



HM Revenue
& Customs

Tax-advantaged venture capital schemes – streamlining the advance assurance service

Government response
December 2017

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1. Introduction

- 1.1 This document provides an update on the advance assurance service for the tax-advantaged venture capital schemes. It takes into account the views of individuals, firms and representative bodies who responded to our consultation last year.
- 1.2 While there is scope for streamlining the advance assurance service, it is also clear that we need to improve the guidance on using the service, especially for smaller companies.

The consultation

- 1.3 A consultation on the advance assurance service for the tax-advantaged venture capital schemes was announced at Autumn Statement 2016. A consultation document, *Tax-advantaged venture capital schemes – streamlining the advance assurance service*¹, was published by HM Revenue and Customs (HMRC) on 5 December 2016. The document asked for views on options for streamlining the advance assurance service provided by the Small Company Enterprise Centre (SCEC).
- 1.3 The tax-advantaged schemes covered by the consultation are:
 - the Seed Enterprise Investment Scheme (SEIS)
 - the Enterprise Investment Scheme (EIS)
 - Venture Capital Trusts (VCTs) and
 - the Social Investment Tax relief (SITR).
- 1.4 Growing demand for the advance assurance service, and the adjustment by customers and HMRC to new rules in 2015, has lengthened the time taken by the SCEC to provide its opinion on whether a company would be eligible to receive an investment under one or more of the schemes.
- 1.5 Although we have transferred more officers to the SCEC to deal with applications, demand for the service has continued to increase.
- 1.6 The consultation document explained some of these pressures on the advance assurance service and invited discussion on what could be done to ensure the service is sustainable in the long term.
- 1.7 The options put forward for discussion were:

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574564/Tax-advantaged_venture_capital_schemes_-_streamlining_the_advance_assurance_service.pdf

- do nothing;
- withdraw the advance assurance service
- restrict access to the advance assurance service in one or more ways
- provide a service for discrete aspects of the rules
- introduce standard documents for companies to use to provide certainty.

1.8 HMRC published a summary of responses to the consultation on 20 March 2017².

Overview of responses

- 1.9 The vast majority of respondents felt the advance assurance service should continue. However, views were mixed on whether the service should be restricted, and how.
- 1.10 Though the option of introducing a discrete enquiry service was broadly welcomed, respondents did not think it could replace a full advance assurance service.
- 1.11 It was generally felt that the option of providing standard documents for companies to use for advance assurance would be of use only to the smallest companies and where fund managers are carrying out large numbers of deals each year.
- 1.12 Some respondents noted that if the advance assurance service were withdrawn, better and more detailed guidance would be needed to reduce uncertainty.
- 1.13 Respondents also noted that advance assurances are necessary because of the severity of the consequences of making a non-qualifying investment.
- 1.14 Some respondents suggested that delays could be reduced by introducing a checklist of the documents companies need to provide with their advance assurance application.

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/601206/Tax-advantaged_venture_capital_schemes___streamlining_the_advance_assurance_service_-_summary_of_responses.pdf

2. Government response and next steps

- 2.1 We are very grateful to all the respondents to our consultation who gave their time to provide their views and ideas.
- 2.2 It is clear from the responses how valuable the advance assurance service is to our customers and that there is a general wish to retain the service for all companies raising an investment. We have therefore decided to continue to provide the advance assurance service for all the venture capital schemes, subject to certain changes explained below.
- 2.3 We are taking a number of steps, outlined below, to improve the service by prioritising applications from companies seeking investments that are within the spirit of the venture capital schemes and are in most need of our support.

Digitising the advance assurance service

- 2.4 We are working with the industry to digitise the advance assurance service for the tax-advantaged venture capital schemes. This should help to reduce errors in advance assurance applications and the statutory compliance statements companies must make after receiving an investment. We aim to deliver a service that will reduce the administrative burden for all companies using the schemes, which currently have to send paper certificates to their investors. We are grateful to the companies and agents who have been helping us.

Changes to our service

- 2.5 We have decided not to introduce a service to provide an opinion on discrete aspects of a proposed investment. Respondents to the consultation explained that such a service would be likely to increase demand, as companies and their agents would be likely to test aspects of proposed investment deals in multiple applications. We will therefore continue to consider applications only where all the information about a proposed investment is provided.
- 2.6 The advance assurance service is a discretionary, non-statutory, service. We may therefore decline to provide an opinion to a company seeking an advance assurance in certain cases.
- 2.7 If a company is relying on a particular interpretation of the law to support its application, it should provide a full technical analysis of the relevant law and how its circumstances meet that law. We will not provide an opinion where, in our view, a company is using the advance assurance service to test the limits of the law, rather than to allay genuine concerns about the company's eligibility for investment.
- 2.8 From 2 January 2018 we will not provide an advance assurance on speculative applications. More than a third of the advance assurances we provide do not result in an investment. To ensure HMRC resources are used efficiently, therefore, we will only provide an opinion where the application names the

individual(s), fund manager(s) or other promoter(s) who are expected to make the investment. Though we do not expect the company making the application to have formalised offers of investment, we do expect the company to have approached potential investors before making the advance assurance application to determine the likelihood that they will attract actual investment.

- 2.9 We already decline to provide an opinion where we believe that the proposed investment may be part of an aggressive tax planning scheme. The government announced at the Autumn Budget 2017 that it would introduce new rules to tackle ‘capital preservation’ schemes for investments made under the EIS, SEIS or VCT scheme on or after Royal Assent. ‘Capital preservation’ activity is investment in companies that are set up as low risk vehicles for activities offering stable and reliable returns, where the tax relief is likely to form much of the return to the investor. These arrangements are not within the spirit of the schemes, which are designed to encourage investment in genuinely entrepreneurial, early-stage, companies that have the potential for high growth, but struggle to attract initial investment.
- 2.10 We are publishing draft guidance in the Venture Capital Schemes Manual³ on the application of the new rules in the week commencing 4 December 2018. From the date of publication of the draft guidance we shall not provide an opinion on an advance assurance application where it is reasonable to conclude that the proposed investment is part of a capital preservation arrangement. When taking that decision, we shall consider whether the company would have met the requirements in new sections 157A, 257AAA and 286ZA of the Income Tax Act 2007, as introduced by the Finance Bill, if they applied at that time.
- 2.11 We expect these changes will help us to focus our resource on companies seeking investments that are within the spirit of the venture capital schemes.

Improving our guidance

- 2.12 Over 70% of advance assurance applications are approved without further contact. Many companies are advised by skilled and experienced agents who are able to provide accurate advice on the eligibility of a proposed investment. As such, we consider that it should be possible to reduce demand for the advance assurance service, in time.
- 2.13 However, the responses to our consultation make clear that we need to provide more reassurance to companies and advisers before we can consider making any significant changes to the service. Providing more clarity should reduce the demands on the service and improve response times for all applicants.
- 2.14 We are therefore working to improve our written guidance on the advance assurance service, so that it is clearer and more comprehensive.
- 2.15 The new guidance will include a checklist that will help companies identify the documents and information they need to send us, and so increase the

³ <https://www.gov.uk/hmrc-internal-manuals/venture-capital-schemes-manual>

likelihood of their application being approved. The guidance will also list answers to frequently asked questions about the service.

- 2.16 We will continue to explore with relevant stakeholders the scope for using standard documents in specific circumstances, particularly with fund managers and very small companies.
- 2.17 The new guidance will be published before April 2018.

Further ideas for improvement

- 2.18 We are always happy to consider further ideas for improving our service. Please contact us by email at venturecapitalschemes.policy@hmrc.gsi.gov.uk or in writing to:

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