



Public Consultation Paper

Employment and Investment Incentive (EII)

Start-Up Refunds for Entrepreneurs (SURE)

Start-Up Capital Initiative

1. Introduction

The Employment and Investment Incentive (EII) is a tax incentive initiated in 2011 providing tax relief of up to 40% in respect of investments made in certain corporate trades. Initial tax relief of 30% of the amount invested is provided with a further potential 10% available three years after the initial investment should certain criteria on employment or R&D be met. The main objective of EII is to provide SMEs and start-ups with an alternative source of funding and to support the creation and retention of employment in SMEs across the economy.

The Start-Up Refunds for Entrepreneurs (SURE) scheme replaced the Seed Capital Scheme and is a tax incentive scheme targeted at those looking to set up a new company who were previously in PAYE employment or were recently unemployed. The SURE scheme provides tax relief in the form of a refund of PAYE tax paid by claimants of up to 41% of the capital invested in the new business. The SURE scheme aims to act as a source of finance to assist people to start their own businesses.

The Start-up Capital Incentive (SCI). Under the SCI, companies can raise up to €500,000 from investors who are connected with current shareholders. To qualify for the SCI the company must:

- be a micro-enterprise (being one with 10 or fewer employees and one whose annual turnover and/or annual balance sheet total does not exceed €2 million);
- carry on a brand new business, and not one that was acquired, in whole or in part, from anyone else;
- be a stand-alone business (the founders must not have other similar businesses); and
- be less than 7 years old.

2. Consultation Process

This written consultation will run until Friday 24 May 2019.

How to Respond

The preferred means of response is by email to: EIIconsultation@finance.gov.ie.

Alternatively, you may respond by post to:

EII/SURE/SCI Public Consultation,

Room 2.2,

14-16 Merrion Row,

Department of Finance,

Government Buildings,

Upper Merrion Street,

Dublin 2 D02 R583

When responding, please indicate if you are a business, business professional, adviser, representative body or member of the public.

Freedom of Information

Responses to this consultation are subject to the provisions of the Freedom of Information Acts. The Department may receive requests for any or all information supplied as part of this process. Parties should also note that responses to the consultation will be published on the website of the Department of Finance in full.

3. Stakeholder Consultation Event

The Department intends to hold a stakeholder consultation event regarding taxation supports for SMEs on 6 June 2019 in Dublin. This event will provide an opportunity for interested parties to amplify their views and to participate in a discussion which is intended to help ensure that EII/SURE/SCI fulfil their roles.

Please indicate in your reply if you are interested in attending.

4. Background/Context to consultation

(i) 2018 Review of EII/SURE

In 2018, the Minister for Finance appointed Indecon Economic Consultants to undertake an independent review of EII and SURE, with the purpose of ensuring the efficiency and effectiveness of the incentives. The resulting report contained twelve recommendations in relation to the incentives, and was published in the Department of Finance 2018 Tax Expenditures Report¹.

The initial outcome of the review was provided for in Finance Act 2018 which brought forward a priority package of measures to address certain issues with the incentives and to increase their efficiency and effectiveness. Having taken account of the recommendations contained in the review, the Act provided for the following:

- An amended application procedure to a primarily self-certification model so as to help address the most significant problem with the current design of the schemes (which had resulted in delays in the application process);
- A consolidated and updated version of the current text of Part 16 (EII and SURE) of the Taxes Consolidation Act 1997, along with certain technical and operational enhancements to the schemes;
- A specific investor eligibility regime for investment in very small enterprises - the Start-up Capital Incentive (SCI) ; and
- An extension of EII and SURE for a further year to the end of 2021.

¹[http://www.budget.gov.ie/Budgets/2019/Documents/Tax%20Expenditures%20Report%202018%20FINAL%2017.10.18%20\(002\).pdf](http://www.budget.gov.ie/Budgets/2019/Documents/Tax%20Expenditures%20Report%202018%20FINAL%2017.10.18%20(002).pdf)

It was intended that other measures identified in the report would be examined in due course, with the potential for further amendments in future Finance Bills, following further consideration of the proposals.

(ii) State Aid considerations

The European Commission, in 2014, outlined that aid to SMEs in the form of access to finance as one of the areas which may currently avail of state aid without notifying the European Commission under GBER 78 regulations. The general requirements for a scheme to be considered compatible with the GBER were related to ensuring that the aid met certain conditions as follows:

- Serve a purpose of common interest;
- Have a clear incentive effect (this is presumed to be the case for SMEs);
- Is appropriate and proportionate;
- Is granted in full transparency and subject to a control mechanism;
- Is regularly evaluated; and
- Does not adversely affect trading conditions.

There are very detailed requirements concerning other conditions such as age of firms and the nature of investors and the amount of investment that must be met to qualify for GBER, therefore EU State aid considerations must be borne in mind in considering any options for change to the current regime.

5. Consultation Questions

Interested parties are invited to make submissions regarding: the recent changes to EII/SURE/SCI contained in Finance Act 2018; the outstanding recommendations contained in the Indecon evaluation of EII/SURE 2018; and any other matters they consider relevant. It is not necessary for your submission to address each of the questions below.

- The proposals in appendix 1.1 have already been implemented. Do you have any observations on these?
- In relation to the proposals in appendix 1.2, which would you prioritise and why?
- Do you have any further proposals?

In answering the consultation questions, respondents are asked to keep in mind the need to ensure that any proposals are consistent with EU state aid rules and the key principles of the Department of Finance Tax Expenditure Guidelines², as follows:

- What objective does the tax expenditure aim to achieve?
- What market failure is being addressed?
- Is a tax expenditure the best approach to address the market failure?
- What economic impact is the tax expenditure likely to have?
- How much is it expected to cost?

² http://www.budget.gov.ie/Budgets/2015/Documents/Tax_Expenditures_Oct14.pdf.

Appendix 1.1

Proposals for changes to EII/SURE already acted upon

The 2018 evaluation of EII/SURE by Indecon Economic Consultants³ made the following recommendations which were acted upon in Finance Act 2018:

Ref	Proposal
1	Tax relief should continue to be provided in order to facilitate funding for Irish based SMEs and Start-ups.
2	An amended enterprise investment scheme should involve a simplified application process to facilitate efficient decision making and approval should focus on confirming the eligibility of companies.
4	Applications from companies to the Revenue Commissioners should be classified as Tax Returns.
7	Restriction of non-connected parties should be eased for micro start-up enterprises.

³ <https://www.gov.ie/en/publication/10b64f-indecon-evaluation-of-eii-and-sure/>

Appendix 1.2

Proposals for changes to EII/SURE not yet acted upon

The following additional recommendations made in the evaluation were not addressed in Finance Act 2019:

Ref	Proposal
3	Confirmation that a company is eligible for relief should be final if information provided is correct and complete.
5	The requirement of tourism enterprises to have applications evaluated by Fáilte Ireland should be removed.
6	EII scheme should prioritise attraction of risk capital in sectors with greatest levels of market failure.
8	The annual investment limit should be increased for longer term EII investors and higher risk sectors and capital losses should be allowable for such investors.
9	Eligibility for EII should include an explicit condition that investors face normal commercial risks as shareholders.
10	Full Tax Relief should be provided in the year in which the investment is made and gains in the value of shares should be subject to capital gains rather than income tax.
11	The definition of research and development should be amended to add “innovation”.
12	A simplified process involving less restrictive conditions should apply for start-ups who are raising limited investments.