

R&D Tax Credits

RATES AND RULES GUIDE

2022/23

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WHAT IS R&D ENHANCED RELIEF WORTH?

SME scheme:	2022/23	2021/22
Profitable companies		
→ Additional tax relief on qualifying expenditure*	130%	130%
→ Corporation tax rate	19%	19%
→ Effective cash value of additional tax relief	24.7%	24.7%
Loss-making companies		
→ Enhanced R&D expenditure	230%	230%
→ R&D 'surrender rate' for loss-making companies	14.5%	14.5%
→ Effective cash value of R&D losses surrendered **	33.35%	33.35%

* In addition to 'normal' 100% deduction of costs

** Assumes full surrender of R&D tax losses.

Large companies scheme:	2022/23	2021/22
→ R&D Expenditure Credit (RDEC) - pre tax	13%	13%
→ Corporation tax rate	19%	19%
→ Effective cash value of RDEC post tax	10.53%	10.53%

WHICH SCHEME: SME THRESHOLDS

Maximum number of employees and either	500
Maximum turnover; or	€100 million
Maximum total gross balance sheet assets	€86 million

Figures must be considered on aggregate basis where the company has 'linked enterprises' (common control) or on a proportionate aggregation where it has 'partner enterprises' (non-controlling interests exceeding 25%)

Where a company breaches the SME threshold, a year of grace is available in most situations when a claim can still be made under the SME scheme.

But see specific rules regarding funded and subcontracted R&D.

WHAT IS R&D FOR TAX PURPOSES?

Accountancy definition, as modified by Guidelines issued by the Department for Business, Energy & Industrial Strategy

- Defined *project* which...
- seeks to achieve an *advance in science or technology* through ...
- the resolution of *scientific or technological uncertainties*.
- Activities qualifying are those which *directly contribute* to achieving the advance and resolving the uncertainties, or which fall within the definition of *Qualifying Indirect Activities* (detailed list of specific activities)

What is an “advance in science or technology?”

- An advance in *overall knowledge or capability* in a field of science or technology (not just the company’s own state of knowledge or capability, or something which is publicly available or readily deducible)
- Includes *appreciable improvements* to an existing process, material, device, product or service through scientific or technological changes, recognisable as a *genuine and non-trivial improvement* by a competent professional
- Includes use of science or technology to duplicate the effect of existing processes, materials, devices, products or services in a *new or appreciably improved way*
- May have intangible outcomes, such as new knowledge or cost improvements
- *Failed or abortive projects* can still be R&D
- Work to achieve an advance in science or technology that has already been made or attempted can still be R&D if the *details are not readily available*
- Routine analysis, copying or adaptation of an existing product, process, service or material is **NOT R&D**.

What are “scientific or technological uncertainties?”

- Exist when knowledge of whether something is scientifically possible or technologically feasible, or how to achieve it in practice, is *not readily available or deducible by a competent professional working in the field*
- Improvements, optimisations and fine-tuning which do **not materially affect the underlying science or technology** are **NOT R&D for tax purposes**.

QUALIFYING EXPENDITURE

	SME scheme	Large scheme
Eligible staffing costs (R&D proportion of wages, salaries, employer's NIC, employer's pension contributions, bonus payments, reimbursed expenses* etc. (excluding non-cash benefits in kind)	✓	✓
Externally Provided Workers (payments to third party staff provider for provision of workers involved in R&D)**	✓	✓
Consumable items (including power and water costs for R&D) and software for R&D	✓	✓
Payments to 'qualifying bodies' (e.g. universities), individuals, partnerships of individuals and non-UK bodies in respect of R&D: <ul style="list-style-type: none"> - By SME companies in respect of R&D contracted to them by third parties or otherwise subsidised - By large companies (if the R&D is undertaken on a contract basis and is contracted to the company by another large company) 		✓
Payments to subcontractors by SME companies in respect of R&D (projects not contracted to the company by third parties).***	✓	
Payments to clinical trials volunteers	✓	✓
Contributions by large companies to independent research		✓

* must be wholly, exclusively and necessarily incurred in the performance of the employee duties and have been reimbursed (i.e. not paid by the company on behalf of the employee).

** (65% eligible unless treated as a connected party staff provider).

*** (65% eligible unless treated as a connected party subcontractor).

FUNDED R&D

With limited cash reserves, companies are increasingly looking for grant funding for their development work. Even if a grant is received, additional R&D tax relief may still be available. The amount of the R&D tax relief will depend on the nature of the grant – advice should be taken.

		TYPE OF FUNDING	
		NOTIFIED STATE AID	NOT NOTIFIED STATE AID
SIZE OF COMPANY MAKING R&D CLAIM	SME	R&D claim may be made on gross costs under the Large scheme	R&D claim may be made under: SME scheme – on the costs not funded by the grant / funding Large scheme – on the costs funded by the grant / funding
	LARGE	R&D claim unaffected by funding – R&D claim can be made on the gross costs under the Large scheme	

SUBCONTRACTED R&D

The nature of the subcontracted R&D arrangement determines how (and by whom) the costs can be claimed. Although the rules can be complex, the overriding objective is simply to ensure that the two companies within the subcontracting relationship cannot both make an R&D claim for the same costs:

		SUBCONTRACTED TO (COMPANY SIZE)	
		SME (COMPANY 2)	LARGE (COMPANY 4)
SUBCONTRACTED BY (COMPANY SIZE)	SME (COMPANY 1)	Claim for subcontracted R&D made by company 1 under the SME scheme	
	LARGE (COMPANY 3)*	Claim for subcontracted R&D made by SME company 2 under the Large scheme	Claim for subcontracted R&D made by Large company 4 under the Large scheme

* Large companies subcontracting out R&D can claim those costs only if the R&D work is subcontracted out to:

- individuals;
- a partnership of individuals; or
- qualifying bodies.

CAPITAL EXPENDITURE

Capital assets acquired for R&D activities

Research and Development Allowances (RDAs) can be a useful tool to increase tax relief for assets acquired for qualifying R&D activities to the extent that they are not covered by the Annual Investment Allowance for capital allowances. They can also interact beneficially with the Patent Box tax incentive.

What it is worth:

- Up to 100% tax relief may be claimed in the year of asset purchase.
- Also applies to assets which would not normally qualify for any relief until the asset is sold (e.g. buildings in certain situations).
- R&D will often offer a way to accelerate tax relief (and tax credits).

THINGS TO REMEMBER...

Time limit

A claim for R&D tax incentives must be made within two years of the end of the accounting period in which the expenditure is incurred.

Intellectual property

The company is not required to own the intellectual property arising from its R&D in order to qualify for R&D tax incentives. However, ownership of intellectual property may be an important indicative consideration in certain situations, for example whether or not R&D is subcontracted.

Internal process improvements

Process improvements may qualify for R&D tax incentives in addition to product development work.

Failed or aborted R&D

If a company undertakes unsuccessful or abortive R&D activities, a claim for R&D tax incentives can still be made.

Patent Box

If the R&D undertaken may result in patentable technology, additional detail may be required in the R&D claim to assist with potential Patent Box tax relief.

For further information please contact:



DAVID CLIFT

Innovation Partner

01242 680000

david.clift@hazlewoods.co.uk



JEMMA VAUGHAN

Director

01242 680000

jemma.vaughan@hazlewoods.co.uk

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