Income Tax Act 2007, to exclude the acquisition of shares other than shares by subscription in a new 90 per cent qualifying subsidiary. This applies in respect of monies raised by the VCT on or after 6 April 2012.

4. Paragraph 5 increases, for VCTs, the annual amount of investment that a company may raise under the VC schemes from £2million to £10million. The increase is subject to State aid approval.

5. Paragraph 6 increases the gross assets limit for EIS from £7million before the EIS investment and £8million afterwards to £15million and £16million respectively. The increases are subject to State aid approval.

6. Paragraph 7 increases the limit on the number of employees that a qualifying company may have from fewer than 50 to fewer than 250. The increase is subject to State aid approval.

7. Paragraph 8 introduces a "no disqualifying arrangements" requirement. Arrangements are "disqualifying" if they are entered into with the purpose of ensuring that any of_the venture capital schemes tax reliefs are available in respect of the relevant company's business, and either: all or most of the monies raised under the scheme are paid to or for the benefit of a party to the arrangements; or in the absence of the arrangements, it would be reasonable to expect that the business would be carried on as part of another business. The

legislation includes a definition of “arrangements” which applies for the purpose of this test.

8. Paragraphs 9 and 10 exclude as qualifying trades any which consist substantially in the generation or export of electricity in respect of which the company receives a feed-in tariff under a UK government scheme or a similar overseas scheme. This applies generally where the VCT acquires the relevant holding on or after 6 April 2012. For holdings acquired on or after 23 March 2011 and before 6 April 2012, a holding will still qualify providing the subsidised generation or export begins before 6 April 2012. Trades where the electricity is generated by anaerobic digestion or hydroelectric power are not excluded by the legislation. Irrespective of the means by which electricity is produced, trades carried on by community interest companies, co-operative societies, community benefit societies or Northern Irish industrial and provident societies, are not affected by the legislation.

9. Paragraph 13 introduces an information power to allow HM Revenue and Customs to seek information from those it believes are parties to “disqualifying arrangements”.

10. Paragraph 14 adds the new information power to the list already at section 98 of the Taxes Management Act 1970. Section 98 allows HM Revenue and Customs to seek a penalty for failure to comply with an information notice, or for fraudulently or negligently providing incorrect information in response to an information notice.

BACKGROUND NOTE

11. The Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs) encourage investment into small, higher risk trading companies by offering tax incentives to investors in qualifying companies.

12. Following consideration of responses to a consultation document "Financing a Private Sector Recovery", published on 26 July 2010 and to a further consultation, “The path to strong, sustainable and balanced growth" (the “Growth Review”), published on 29 November 2010, the Chancellor announced in his Budget on 23 March 2011 that subject to State aid approval, limits on the size of companies which can benefit under the schemes would be increased.

13. A further consultation document, "Tax-advantaged venture capital schemes: a consultation" was published on the Treasury website on 6 July 2011 seeking views on ways in which the EIS and VCTs might be improved.

14. If you have any questions about his change, or comments on the draft legislation, please contact Kathryn Robertson on 020 7147 2589

(email Kathryn.Robertson@hmrc.gsi.gov.uk or Des Ryan on 020 7147 0818 (email Des.Ryan@hmrc.gsi.gov.uk).