

Clause 1: Income tax relief for social investments

Summary

1. This clause and Schedule make a number of changes to the Social Investment Tax Relief (SITR) scheme. The changes include an increase in the amount of money newer social enterprises may raise from individual investors under the scheme. These amendments also include provisions to better target the scheme on higher risk activities and deter abuse. The changes take effect for investments made on or after 6 April 2017.

Details of the clause and Schedule

Schedule 1

Part 1: Amendments of ITA 2007

2. Paragraph 1 introduces amendments to the Income Tax Act (ITA) 2007.
3. Paragraph 2 extends the period in which investments can qualify for SITR.
4. Paragraph 3 inserts new section 257LDA.
5. Section 257LDA introduces a requirement for an investor who claims tax relief under SITR to be independent from the social enterprise. At the time the investment is made, the investor must hold no other shares or debentures in the enterprise, or its subsidiary companies. The only exceptions are if the existing investments are a risk finance investment or are permitted subscriber shares. For the purposes of SITR risk finance investments can include debentures. A debenture is defined as any instrument that creates or acknowledges indebtedness.
6. Paragraph 4 inserts new section 257LEA
7. Section 257LEA introduces a “no disqualifying arrangements” requirement. Arrangements are disqualifying arrangements if they are entered into with a main purpose of ensuring that tax reliefs under SITR, EIS, SEIS, Venture Capital Trusts or share loss relief are available in relation to the activities of a social enterprise. This is subject to the conditions that either:
 - All or most of the monies raised by the investment are paid to or for the

benefit of any party to the arrangements; or

- In the absence of the arrangements, it would be reasonable to expect those activities to be carried on by some other person party to those arrangements.
8. Paragraph 5 makes consequential amendments to section 257SH. This provides for a power to obtain information relating to arrangements.
 9. Paragraph 6 repeals sections 257MA and 257MB, and inserts new sections 257MNA, 257MNB, 257MNC, 257MND and 257MNE.
 10. Section 257MNA specifies a limit of £1.5 million on the total amount of qualifying investments a social enterprise can receive if it meets the conditions in this section and new section 257MNB. The limit applies where the enterprise receives a relevant investment prior to the end of a period ending seven years after its first commercial sale, or where follow on funding of such a relevant investment is received after the end of the period. For an accredited social impact contractor the first commercial sale is taken to be the date on which it entered its first social impact contract.
 11. Section 257MNB defines “relevant investments” for the purpose of determining whether or not a social enterprise, together with its 51% subsidiaries, has reached the investment limit in section 257MNA. These investments include investments made in companies that have previously been 51% subsidiaries of the enterprise, and investments made in a trade prior to that trade being acquired by the enterprise or one of its subsidiaries.
 12. Section 257MNC specifies a limit on the amount of qualifying investments a social enterprise can receive where section 257MNA does not apply. The limit under this section replicates the former limit in section 257MA, but with an additional limit on the total amount of investments to align with the limit in section 257MNA.
 13. Section 257MND applies the total investment limit in sections 257MNA and 257MNC after a relevant investment has been made, where the money raised from the relevant investment is used for the activities of a subsidiary or trade acquired by the enterprise or its subsidiary after the investment was made. This prevents a social enterprise from exceeding the investment limits by acquiring a company or trade that has benefitted from other qualifying social investments after the date the relevant investment is made in the enterprise.
 14. Section 257MNE provides for the investment limits to be changed by Treasury regulations.
 15. Paragraph 7 amends the limit on the number of employees in section 257MH from 500 full-time equivalent employees (FTEs) to 250 FTEs.
 16. Paragraph 8 inserts new subsection (3A) into section 257MM. Section 257MM(3A) prevents repayment of a loan being a qualifying use of money raised under SITR..

17. Paragraph 9 amends section 257MQ, which lists the activities excluded from the scope of Sitr. An investment in an excluded activity is not eligible for Sitr.
18. Sub-paragraph 9(2) extends the list of excluded activities to include by inserting new paragraphs (ba) – (bg) in section 257MQ(1).
19. Sub-paragraph 9(3) ends the exception that allowed the lending of money to a social enterprise to be a qualifying activity.
20. Sub-paragraph 9(4) inserts new subsection 257MQ(3) to define “exporting electricity” for the purposes of the section.
21. Sub-paragraph 9(5) inserts new section 257MOA. This defines nursing homes and residential care homes that are excluded activities for the purposes of section 257MQ.

Part 2: Consequential Amendment

22. Paragraph 10 repeals a provision made redundant by the amendment of section 257MQ.
23. Paragraph 11 adds Part 5B to the list of reliefs for which HMRC has power to obtain information relating the granting of the relief.

Part 3: Commencement

24. Paragraph 12 provides for the amendments made by the clause to have effect in relation to investments made on or after 6 April 2017.
25. Paragraph 13 provides for the changes to the list of excluded activities to take effect on 6 April 2017.

Background note

26. Social Investment Tax Relief (Sitr) was introduced in 2014 to encourage individuals to invest in certain social enterprises carrying out higher risk trading activities. Individual investors are eligible for a range of tax reliefs including income tax relief of 30% on their investment.
27. Sitr is currently a de minimis State aid scheme and restricts the amount of investments a social enterprise may raise under the scheme over a three year rolling period. The government announced at Autumn Statement 2014 that the limit would be raised, subject to State aid approval. This measure increases the amount newer eligible social enterprises may raise under the Sitr to £1.5 million and makes further changes to align the rules with the European Union General Block Exemption Regulation for risk finance investments.
28. The limit for older social enterprises remains the same as now, subject to an overall lifetime limit of £1.5 million.

29. The measure excludes certain lower risk trading activities. Energy generation activities are excluded, as announced at Autumn Statement 2015. An anti-abuse provision is also included, based on similar provisions in the Enterprise Investment Scheme.
30. If you have any questions about this change, or comments on the legislation, please contact Martin Trott on 03000 585619
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