



TAX-ADVANTAGED VENTURE CAPITAL SCHEMES – STREAMLINING THE ADVANCE ASSURANCE SERVICE

ICAEW welcomes the opportunity to comment on the consultation document [Tax-advantaged venture capital schemes – streamlining the advance assurance service](#), published by HMRC on 5 December 2016.

This response of 1 February 2017 has been prepared on behalf of ICAEW by the Corporate Finance Faculty, with input from the Tax Faculty.

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MAJOR POINTS

1. ICAEW welcomes the opportunity to comment on HMRC's consultation document [Tax-advantaged venture capital schemes – streamlining the advance assurance service](#) published on 5 December 2016. Our response draws on the experience of members acting as advisers, investors (including co-investors) and tax agents, and that represent businesses seeking finance through all three tax-advantaged schemes.
2. Our members, and the businesses they represent, advise or invest in, greatly value the advance assurance service provided by HMRC and the Small Companies Elections and Claims (SCEC) team. Indeed the service is considered integral to the success of fundraising through tax-advantaged schemes. Withdrawal of the service could prevent many businesses from achieving funding, growing and become established.
3. The increase in use of the schemes combined with the pressure on HMRC resources have created strains on the process. A bigger market, in particular since the introduction of the Seed Enterprise Investment Scheme (SEIS), and frequent changes to the legislation may have contributed to some 'boundary pushing'. Action clearly needs to be taken to ensure improved delivery and, in our view, adopting Options 4 and 6 in the consultation paper will be a good start.
4. We encourage HMRC to ensure that the SCEC team is adequately resourced, and to concentrate on streamlining the service by
 - publishing criteria that do not require clearance (a safe haven listing);
 - introducing standard documentation;
 - publishing overdue guidance on VCT.
5. We note that, at this stage, HMRC does not intend to charge for the advance assurance service. A post-implementation review of the impact of streamlining measures should be carried out in due course. There may be a case for more analysis to assess the implications of charging a fee, such as on the access to finance via a tax-advantaged scheme to the smallest businesses.

RESPONSES TO SPECIFIC QUESTIONS

Q1: In what context are you responding to this consultation?

6. ICAEW's response draws on the experience and views of members practicing in corporate finance or tax, including advisers, tax agents, investors and representatives of businesses seeking finance through tax-advantaged schemes.

Q2: What tax-advantaged scheme or schemes have you used?

7. Our members use and advise on all of the tax-advantaged schemes that this consultation document relates to.

Q3: What would be the impact of increasing response times, including any increase in costs and/or any administrative burdens?

8. Statistics reveal that, in the past three tax years, some 84% of EIS applications are processed in the year received. Complex changes were introduced in the Finance Act 2015 but, notwithstanding, this compares with an over 90% process rate in all but one of the tax years since 2006/7. Complexity and increased demand, without corresponding increase in HMRC resource, have led to longer response times.
9. The biggest 'cost' of long response times stems from uncertainty. Uncertainty dampens both investor activity and the agility of what should often be fast-moving businesses. Both these

outcomes have a detrimental effect on growth and employment because of missed investment opportunities or ineffective operations and, in extreme cases, business failure.

10. The direct costs of slow responses times would probably be fairly minor, although may likely increase with the length of delay. Given the seasonality of the reliefs, any delay would cause particular problems at the end of the tax year. Administrative costs from delays may also be quite small, although numerous rounds of follow-up correspondence with HMRC can prove costly to the business.
11. Demand for the service is growing and further increases in the response times will just fuel uncertainty. This rules out adopting Option 1's "do nothing" approach.

Q4: What would be the impact of withdrawing the advance assurance service?

12. The advance assurance service is considered integral to the success of fundraising through tax-advantaged schemes. For this reason and the ones below, we would not support Option 2's approach of withdrawal of the service.
13. Withdrawing the advance assurance would result in reduction in the use of the schemes and valid funding of businesses. Probably worse would be a rise in disputed cases because of the complex rules, which would create further strain on HMRC and taxpayer resource.
14. Many companies use professional advisers to help them to determine if they are eligible for the relief. Notwithstanding this, investors want to see evidence of advance assurance having been received from HMRC. They may place greater reliance on this than they would on confirmation from the company's advisers that relief will be available. Moreover, without HMRC clearance, advisers would most likely need to caveat their opinion.
15. For smaller companies and those in the SEIS territory, being obliged to obtain a professional opinion is quite likely to be unaffordable and may result in an application not being made.

Q5: How could the advance assurance service be changed to focus on cases where there is greatest uncertainty? Please provide details of the impact on your business, particularly any increase in costs and/or administrative burdens.

16. Our members would support the publication by HMRC of a safe haven listing of features which do not require companies to apply for advance assurance.
17. Any constraint on companies seeking advance clearance will cause difficulty in some situations. There may be particular sensitivity if the service becomes unavailable to companies who were given access to it in the past. The issues that continue to warrant clearance should be informed by the SCEC team's experience of factors leading to applications processes being rejected, including any examples of 'boundary pushing'.

Q6: In what way could the advance assurance service be limited to discrete aspects of the rules? Please provide details of the impact on your business, particularly any increase in costs and / or administrative burdens.

18. To expect HMRC to review every aspect of an application is not economically viable and often duplicates work already performed by professional advisers. There should continue to be provision in the system, however, that allows for some questions.
19. A safe haven listing will enable SCEC to respond merely on the doubtfully compliant areas, which would be more efficient than the current system. Applicants should reasonably be expected to be able to judge uncontentious issues and to determine where guidance is appropriate.
20. Our members would support Option 4. Advance assurance on discrete aspects could focus on rules that require particularly complicated or extensive disclosure in applications; for example,

the qualifying trade and new product/service/market rules. As mentioned in our response to Q5, an analysis of the typical factors that lead to applications processes being rejected will help identify further discrete aspects.

Q7: How would a standard set of approved documents assist you? Would you be prepared to cooperate in devising a standard set of documents? Please provide details of any savings in costs and/or administrative burdens from using standard documents?

21. Option 6 of having a standard set of approved documents would be very useful and we would encourage the development of these.
22. Standard documents would provide a simple, clear and cost effective route to compliant schemes. This measure will work well, coupled with the safe haven listing. Benefits of a standard set of documents would include a marked reduction in professional costs and in the SCEC team's initial review time.
23. ICAEW members would be happy to assist HMRC in the development of these documents.

Q8: Do you have any other suggestions to improve our advance assurance service?

24. Publication of VCT guidance, with links to legislation, is long overdue.
25. Publication of a checklist of common errors and issues that requires completion before an advance approval application is accepted by HMRC, would result in improved application documents and help reduce workload.
26. There should be consistency in requests by HMRC for additional information to be provided, more clarity as to how additional; information will help HMRC judge whether the applicant meets the scheme's requirements, and more recognition of the applicant's stage of growth when making a request. We were concerned to have heard, for example, of a start-up business being required to provide a three-year cashflow forecast.
27. These measures should help improve the quality of applications, reduce the time taken to process them and reduce the rate of rejections as a percentage of applications processed.