OXFORD CAPITAL

YOUR GUIDE TO EIS LOSS RELIEF

FOR UK BASED INVESTORS

IMPORTANT INFORMATION

This document has been issued and approved by Oxford Capital Partners LLP ("Oxford Capital"), 201 Cumnor Hill, Oxford, OX2 9PJ. Oxford Capital is authorised and regulated by the Financial Conduct Authority (FRN 585981).

This document has been issued by Oxford Capital. This document is for information and training purposes only. It does not form part of a direct offer or invitation to purchase, subscribe for or dispose of securities, or to enter into any investment service, and no reliance should be placed on it. This document does not constitute legal, tax or financial advice nor should it be taken as such.

Tax reliefs described in the guide are based on our understanding of the current legislation. Note that tax treatment depends on an individual's circumstances and legislation may be subject to change in future.

Information correct as at June 2019.

INTRODUCTION

LOSS RELIEF AND THE ENTERPRISE INVESTMENT SCHEME

The Enterprise Investment Scheme (EIS) is designed to help smaller, higher-risk companies raise finance by offering tax relief on new shares in those companies that qualify. For the investor, it's a tax efficient way to invest in small companies – up to £1,000,000 per person per year in qualifying companies.

Whether they are operating in traditional markets or developing revolutionary products or services, small businesses are vital to the UK economy. Supporting their growth has been a key objective of successive governments.

The scheme helps to fill the so-called 'equity gap', providing a source of funding to businesses that are too small to attract the attention of bigger investors and cannot borrow enough money to fund their expansion plans.

EIS investing makes it possible for people to own shares in small UK companies. Investing in EIS-qualifying companies allows UK taxpayers a range of tax advantages. The reliefs provide an initial incentive to invest, and a cushion against the potential downside risks associated within investing in small companies, which is Loss Relief.

If your EIS investments underperform, you can offset any losses against your income tax or capital gains.

HOW CAN I CLAIM TAX RELIEF ON EIS LOSSES?

If you have made an EIS investment which is sold at a loss or is liquidated, you may be able to claim tax relief on losses.

To qualify for relief, the value of an investment at sale must have fallen below the 'net cost'. The net cost is the amount invested, minus whatever you may have previously claimed in income tax relief. For example, if you invested £10,000 into an EIS-qualifying investment and you then claimed upfront income tax relief of £3,000 (equal to 30% of the amount you invested), the net cost of that investment would be £7,000. See our example overleaf for more detail.

HOW MUCH RELIEF IS AVAILABLE?

When you dispose of EIS shares at a loss, the Share Loss Relief rules allow you to deduct the amount of the loss either from capital gains or from your taxable income[1]. The value of the relief will be between 20% and 45% of your loss, depending on the rate at which you pay tax. This guide deals mainly with making a claim against your taxable income.

If you have held your EIS shares for three years, the Income Tax relief you originally claimed on your EIS investment is not withdrawn, but you do need to deduct it from the purchase cost of the shares when calculating your loss. This is illustrated in the example overleaf.

IN WHICH TAX YEAR DOES SHARE LOSS RELIEF APPLY?

When you make your claim, you can opt to deduct the loss from your taxable income for:

- The year the loss occurred.
- The year before the loss occurred.
- Both years, where the loss is too large to be absorbed by a single year's taxable income.

If you need to deduct the loss from income in both years, when you make your claim you should specify which year the loss should be applied to first.

If you do not have sufficient taxable income across both years to absorb the whole loss, or if it would be beneficial for you to do so, you can instead use the remaining loss against chargeable gains in the year of the loss, or carry the loss forward to use against future gains.

There is no withdrawal of Income Tax relief already received if the shares have nil value at the time of sale/liquidation.

[1] Trustees of trust cannot obtain relief for losses against taxable income.

HOW DO I CALCULATE MY LOSS?

Provided your shares have been held for more than three years, you will be eligible for relief.

FOR EXAMPLE:

You invested £10,000 in an EIS-qualifying company in June 2015, but four years later the company went into administration and you received no returns. Your Share Loss Relief calculation is as follows (assuming you are a higher rate tax-payer):

AMOUNT INVESTED	£10,000
LESS THE 30% INCOME TAX CLAIMED*	(£3,000)
LESS ANY PROCEEDS FROM SALE OF THE SHARES	(£0)
LOSS	£7,000

You set this loss against your taxable income. Because you pay tax at 40%, the income tax you may reclaim as a consequence, is £2,800. Combined with your income tax relief, this means you have effectively lost £4,200 of your original £10,000 investment.

It may be helpful to mention that, where an investment is sold for less than cost (but not at nil value) the relief reduces proportionately.

LOSS	£7,000
LESS SHARE LOSS RELIEF AT 40%	£2,800
NET LOSS	£4,200

*For investments made before 6th April 2011, EIS Income Tax Relief was 20%.

CLAIMING LOSS RELIEF

HOW AND WHEN CAN I CLAIM SHARE LOSS RELIEF?

There is no special form for claiming share loss relief - it is done as part of your self-assessment.

If you complete a self-assessment tax return, you can claim EIS losses against either income tax or capital gains tax by completing the SA108 form (the Self-Assessment form).

If you don't already complete this online, you can request a Self-Asement form from hmrc.gov.uk. There are additional help notes that you can also request to assist with this process. Simply ask for the SA108 summary notes.

If you normally self-assess online, then there are tips throughout the process to help you complete it correctly.

Using both methods you can either:

- make an entry in the relevant section of your tax return
- amend a tax return that has already been submitted, where possible

In your claim you should specify the source of the loss, the tax year of the loss and the tax year or years to which the loss should be applied.

You must make the claim within one year of the 31st January following the end of the tax year in which the loss occurred. For example, for a loss which occurred in the 2019/2020 tax year you would need to make your claim by 31st January 2022.

Share Loss Relief claimed through self-assessment could reduce the amount of tax that you are liable to pay in that tax year. If that is the case, and you have already paid too much income tax, you can request that HMRC refund the difference straight into you bank account (or by cheque) by completing the relevant section section of the Self Assessment form.

More information about making a claim is provided in Helpsheet 286 and can be found by searching HMRC's website for "HS286".

Please note: Oxford Capital do not provide tax advice. We would always reccomend speaking with your financial adviser.

FAQ

WHAT IF I HAVE LITTLE TAXABLE INCOME?

It is also possible to offset the loss (net of income tax relief) against other chargeable gains in the usual way, rather than claiming loss relief. Lower rate tax payers with capital gains might consider this option.

WHAT HAPPENS TO ANY DEFERRED CAPITAL GAINS?

If you used the EIS investment to defer a capital gain, that gain becomes chargeable again at the date of the disposal of the shares or the liquidation of the company. This is effectively treated exactly like a new capital gain and should therefore be declared on your tax return. You can use your annual capital gains tax exempt amount against the gain, and you could also opt to offset the deferred gain using the loss from the EIS investment (ie the loss against capital gains rather than the income tax loss relief).

IF I HAVE INHERITED SHARES WHICH HAVE MADE A LOSS, CAN I STILL CLAIM LOSS RELIEF?

No. Once you inherit shares, these become known as 'secondary shares', and under HMRC rules the new owner cannot claim Share Loss Relief.

If shares are sold for less than probate value, the difference can be classed as an allowable loss for CGT purposes.

OXFORD CAPITAL

201 CUMNOR HILL
OXFORD OX2 9PJ
UNITED KINGDOM
+44(0)1865 860 760
WWW.OXCP.COM