

Consultation Response – Revenue (Ireland)

Targeted Review of the General Block Exemption Regulation (GBER)

Introduction

The Office of the Revenue Commissioners (Revenue) is Ireland's Tax and Customs administration and serves the community by fairly and efficiently collecting taxes and implementing customs controls. Among the tax reliefs and schemes administered by Revenue are those that aim to encourage individuals to provide equity-based risk finance to trading companies. Such schemes, which fall under Article 21 of GBER, allow for the provision of risk finance investment in SMEs in the state from investors. Relief is then available against the income tax liabilities of those investors. As such, Revenue is concerned with the administration of these schemes under Article 21 of GBER. Revenue would welcome more clarity around certain aspects of the proposed revisions to GBER as they relate to Article 21 which is detailed further in the below comments.

Articles 21 and 21a

On review of the proposed amendments to GBER, Revenue notes that Article 21 will be split into two sections; Article 21 and Article 21a.

With regard to Article 21, Revenue notes that this now refers to risk finance provided via Financial Intermediaries, with Article 21a referring to risk finance tax incentive to individuals.

The information contained in the proposed Article 21 is largely the same as that contained in the existing Article 21. Revenue notes that the changes to this article are largely in relation to references in the existing Article 21 to "*financial intermediaries*" and "*independent private investors*". The change appears to be due to the division of Article 21 into the two sections stated above.

Article 21(3)(b)

There is now differentiation between innovative entities and other SMEs in this provision. Revenue notes that entities classed as innovative have been linked to the definition of "*innovation*" as it is contained within GBER. Revenue would welcome clarity on those entities wherein the timeframe is classed as starting from "*registration*". Revenue notes that the explanatory note accompanying the proposal for the targeted GBER revision states that "*registration*" is defined also. It would be helpful to specify where this definition is contained.

Article 21(4)(b)

Revenue notes that there has been no change in the wording regarding the necessity for the business plan to contain details of the possibility of follow-on risk finance investment. Revenue would welcome a clearer understanding on the minimum detail required to meet this condition.

This provision is broad and open to interpretation. It would be useful to understand if the Commission would deem a simple non-descriptive statement to be sufficient, for example; "The company intends to raise further investment in the coming years", or if a more detailed, informed plan is envisaged.

Revenue notes that paragraph 15 still requires details of product, sales and profitability development, establishing ex-ante financial viability. It would be useful if a similar description could be provided in the article for the level of detail required to support actual intent existing to raise follow-on risk finance investment.

Article 21a(4)

Revenue notes that Article 21a(4) specifies that investments directly to an eligible undertaking from a private investor can only be for the acquisition of full-risk ordinary shares issued by an eligible undertaking.

Revenue would welcome confirmation if it is then the case that, for investments through a financial intermediary (now contained in Article 21), there is no requirement for shares to be ordinary shares and that any type of shares are acceptable for investments through a financial intermediary. Revenue notes that the new Article 21 is silent on this.

Revenue would also welcome detail on the rationale for differentiating between the types of shares dependent on where the investment in the underlying entity is coming from and also for specifying that they must be only ordinary shares for private investors.

Article 21a(5)

Revenue would welcome a clearer understanding of the purpose of this provision. It appears to be unclear if this provision is intended to place caps on the level of tax relief that investor can receive where that investment in the underlying entity comes directly from an independent private investor; or if it is intended to place caps on the amount of investment that an eligible undertaking can raise through private investors. It would be beneficial if this could be made clearer in the provision.