



A BLACKFINCH GUIDE TO

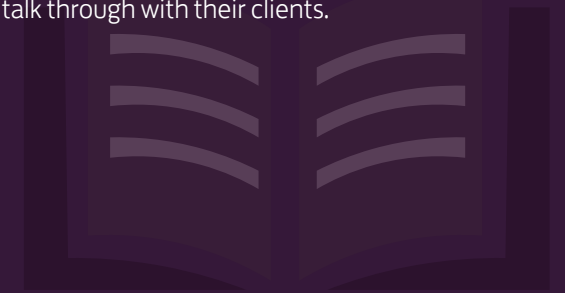
# *EIS Loss Relief*

For today's investors, the Enterprise Investment Scheme (EIS) offers two outstanding features. First, it is one of the most tax-efficient ways to invest, offering clients a number of advantageous tax reliefs that cover a variety of different circumstances. Second, it's an excellent way to invest in a portfolio of the type of innovative, growth-oriented UK start-ups that are helping to grow the UK economy. It's therefore no wonder that an increasing number of clients are interested in talking to their advisers about EIS.

At Blackfinch, we're passionate about supporting innovative firms as they grow, and building outstanding portfolios of EIS-qualifying companies for our investors. We invest in smaller companies with great ideas, strong teams and environmental, social and governance (ESG) concerns at their core. Of course, not every company will succeed, which is why Loss Relief, which we explain in this guide, is such an important tax relief.

Don't invest unless you're prepared to lose all the money you invest. This is a high risk investment and you are unlikely to be protected if something goes wrong. **Take 2 mins to learn more on page 22.**

Loss Relief allows investors to claim tax relief when losses have been made with their EIS investments. This guide gives you a full overview of how Loss Relief works and offers some helpful case studies for advisers to talk through with their clients.

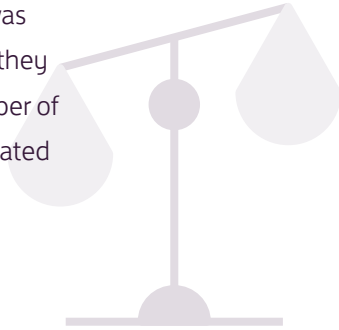


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# Introduction to EIS

Introduced back in 1994, the Enterprise Investment Scheme (EIS) was created to make it easier for smaller companies to gain the funding they needed to grow. Investing in EIS-qualifying companies offers a number of valuable tax incentives designed to counter-balance the risks associated with investing in higher risk early-stage businesses.



## What types of companies qualify?

To be eligible to raise money under the EIS, a company must meet several qualifying criteria. For example:

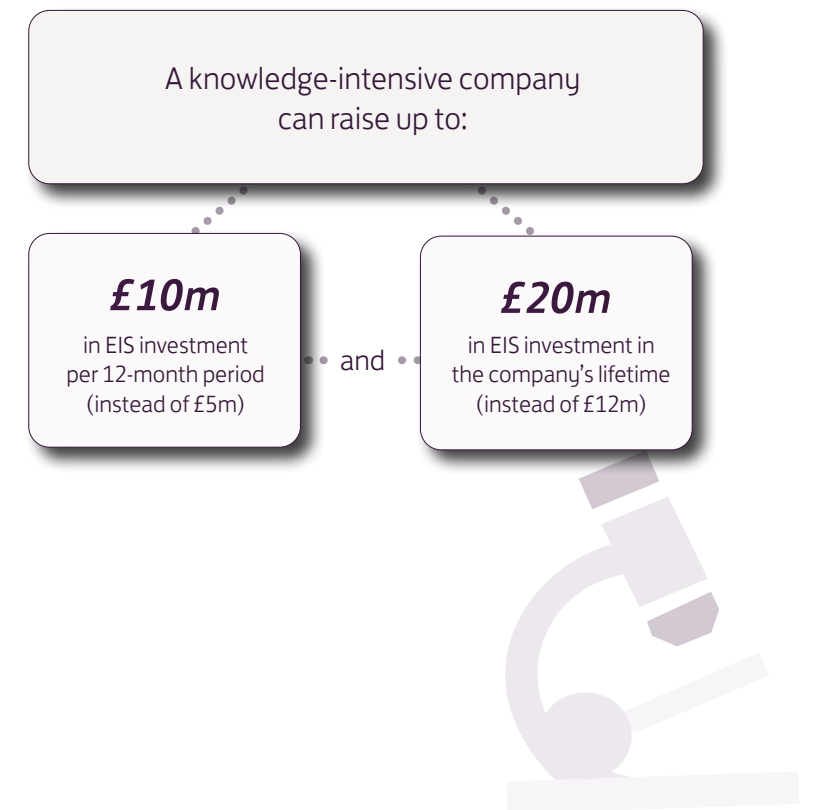
- The company should have a maximum of 250 employees (or a max of 500 employees for companies deemed 'knowledge-intensive')  
**Read more about knowledge intensive companies on page 5.**
- The company's gross assets should not exceed £15m immediately before the EIS investment, and £16m immediately afterwards
- The company's shares are not listed on a recognised stock exchange (such as the FTSE All Share), but listing on the Alternative Investment Market (AIM) is allowed
- Subject to exceptions, the company's first commercial sale must have taken place less than seven years ago, although this increases to ten years for 'knowledge-intensive' companies

In other words, an EIS-qualifying company would tend to be small, early-stage, unlisted, and therefore higher risk for investors.

## What does 'knowledge-intensive' mean?

To meet the definition of 'knowledge-intensive', the company must be carrying out research, development or innovation at the time it is issuing shares. It must also meet certain conditions in relation to Research & Development (R&D) expenditure as a proportion of its historical or future operating costs. Knowledge-intensive firms have historically struggled because of the high cost of their research and a lack of working capital.

However, the more generous qualifying criteria for knowledge-intensive companies were introduced in 2015 (with an increase in individual's annual EIS limit for investment into knowledge-intensive companies following in 2018) to help these firms secure the EIS funding they need.



# EIS Tax Reliefs

## Up to 30% Income Tax Relief

Tax relief can be claimed up to a maximum investment of £1m per investor per tax year, raised to £2m for knowledge-intensive companies. Clients can claim this via their Self-Assessment tax return or by asking HMRC to adjust their tax code.

## Carry back

Carry back means you can offset some or all of the Income Tax paid in the previous tax year, provided the maximum EIS investment limit in the previous tax year is not exceeded.

## Inheritance Tax Relief (IHT)

Exemption on qualifying investments held for at least two years (and if held at time of death).

## Capital Gains Tax (CGT) deferral relief

On gains made up to three years prior to investment and up to one year after.

## Growth on the investment is free of CGT

(if Income Tax relief has been claimed and is retained at the time of disposal).

## Loss Relief

Up to 45% of capital losses can be offset against taxable income, dependent on the client's marginal rate of Income Tax.

For EIS investments to qualify for Income Tax relief and tax-free capital growth, investors must hold them for a minimum of three years (the qualifying period).

# What is Loss Relief?

Loss Relief allows investors to claim tax relief when substantial losses have been made with their EIS investments. It is important to note that EIS investors can still lose money overall, but Loss Relief may be available where company shares have been sold at a loss to the purchase price.

Loss relief is available where a net loss has been made, including after any Income Tax Relief already claimed.

# How is Loss Relief Calculated?

Loss Relief is calculated on an individual company basis. This means that even if the overall investment makes a gain, Loss Relief may still be available for companies within an investor's EIS portfolio which have returned less than the amount invested. Here's an example:



For more information on Loss Relief see: [HS286](#)  
For more information on what qualifies for Loss Relief see: [Calculating the allowable loss](#)

# Claiming Loss Relief on EIS Portfolios

At Blackfinch, we run a portfolio structure, meaning our clients will be able to claim Loss Relief on any of the individual companies within their portfolio, should they be sold at a substantial loss.

## What if a partial loss occurs?

If a company within an investor's EIS portfolio is sold at a loss, but is still able to return some capital to the investor, consideration will be made to any Income Tax relief that was claimed upon investment.

If the company was sold after passing the minimum three-year EIS qualifying period, the investor can retain the full amount of Income Tax relief claimed. However, if the company is sold within the three-year qualifying period, any Income Tax relief claimed on the amount returned to investors will need to be repaid to HMRC, which will need to be taken into account to calculate the amount available for Loss Relief (shown as 'Net loss' in Examples 6 and 7).

**EXAMPLE 1** shows how Loss Relief can work, based on a theoretical portfolio of ten EIS-qualifying companies, where three portfolio companies are sold (exited) at a loss. Even though an overall gain has been made on the portfolio, the investor could still claim Loss Relief on those three companies.



## EXAMPLE 1

### EIS Portfolio of 10 Companies

Based on an initial investment of £100,000, investing £10,000 in each of ten companies, assuming various successes and failures.

Returns	Fail	x2 return	x3 return	x5 return	x10 return
Number of companies	3	2	2	2	1
Cost of initial investment	£30,000	£20,000	£20,000	£20,000	£10,000
Sale/exit proceeds**	£0	£40,000	£60,000	£100,000	£100,000
Income Tax relief at 30%	£9,000	£6,000	£6,000	£3,000	£3,000
Loss Relief* at 40% of investment, net of Income Tax relief	£8,400	£0	£0	£0	£0
Total return including reliefs	£17,400	£72,000	£56,000	£73,000	£103,000
<b>Total</b>	<b>£321,400</b>				

Note: the investment amounts shown are after deduction of the portfolio establishment fee.

\* Loss Relief calculated assuming that the investor is a higher rate taxpayer with a marginal rate of 40%.

\*\*The figures for sale proceeds assume growth without including the annual management charge (AMC) applied to the EIS portfolio companies.

# Claiming Loss Relief

When EIS shares are sold at a loss, HMRC allows investors to offset the loss either by deducting the value of the loss against their taxable income (paid through Income Tax) or against any capital gains which would be subject to Capital Gains Tax (CGT).

## How Loss Relief is claimed

The relief is given by deducting the allowable loss from your total income from all sources, before any deduction for your personal Income Tax allowances. This means you cannot restrict the claim to leave your income equal to your personal Income Tax allowances.

You may claim that the loss be set against your income of the year in which the loss arose or against your income of the preceding year. If the loss is sufficiently large, you may claim that it be set against the income of both years. If you claim for both years, your claim should show which year is to take priority. (see example 2).

If there is still a balance of unused capital loss, it can be deducted from chargeable gains in the usual way.

## Option 1: Offsetting the loss against Income Tax

The loss can be offset against Income Tax paid in the tax year the loss was made, and/or the previous tax year. If the Income Tax paid in the year of the loss and the previous year was less than the full loss on the EIS investment, any excess loss can also be offset against any CGT paid/due in the current tax year, or carried forward against any future gains (for CGT purposes only).



## EXAMPLE 2

### Using Loss Relief to reduce an Income Tax bill

An investor wants to claim Loss Relief for a £50,000 EIS loss in the 2023/2024 tax year. Their financial adviser informs them they can choose to offset this loss against their Income Tax bill from the current and previous tax year. As they are claiming for both years, they must choose which year takes priority when offsetting the loss, so in this case they choose to prioritise the previous tax year.

	2022/2023	2023/2024
Income	£40,000	£44,000
Income Tax paid/due (as a basic rate taxpayer with a marginal rate of 20%)	£5,486	£6,286
Portion of the loss being offset	£40,000	£10,000
Taxable income	£0	£34,000
Personal Allowance	£0	£12,570
Taxable income less Personal Allowance	£0	£21,430
Income Tax due	£0	£4,286
<b>Income Tax saving</b>	<b>£5,486</b>	<b>£2,000</b>

The rate of relief will be between 20% and 45% of the loss, depending on the marginal rate at which the investor pays Income Tax. If offsetting the full value of the loss would reduce the investor's total income into a lower tax bracket, the rate of Loss Relief available will vary.



### EXAMPLE 3

## Using Loss Relief to reduce an Income Tax bill across multiple Income Tax brackets

In this example, the investor is a higher rate taxpayer with an annual income of £70,000. The amount of Income Tax they pay is as follows:

Income	£70,000
Amount taxable at 0% (personal allowance)	£12,570
Amount taxable at 20% (basic rate)	£37,700
Amount taxable at 40% (higher rate)	£19,730
<b>Income Tax due</b>	<b>£15,432</b>

After a £30,000 net loss on the value of their EIS investments the investor chooses to offset this against their Income Tax for the current year. Their Income Tax computation is now as follows:

Income	£70,000
Net loss on EIS Investment	£30,000
Taxable income (after EIS loss)	£40,000
Amount taxable at 0% (personal allowance)	£12,570
Amount taxable at 20% (basic rate)	£27,430
Amount taxable at 40% (higher rate)	£0
Income Tax due	£5,486
<b>Income Tax saving</b>	<b>£9,946</b>

### Option 2:

## Offsetting the loss against Capital Gains Tax

The second option available to investors looking to use Loss Relief is to offset the loss against a capital gain – either in the current tax year or ‘carrying the loss forward’ against any future capital gain. This effectively means Loss Relief will be available as per the applicable rate of CGT due on any gains made.



### EXAMPLE 4:

## Using Loss Relief to reduce a CGT bill

An investor suffers a net loss of £20,000 on an EIS investment, while also making a capital gain of £50,000 (after utilising their annual CGT allowance) on a separate non-EIS investment within the same tax year. The investor has an annual income of £60,000, making them a higher rate taxpayer. They decide to offset the loss on their EIS investment against the gain on their separate non-EIS investment.

Gain on non-EIS investment	£50,000
CGT due*	£10,000
Net loss on EIS investment	£20,000
Net gain	£30,000
CGT due*	£6,000
<b>CGT saving</b>	<b>£4,000</b>

\*In the 2023-2024 tax year, CGT is charged at 10% for basic rate taxpayers and 20% for higher or additional rate taxpayers. In some situations different CGT rates apply, notably gains on residential property incur CGT at either 18% or 28%.

## When can Loss Relief be claimed?



There is a timeframe in which investors can claim Loss Relief once the sale (at a loss) of the EIS-qualifying company has been made. The claim must be made within one year of 31st January following the end of the tax year in which the loss occurred. For example, for a loss that occurred in the 2022/2023 tax year, the claim would need to be made by 31st January 2025.

It may also be possible for investors to make a 'negligible value claim' while they are still in possession of any EIS-qualifying shares that have fallen to a negligible value with no prospect of recovery. However, it is a more complicated process requiring appropriate evidence to be submitted to HMRC. Where a company has gone into administration or liquidation, it is much easier to wait until the company in question has been formally wound-up and the loss is realised. The loss can be backdated up to one tax year. This avoids potential administrative complications if unanticipated shareholder value is subsequently identified and the negligible value claim is reversed.

### *What if the EIS investment was used to defer capital gains?*

Investors often use their EIS investment to defer an existing capital gain. A capital gain occurs when an asset has been sold and the profits or gains made on that asset have been realised (also known as 'crystallisation').

However, if the capital gain has been deferred by investment in an EIS-qualifying company that subsequently failed with a total loss, the deferred capital gain becomes chargeable again, and is treated as a new capital gain (subject to capital gains allowances available). In other words, the capital gain has been 'recrystallised'. To continue to defer the gain, it would need to be reinvested into another EIS-qualifying company.



### EXAMPLE 5

## Deferred Capital Gains

An investor makes an EIS investment of £50,000 spread equally across a portfolio of ten companies, deferring a crystallised capital gain of £50,000 made on a separate non-EIS investment. After one year, one company in the EIS portfolio fails completely, meaning that the portion of the gain made on the non-EIS will recrystallise.

As the company failure occurs within the next tax year, the investor can use part of their annual CGT allowance (£6,000 for the 2023-24 tax year) for that year, absorbing the full impact of the recrystallised gain. The investor still has a further £1,000 of their annual CGT allowance to be used against any other capital gains within that tax year. If the recrystallised gain were greater than their annual CGT allowance, any excess would become payable, or would need to be deferred again.

	2023 - 2024
Amount invested	£50,000 (£5,000 per company)
Deferred gain on non-EIS investment	£50,000
Amount deferred against each investment within the portfolio	£5,000
Annual CGT allowance	£6,000
Recrystallised gain	£5,000
Remaining CGT allowance	£1,000
<b>CGT due</b>	<b>£0</b>



For more information on qualifying disposals see: [Claim to set loss from share disposal against income](#)  
 For more information on when Loss Relief can be claimed see: [How and when to claim the relief](#)  
 For more information on making a negligible value claim see: [Negligible value claims](#)



### **What are the tax implications on inherited EIS shares?**

Shares are often passed on as part of a person's estate, with inherited EIS shares being deemed as ordinary shares by HMRC. As a result, any growth in the value of the EIS shares, from the date of death, may be subject to CGT for the beneficiary (subject to capital gains allowances). Loss Relief cannot be automatically claimed and offset against Income Tax, although the shares might qualify for general (non-EIS) loss relief. However, any capital losses can be offset against any gains within the current or future tax years.

### **What if a partial loss occurs?**

If a company within an investor's EIS portfolio is sold at a loss, but is still able to return some capital to the investor, consideration will be made to any Income Tax relief that was claimed upon investment. If the company was sold after passing the minimum three-year EIS qualifying period, the investor can retain the full amount of Income Tax relief claimed. However, if the company is sold within the three-year qualifying period, any Income Tax relief claimed on the amount returned to investors will need to be repaid to HMRC, which will need to be taken into account to calculate the amount available for Loss Relief (shown as 'Net loss' in Examples 6 and 7).



#### **EXAMPLE 6**

### **Income Tax to be repaid**

An investor invests £10,000 into a company they expect to be EIS-qualifying, and claims full available Income Tax relief of £3,000. Two years later the company is sold at a loss, with the investor receiving £4,000 back. In this example the investor must repay the Income Tax relief claimed on the amount received, which in this example would equal 30% of the £4,000 received (as the EIS shares were not held for the period of three years). Loss Relief will then be available on the net loss of the investment, which can either be offset against Income Tax or CGT as mentioned previously.

Amount invested	£10,000
Income Tax relief claimed	£3,000
Amount received	£4,000
Income Tax repaid on amount received	£1,200
<b>Net loss before loss relief</b>	<b>£4,200</b>

### What if the company fails within the first three years?

If the EIS-qualifying company fails in its entirety, whether within three years or after, Loss Relief will be available on the full net loss (the amount invested minus any Income Tax relief claimed). Therefore, any Income Tax relief that has been claimed would not need to be repaid here.



#### EXAMPLE 7

### A full loss

An investor invests £10,000 into an EIS-qualifying company, claiming full available Income Tax relief of £3,000. After one year the company fails, with the investor suffering a full loss. The investor can claim Loss Relief on the net loss.

Amount invested	£10,000
Income Tax relief claimed	£3,000
Amount received	£0
<b>Net loss</b>	<b>£7,000</b>

### How do Investors claim Loss Relief?

Investors can claim Loss Relief through their annual SA108 Self Assessment form (which may be completed online or in paper form). In the tax year ended 2023, whether choosing to claim the relief against Income Tax or CGT, the loss is claimed for within the Capital Gains Tax Summary section of the Self Assessment tax return.

When making the claim, investors must provide sufficient information about the claim within the tax return. As a minimum this must include:

- The name of the company that issued the shares
- The company registration number (or overseas equivalent) of the company that issued the shares
- The country of incorporation of the company that issued the shares (plus the country of tax residency if different)
- The country of tax residency of the company that issued the shares (if different to the country of incorporation)
- The date when the allowable loss arose
- If the relief is being claimed for multiple tax years, a statement of the tax year for which the deduction is to be made first

Investors can also use the Self Assessment form to repay any Income Tax relief as required. Claiming Loss Relief through Self Assessment could effectively reduce the investor's tax liability for that tax year. In cases where the investor has already paid too much Income Tax, they can use their Self Assessment to request that HMRC refunds the difference directly into their bank account.

### How do investors repay Income Tax relief that has been claimed when an investment hasn't been held for the full three years and exits at a partial loss?

To repay Income Tax relief, investors must inform HMRC within 60 days of the disposal of the EIS shares.



Self-assessment tax return form available at: [SA108](#)  
For more information see: [How and when to claim the relief](#)

*If an investor earns over £100,000 and has a reduced personal allowance, would offsetting a loss reinstate any personal allowance, as their taxable income would then be their total income minus the loss?*

If an investor's income for the applicable tax year is £130,000, their personal allowance is reduced to nil. A £30,000 loss will reduce their income to £100,000 and as such would reinstate their personal allowance for the current tax year.

	2023 -2024
Income	£130,000
Amount taxable at 0% (personal allowance)	£0
Amount taxable at 20% (basic rate)	£37,700
Amount taxable at 40% (higher rate)	£87,440
Amount taxable at 45% (additional rate)	£4,860
Income Tax due	£44,703

Income	£130,000
Net loss on EIS investment	£30,000
Taxable Income (after loss relief)	£100,000
Amount taxable at 0% (personal allowance)	£12,570
Amount taxable at 20% (basic rate)	£37,700
Amount taxable at 40% (higher rate)	£49,730
Income Tax due	£27,432
<b>Income Tax saving</b>	<b>£17,271</b>

## References

HS286

[View here](#)

Calculating the allowable loss

[View here](#)

How the relief is given

[View here](#)

Claim to set loss from share disposal against income

[View here](#)

How and when to claim the relief

[View here](#)

Negligible value claims

[View here](#)

When is Disposal Relief not due

[View here](#)

SA108

[View here](#)

# Risks

Due to the potential for losses, the Financial Conduct Authority (FCA) considers this investment to be high risk.

## What are the FCA key risks?

### 1 - You could lose all the money you invest

If the business you invest in fails, you are likely to lose 100% of the money you invested. Most start-up businesses fail.

### 2 - You are unlikely to be protected if something goes wrong

Protection from the Financial Services Compensation Scheme (FSCS), in relation to claims against failed regulated firms, does not cover poor investment performance. Try the FSCS investment protection checker (<https://www.fscs.org.uk/check/investment-protection-checker>).

Protection from the Financial Ombudsman Service (FOS) does not cover poor investment performance. If you have a complaint against an FCA-regulated firm, FOS may be able to consider it. Learn more about FOS protection (<https://www.financial-ombudsman.org.uk/consumers>).

### 3 - You won't get your money back quickly

Even if the business you invest in is successful, it may take several years to get your money back. You are unlikely to be able to sell your investment early.

The most likely way to get your money back is if the business is bought by another business or lists its shares on an exchange such as the London Stock Exchange. These events are not common.

If you are investing in a start-up business, you should not expect to get your money back through dividends. Start-up businesses rarely pay these (<https://www.financial-ombudsman.org.uk/consumers>).

### 4 - Don't put all your eggs in one basket

Putting all your money into a single business or type of investment for example, is risky. Spreading your money across different investments makes you less dependent on any one to do well.

A good rule of thumb is not to invest more than 10% of your money in high-risk investments (<https://www.fca.org.uk/investsmart/5-questions-ask-you-invest>).

### 5 - The value of your investment can be reduced

The percentage of the business that you own will decrease if the business issues more shares. This could mean that the value of your investment reduces, depending on how much the business grows. Most start-up businesses issue multiple rounds of shares.

These new shares could have additional rights that your shares don't have, such as the right to receive a fixed dividend, which could further reduce your chances of getting a return on your investment.

If you are interested in learning more about how to protect yourself, visit the FCA's website (<https://www.fca.org.uk/investsmart>).

# Important Information

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Any decision to invest in this service should be made on the basis of the information contained in the Blackfinch Ventures EIS Portfolios Brochure and the terms and conditions. Prospective investors must rely on their own examination of the legal, taxation, financial and other consequences of investing and the risk involved.

Prospective investors should not treat the contents of this guide as advice relating to legal, taxation or other matters. If they are in any doubt about the proposal discussed in this guide, its suitability, or what action should be taken, they should consult their own professional advisers.

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For more guides, case studies and resources, please don't hesitate to contact your local Blackfinch Business Development Manager.

## A *lifetime* investment partner

Blackfinch offers a number of investment solutions, to address a range of client objectives.

No matter where they are in their investment journey, from starting out in building their wealth, through to managing their estate to ensure they pass on as much as possible to the next generation, we are here to help you achieve their goals.

