



EARLY STAGE INNOVATION COMPANIES

Investors in Early Stage Innovation Companies can take advantage of some very attractive tax benefits

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Tax Incentives for Early Stage Investors

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Overview of Tax Incentives for Investors

- 20% non-refundable carry forward tax offset (capped at \$200,000)
- Capital gains may be disregarded where qualifying shares are continuously held for at least 12 months and less than 10 years (capital losses must be disregarded)
 - Market value step up after 10 years

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Qualifying for the Tax Incentives

- Must not be trust, partnership, widely held company or 100% subsidiary of widely held company
- Must be issued with shares in the company that are equity interests
- The company must be an ESIC
- Investor and company are not affiliates of each other
- Shares are not issued under an ESS
- Investor does not hold more than 30% of equity interests in the company or connected company

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Qualifying for the Tax Incentives

- Where an investor is not a “sophisticated investor”, the maximum amount that can be invested is \$50,000 during an income year in order to still access the tax offset

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Qualifying as an ESIC

- Incorporation in Australia
 - Company must have been incorporated in Australia within the last 3 income years; or
 - Company was registered on the ABR within the last 3 income years; or
 - Company was incorporated in Australia within the last 6 income years, and total expenses of the company and its 100% subsidiaries did not exceed \$1m over the last 3 income years
- Total expenses of the company and 100% subsidiaries did not exceed \$1m in the previous income year
- Total assessable income of the company and 100% subsidiaries did not exceed \$200,000 in the previous income year
- The company is not listed on any stock exchange
- The company satisfies one of the innovation tests:
 - 100 point innovation test
 - Principles based test

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Considerations for the Investor

- Investor bears the risk of incorrectly claiming the tax offset
- Prudent to ensure the company satisfies the requirements of an ESIC at the relevant time
 - Contractual warranties
 - Due diligence
 - Where company is relying on principles based test, has the company obtained a ruling from the ATO?



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Questions?

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