

## EIS losses - case studies

Synopsis: EIS losses and what happens on death

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Enterprise investment scheme (EIS) investors may be eligible for...

- 30% income tax relief (assuming they have enough income tax liability in the current or preceding tax year);
- Up to 24% capital gains tax (CGT) deferment;
- Inheritance tax (IHT) Business Relief exemption after two years of holding the qualifying shares or sooner if eligible for reinvestment relief.

Note that, from 6 April 2026, there are new restrictions on the level of Business Relief and Agricultural Relief that can be claimed.

A 100% rate of relief will continue to apply for the first £2.5 million of combined qualifying Agricultural and Business assets and, thereafter, relief will be at 50%. Also, for all qualifying unquoted shares that are traded on a recognised stock exchange, such as AIM shares, the rate of relief halved to 50% from 6 April 2026. The value of those shares will, however, not be taken into account in determining the extent to which the £2.5 million allowance has been used.

The value of other qualifying assets automatically receiving 50% relief (such as assets owned personally and used in the business of a qualifying trading company) will also not use up the £2.5 million allowance.) A full list of recognised stock exchanges can be found [here](#).

Holding a portfolio of unquoted shares listed on AIM has been a long-standing estate planning technique, particularly for older clients who are unable or unwilling to make gifts (perhaps due to access requirements) or who are concerned that they may not live the seven years required to make an inheritance tax saving. Such shares will now only benefit from 50% relief.

If death occurs prior to the liquidation of the EIS shares there are a number of key considerations...

- 30% income tax relief is not clawed back;
- IHT Business Relief exemption would apply (at up to 100% on £2.5 million; 50% on the remainder), worth up to 40% in IHT, if the shares have been held for at least two years or sooner if reinvestment relief is claimed. The shares become qualifying for reinvestment relief as soon as the new company is trading;
- As a CGT liability ceases on death, the up to 24% CGT deferment will also be eliminated on death.

Therefore, it is worth noting that if death occurs and all the above reliefs are secured the combined tax relief could be up to 94%.

The 94% figure is based on 30% income tax relief, 24% CGT and 40% IHT. Of course, the income tax relief may not be as much as 30%, the CGT may not be as much as 24%, and the IHT saving will not necessarily be at 40%.

For example, the IHT saving may be nil, even though the shares qualify for 100% Business Relief and have been owned for two years, if the investor dies leaving all their assets (including the EIS shares) to a UK long-term resident spouse or civil partner, or a registered charity.

Alternatively, the investor might not be long-term UK resident or not have an estate that exceeds the £325,000 nil rate band (or £650,000 with the transferable nil rate band, or even £1,000,000 with full Residential Nil Rate Band entitlement). So, there are a number of possible permutations.

On death, ownership of the EIS shares will transfer as part of dealing with the administration of the estate. The new owners will inherit the shares at the deemed probate value. They will now be treated as a secondary asset which means that the loss relief which would have been eligible to the original investor is no longer available.

If the EIS shares are liquidated with an effective loss the beneficiaries will not be able to apply loss relief, however they will be able to qualify for a CGT loss.

#### Case study 1: Ben

- Investment £100,000
- Income tax relief secured £30,000 (30%)
- Death after 12 months with no Business Relief secured
- Value of EIS shares at date of death £90,000

On the original £100,000 investment Ben would have secured up to £30,000 income tax relief and his beneficiaries would have inherited £90,000 EIS Shares. The EIS liquidates and the share value is £0.

Therefore, his beneficiaries will have a £90,000 loss which they can offset against future gains indefinitely if registered within four years after the end of the tax year in which the loss occurred.

Investor income tax relief	£30,000
Investor IHT Business Relief based upon £90,000 EIS value on death	£0
<b>Total investor reliefs</b>	<b>£30,000</b>

Beneficiaries inherit EIS	£90,000
EIS liquidation value	£0
Beneficiaries' loss carry forward	£90,000
Beneficiary CGT based upon higher rate tax liability @ 24%	£21,600
<b>Total beneficiary reliefs</b>	<b>£21,600</b>

Original investment	£100,000
Minus liquidation value	£0
Minus investor reliefs	£30,000
Minus beneficiary reliefs	£21,600
<b>Total return / (loss)</b>	<b>(£48,400)</b>

#### Case study 2: Mike

- Investment £100,000
- Income tax relief secured £30,000 (30%)
- Death after 24 months with Business Relief secured
- Value of EIS shares at date of death £90,000

On the original £100,000 investment Mike would have secured up to £30,000 income tax relief and on death would have saved up to £36,000 IHT liability. His beneficiaries would have inherited £90,000 EIS Shares. The EIS liquidates and the share value is £0.

Therefore, his beneficiaries will have a £90,000 loss which they can offset against future gains indefinitely if registered within four years after the end of the tax year in which the loss occurred.

Investor income tax relief	£30,000
Investor IHT Business Relief based upon £90,000 EIS value on death, and an IHT liability @ 40%	£36,000
Investor CGT	£0
Investor loss relief	£0
<b>Total investor reliefs</b>	<b>£66,000</b>

Beneficiaries inherit EIS	£90,000
EIS liquidation value	£0
Beneficiaries' loss carry forward	£90,000
Beneficiary CGT based upon higher rate tax liability @ 24%	£21,600
<b>Total beneficiary reliefs</b>	<b>£21,600</b>

Original investment	£100,000
Minus liquidation value	£0
Minus investor reliefs	£66,000
Minus beneficiary reliefs	£21,600
<b>Total return / (loss)</b>	<b>(£12,400)</b>

### Case study 3: Catherine

- Investment £100,000
- Income tax relief secured £30,000 (30%)
- Death after 24 months with Business Relief secured
- CGT deferred on residential property £24,000 (24%)
- Value of EIS shares at date of death £90,000

On the original £100,000 investment Catherine would have secured up to £30,000 income tax relief, on death, would have saved up to £36,000 IHT liability and deferred maximum CGT liability £24,000. Her beneficiaries would have inherited

£90,000 EIS shares. The EIS liquidates and the share value is £0. Therefore, her beneficiaries will have a £90,000 loss which they can offset against future gains indefinitely if registered within four years after the end of the tax year in which the loss occurred.

Investor income tax relief	£30,000
Investor IHT Business Relief based upon £90,000 EIS value on death, and an IHT liability @ 40%	£36,000
Investor CGT	£24,000
Investor loss relief	£0
<b>Total investor reliefs</b>	<b>£90,000</b>

Beneficiaries inherit EIS	£90,000
EIS liquidation value	£0
Beneficiaries' loss carry forward	£90,000
Beneficiary CGT based upon higher rate tax liability @ 24%	£21,600
<b>Total beneficiary reliefs</b>	<b>£21,600</b>

Original investment	£100,000
Minus liquidation value	£0
Minus investor reliefs	£94,000
Minus beneficiary reliefs	£21,600
<b>Total return / (loss)</b>	<b>£15,600</b>

All of the above examples assume that other business or agricultural assets are not using up the individual's £2.5 million allowance.

### **In summary**

On death, ownership of the EIS shares will transfer as part of dealing with the administration of the estate. The loss relief which would have been eligible to the original investor is no longer available. EISs offer a variety of reliefs designed to encourage investors to accept the risks associated with such an investment.

Each scenario and resulting outcome is dependent on the precise circumstances and whilst the above is a guide highlighting the value of obtaining the combined key three reliefs (income tax, CGT and IHT Business Relief), the beneficiaries, however, only have the ability to carry forward losses.

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