HMRC - VCM55360 - VCT: Requests For Advance Assurances: Overview

The advance assurance service is a non-statutory service offered by HMRC on a discretionary basis, where we may offer an opinion as to whether a prospective investment would be a qualifying investment.

In general, companies seeking an investment from a VCT should not need an advance assurance from HMRC. VCTs should be able to rely upon their professional advisers to determine if a prospective investment is qualifying or not.

VCM54360 specifies the circumstances when HMRC will not withdraw approval from a VCT should it make a non-qualifying investment.

HMRC will expect a VCT to take all reasonable steps to ensure an investment would be qualifying; for example, acting on professional advice specifying the technical basis upon which the proposed investment would meet each requirement in Chapter 4 of Part 6 ITA 2007. Provided that the VCT has taken such steps HMRC will not withdraw approval from the VCT if the investment subsequently turns out to be non-qualifying. HMRC will accept that the breach was outside the control of the VCT.

If there are genuine doubts about whether a proposed investment is qualifying, the company may seek an advance assurance from HMRC. The company must explain how it meets each condition, and draw attention in its application to each point of doubt with a full technical explanation as to why it believes the requirement is met.

The rules of confidentiality apply. Requests will be dealt with only if they come from the company’s secretary or directors or a person authorised by them to negotiate with HMRC on their behalf. Any other parties making enquiries about a company must address those enquiries to the company itself.

An advance assurance is given in respect of a particular issue of shares or securities. An assurance given in respect of one issue should not necessarily be regarded as providing assurance in respect of a different issue.

HMRC will not routinely provide an opinion on whether a company is a knowledge-intensive company. A company’s knowledge-intensive status will be considered only where the proposed investment would otherwise breach the rules for a qualifying holding.

An advance assurance will not cover the status of the VCT itself, that is, whether the investment would enable the VCT to meet the conditions for approval under section 274 ITA 2007. Those conditions depend upon the VCT’s other investments.

HMRC may decline to provide an advance assurance in certain circumstances, see VCM55400for more details.

Requests for an advance assurance should be made to the Small Company Enterprise Centre whose address and contact details are at VCM2070.

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