

Status: Point in time view as at 22/07/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, SCHEDULE 20. (See end of Document for details)

SCHEDULES

SCHEDULE 20

Section 69(1).

TAX RELIEF FOR EXPENDITURE ON RESEARCH AND DEVELOPMENT

Modifications etc. (not altering text)

C1 Sch. 20 restricted (22.4.2003) by [Finance Act 2002 \(c. 23\)](#), [Sch. 13 para. 17\(2\)](#); S.I. 2003/1472, art. 2

PART I

ENTITLEMENT TO RELIEF

Entitlement to R&D tax relief

- 1 (1) A company is entitled to R&D tax relief for an accounting period if—
- (a) the company qualifies as a small or medium-sized enterprise in the period (see paragraph 2), and
 - (b) [^{F1}the aggregate of its qualifying R&D expenditure (see [^{F2}paragraph 3),] its qualifying sub-contracted R&D expenditure (within the meaning of paragraph 8 of Schedule 12 to the Finance Act 2002) [^{F3}and its qualifying additional SME expenditure (as defined in paragraph 10B of that Schedule)] deductible in that period is not less than]—
 - (i) [^{F4}£10,000], if the accounting period is a period of 12 months, or
 - (ii) such amount as bears to [^{F5}£10,000] the same proportion as the accounting period bears to 12 months.
- (2) For the purposes of sub-paragraph (1) a company's qualifying R&D expenditure is deductible in an accounting period if—
- (a) it is allowable as a deduction in computing for tax purposes the profits for that period of a trade carried on by the company, or
 - (b) it would have been allowable as such a deduction had the company, at the time the expenditure was incurred, been carrying on a trade consisting of the activities in respect of which it was incurred.
- (3) For the purposes of sub-paragraph (2)(a) no account shall be taken of section 401 of the Taxes Act 1988 (pre-trading expenditure treated as incurred when trading begins).
- [^{F6}(3A) For the purposes of sub-paragraph (1)(b)[^{F7}, each of the following—
- (a)] a company's qualifying sub-contracted R&D expenditure (within the meaning of paragraph 8 of Schedule 12 to the Finance Act 2002)[^{F8}, and]
 - [^{F9}(b)] a company's qualifying additional SME expenditure (as defined in paragraph 10B of that Schedule),]

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is deductible in an accounting period if it is allowable as a deduction in computing for tax purposes the profits for that period of a trade carried on by the company.]

- (4) In relation to an accounting period beginning before and ending on or after 1st April 2000, the references in sub-paragraph (1)(b)(i) and (ii) to the accounting period shall be read as references to so much of it as falls on or after that date.

Textual Amendments

- F1** Words in Sch. 20 para. 1(1)(b) substituted (24.7.2002 with effect as mentioned in s. 56 of the amending Act) by 2002 c. 23, s. 56, **Sch. 15 para. 2(1)(a)** (with **Sch. 15 para. 1(2)**)
- F2** Words in Sch. 20 para. 1(1)(b) substituted (10.7.2003) (with effect in accordance with s. 168(4)(a) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 31 para. 3(2)(a)**
- F3** Words in Sch. 20 para. 1(1)(b) inserted (10.7.2003) (with effect in accordance with s. 168(4)(a) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 31 para. 3(2)(b)**
- F4** Word in Sch. 20 para. 1(1)(b)(i) substituted (10.7.2003) (with effect in accordance with s. 168(4)(a) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 31 para. 2(2)**
- F5** Word in Sch. 20 para. 1(1)(b)(ii) substituted (10.7.2003) (with effect in accordance with s. 168(4)(a) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 31 para. 2(2)**
- F6** Sch. 20 para. 1(3A) inserted (24.7.2002 with effect as mentioned in s. 56 of the amending Act) by 2002 c. 23, s. 56, **Sch. 15 para. 2(1)(b)** (with **Sch. 15 para. 2(2)**)
- F7** Word in Sch. 20 para. 1(3A) inserted (10.7.2003) (with effect in accordance with s. 168(4)(a) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 31 para. 3(3)(a)**
- F8** Word in Sch. 20 para. 1(3A) inserted (10.7.2003) (with effect in accordance with s. 168(4)(a) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 31 para. 3(3)(b)**
- F9** Sch. 20 para. 1(3A)(b) inserted (10.7.2003) (with effect in accordance with s. 168(4)(a) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 31 para. 3(3)(c)**

Meaning of “small or medium-sized enterprise”.

- 2 (1) For the purposes of this Schedule a “small or medium-sized enterprise” means a small or medium-sized enterprise as defined in Commission Recommendation 96/280/EC of 3rd April 1996.
- (2) The Treasury may by order amend sub-paragraph (1) so as to substitute another definition of “small or medium-sized enterprise” for the definition that is for the time being effective for the purposes of this Schedule.

Modifications etc. (not altering text)

- C2** Sch. 20 para. 2 applied (with modifications) (22.4.2003) by **Finance Act 2002 (c. 23), Sch. 13 para. 5(3)(a)**; **S.I. 2003/1472, art. 2**

Qualifying R&D expenditure

- 3 (1) For the purposes of this Schedule “qualifying R&D expenditure” of a company means expenditure that meets the following conditions.
- (2) The first condition is that the expenditure is not of a capital nature.
- (3) The second condition is that the expenditure is attributable to relevant research and development (see paragraph 4) directly undertaken by the company or on its behalf.

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- [^{F10}(4) The third condition is that the expenditure—
- (a) is incurred on staffing costs (see paragraph 5),
 - (b) is incurred on [^{F11}software or consumable items] (see paragraph 6),
 - (c) is qualifying expenditure on externally provided workers (see paragraphs 8A to 8E), or
 - (d) is qualifying expenditure on sub-contracted research and development (see paragraphs 9 to 12).]
- (5) The fourth condition is that any intellectual property (see paragraph 7) created as a result of the research and development to which the expenditure is attributable is, or will be, vested in the company (whether alone or with other persons).
- (6) The fifth condition is that the expenditure is not incurred by the company in carrying on activities the carrying on of which is contracted out to the company by any person.
- (7) The sixth condition is that the expenditure is not subsidised (see paragraph 8).

Textual Amendments

- F10** Sch. 20 para. 3(4) substituted (10.7.2003) (with effect in accordance with s. 168(3)(a) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 31 para. 4](#)
- F11** Words in Sch. 20 substituted (1.4.2005) (with effect in accordance with s. 141(3)-(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 141\(2\)\(a\)](#); S.I. 2005/123, art. 2

Relevant research and development

- 4 (1) For the purposes of this Schedule “relevant research and development”, in relation to a company, means research and development—
- (a) related to a trade carried on by the company, or
 - (b) from which it is intended that a trade to be carried on by the company will be derived.
- (2) For the purposes of this Schedule research and development related to a trade carried on by the company includes—
- (a) research and development which may lead to or facilitate an extension of that trade, and
 - (b) research and development of a medical nature which has a special relation to the welfare of workers employed in that trade.

Modifications etc. (not altering text)

- C3** Sch. 20 para. 4 applied (24.7.2002 with effect as mentioned in s. 53(1) of the amending Act) by [2002 c. 23](#), s. 53, [Sch. 12 para. 17\(a\)](#)

Staffing costs

- 5 (1) For the purposes of this Schedule the staffing costs of a company are—
- [^{F12}(a) the emoluments paid by the company to directors or employees of the company, including all salaries, wages, perquisites and profits whatsoever other than benefits in kind;]

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- (b) the secondary Class 1 national insurance contributions paid by the company; and
- (c) the contributions paid by the company to any pension fund^{F13} ... operated for the benefit of directors or employees of the company.

^{F14}(1ZA)

[^{F15}(1A) In sub-paragraph (1)(c) “pension fund” means any scheme, fund or other arrangements established and maintained (whether in the United Kingdom or elsewhere) for the purpose of providing pensions, retirement annuities, allowances, lump sums, gratuities or other superannuation benefits (with or without subsidiary benefits).

In this sub-paragraph “scheme” includes any deed, agreement or series of agreements.]

- (2) The staffing costs of a company attributable to relevant research and development are those paid to, or in respect of, directors or employees directly and actively engaged in such research and development.
- (3) In the case of a director or employee partly engaged directly and actively in relevant research and development^{F16} ... —
 - ^{F17}(a)
 - ^{F17}(b)
 - (c) ^{F18} ... an appropriate proportion of the staffing costs relating to him are treated as attributable to relevant research and development.
- (4) For the purpose of sub-paragraphs (2) and (3) persons who provide services, such as secretarial or administrative services, in support of activities carried on by others, are not, by virtue of providing those services, to be treated as themselves directly and actively engaged in those activities.

Textual Amendments

- F12** Sch. 20 para. 5(1)(a) substituted (22.7.2004) (with effect in accordance with Sch. 17 para. 7(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 17 para. 7\(1\)\(a\)](#)
- F13** Words in Sch. 20 para. 5(1)(c) repealed (24.7.2002 with effect as mentioned in the note under [Sch. 40 Pt. 3\(5\)](#) of the amending Act) by [2002 c. 23, ss. 56, 141](#), [Sch. 15 para. 3\(a\)](#), [Sch. 40 Pt. 3\(5\)](#) Note
- F14** Sch. 20 para. 5(1ZA) repealed (22.7.2004) (with effect in accordance with Sch. 17 para. 7(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 17 para. 7\(1\)\(b\)](#), [Sch. 42 Pt. 2\(12\)](#)
- F15** Sch. 20 para. 5(1A) inserted (24.7.2002 with effect as mentioned in [s. 56](#) of the amending Act) by [2002 c. 23, s. 56](#), [Sch. 15 para. 3\(b\)](#)
- F16** Words in Sch. 20 para. 5(3) repealed (10.7.2003) (with effect in accordance with [s. 168\(4\)\(b\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 31 para. 5\(2\)](#), [Sch. 43 Pt. 3\(10\)](#)
- F17** Sch. 20 para. 5(3)(a) (b) repealed (10.7.2003) (with effect in accordance with [s. 168\(4\)\(b\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 31 para. 5\(3\)](#), [Sch. 43 Pt. 3\(10\)](#)
- F18** Words in Sch. 20 para. 5(3)(c) repealed (10.7.2003) (with effect in accordance with [s. 168\(4\)\(b\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 31 para. 5\(4\)](#), [Sch. 43 Pt. 3\(10\)](#)

Modifications etc. (not altering text)

- C4** Sch. 20 para. 5 applied (with modifications) (22.4.2003) by [Finance Act 2002 \(c. 23\)](#), [Sch. 13 para. 5\(3\)\(b\)](#); [S.I. 2003/1472, art. 2](#)

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F19 Expenditure on software or consumable items

Textual Amendments

F19 Sch. 20 para. 6 and cross-heading substituted (1.4.2005) (with effect in accordance with s. 141(3)-(7) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 141\(1\)](#); S.I. 2005/123, art. 2

- 6 (1) For the purposes of this Schedule expenditure on software or consumable items means expenditure on—
- (a) computer software, or
 - (b) consumable or transformable materials,
- and references to software or consumable items shall be construed accordingly.
- (2) For the purposes of this Schedule consumable or transformable materials include water, fuel and power.
- (3) Expenditure on software or consumable items is attributable to relevant research and development if the software or consumable items are employed directly in such research and development.
- (4) In the case of software or consumable items partly employed directly in relevant research and development, an appropriate portion of the expenditure on the software or consumable items is treated as attributable to relevant research and development.
- (5) For the purposes of sub-paragraphs (3) and (4), software or consumable items employed in the provision of services, such as secretarial or administrative services, in support of other activities are not, by virtue of their employment in the provision of those services, to be treated as themselves directly employed in those other activities.]

Modifications etc. (not altering text)

- C5** Sch. 20 para. 6 applied (24.7.2002 with effect as mentioned in [s. 53\(1\)](#) of the amending Act) by [2002 c. 23](#), [s. 53](#), [Sch. 12 para. 17\(c\)](#)
- C6** Sch. 20 para. 6 applied (with modifications) (22.4.2003) by [Finance Act 2002 \(c. 23\)](#), [Sch. 13 para. 5\(3\)](#) (c); S.I. 2003/1472, art. 2

Meaning of “intellectual property”

- 7 In this Schedule “intellectual property” means—
- (a) any industrial information or techniques likely to assist in—
 - (i) the manufacture or processing of goods or materials, or
 - (ii) the working of a mine, oil well or other source of mineral deposits or the winning of access thereto, or
 - (iii) the carrying out of any agricultural, forestry or fishing operations;
 - (b) any patent, trade mark, registered design, copyright, design right or plant breeder’s right; and
 - (c) any rights under the law of a country outside the United Kingdom which correspond or are similar to those falling within paragraph (b).

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Subsidised expenditure

- 8 (1) For the purposes of this Schedule a company’s expenditure is treated as subsidised—
- (a) if a notified State aid is, or has been, obtained in respect of—
 - (i) the whole or part of the expenditure, or
 - (ii) any other expenditure (whenever incurred) attributable to the same research and development project;
 - (b) to the extent that a grant or subsidy (other than a notified State aid) is obtained in respect of the expenditure;
 - (c) to the extent that it is otherwise met directly or indirectly by any person other than the company.
- (2) For the purposes of sub-paragraph (1) “notified State aid” means a State aid notified to and approved by the European Commission.
- [^{F20}For this purpose the following are not State aids—
- (a) R&D tax relief and R&D tax credits;
 - (b) tax relief under Schedule 12 to the Finance Act 2002 (tax relief for expenditure on research and development);
 - (c) tax relief and tax credits under Schedule 13 to that Act (tax relief for expenditure on vaccine research etc).]

(3) For the purposes of this Schedule a notified State aid, grant, subsidy or payment that is not allocated to particular expenditure shall be allocated to expenditure of the recipient in such manner as is just and reasonable.

Textual Amendments

F20 Sch. 20 para. 8: words and sub-sub-para. (a)-(c) substituted for words in Sch. 20 para. 8(2) (24.7.2002 with effect as mentioned in s. 56 of the amending Act) by [2002 c. 23, s. 56](#), [Sch. 15 para. 4](#)

Modifications etc. (not altering text)

C7 Sch. 20 para. 8 applied (with modifications) (22.4.2003) by [Finance Act 2002 \(c. 23\)](#), [Sch. 13 para. 5\(3\)](#) ([d](#)); [S.I. 2003/1472, art. 2](#)

[^{F21}Qualifying expenditure on externally provided workers

Textual Amendments

F21 Sch. 20 paras. 8A-8E and cross-headings inserted (10.7.2003) (with effect in accordance with s. 168(4) (c) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 31 para. 6](#)

- 8A (1) The provisions of paragraphs 8C to 8E have effect for determining the amount of the qualifying expenditure of a company (“the company”) on externally provided workers.
- (2) The provisions of sub-paragraphs (4) to (6) have effect for determining how much of any such expenditure is attributable to relevant research and development.
- (3) For the purposes of this Schedule the company incurs expenditure on externally provided workers if it makes a payment (a “staff provision payment”) to another

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person (the “staff provider”) in respect of the supply to the company, by or through the staff provider, of the services of any externally provided workers.

- (4) Qualifying expenditure on externally provided workers is attributable to relevant research and development if the externally provided workers are directly and actively engaged in such research and development.
- (5) In the case of any externally provided worker partly engaged directly and actively in relevant research and development, an appropriate proportion of the qualifying expenditure relating to him is treated as attributable to the relevant research and development.
- (6) For the purposes of sub-paragraphs (4) and (5) persons who provide services, such as secretarial or administrative services, in support of activities carried on by others, are not, by virtue of providing those services, to be treated as themselves directly and actively engaged in those activities.

Meaning of “externally provided worker”

8B For the purposes of this Schedule a person is an “externally provided worker” in relation to the company if the following conditions are satisfied—

- (a) he is an individual,
- (b) he is not a director or employee of the company,
- (c) he personally provides, or is under an obligation personally to provide, services to the company,
- (d) he is subject to (or to the right of) supervision, direction or control by the company as to the manner in which those services are provided,
- (e) his services are supplied to the company by or through the staff provider (whether or not he is a director or employee of the staff provider or of any other person),
- (f) he provides, or is under an obligation to provide, those services personally to the company under the terms of a contract between him and the staff provider,
- (g) the provision of those services does not constitute the carrying on of activities contracted out by the company.

Treatment of expenditure where company and staff provider are connected persons

8C (1) Where—

- (a) the company and the staff provider are connected persons, and
- (b) in accordance with generally accepted accounting practice—
 - (i) the whole of the staff provision payment has been brought into account in determining the staff provider’s profit or loss for a relevant period, and
 - (ii) all of the staff provider’s relevant expenditure has been so brought into account,

the whole of the payment (up to the amount of the staff provider’s relevant expenditure) is qualifying expenditure on externally provided workers.

(2) In sub-paragraph (1)—

- (a) references to the “relevant expenditure” of the staff provider are to expenditure that—

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- (i) is incurred by the staff provider in providing for the company the externally provided workers to which the staff provision payment relates,
 - (ii) is not of a capital nature, and
 - (iii) is incurred on staffing costs or agency workers' remuneration;
 - (b) a “relevant period” means a period—
 - (i) for which accounts are drawn up for the staff provider, and
 - (ii) that ends not more than twelve months after the end of the company’s period of account in which the staff provision payment is, in accordance with generally accepted accounting practice, brought into account in determining the company’s profit or loss.
 - (3) Paragraph 5 (staffing costs) applies for the purposes of determining whether the staff provider’s expenditure meets the requirements of sub-paragraph (2)(a)(iii) so far as relating to staffing costs.
- For this purpose the references in that paragraph to a company shall be read as references to the staff provider.
- (4) For the purposes of this Schedule “agency workers' remuneration”, in the case of any person who is an externally provided worker in relation to the company, means remuneration receivable by the worker under or in consequence of the contract mentioned in paragraph 8B(f)—
 - (a) that does not constitute employment income of the worker apart from Chapter 7 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (application of provisions to agency workers), and
 - (b) that is not, apart from section 134 of the Taxes Act 1988 (workers supplied by agencies), chargeable to income tax under Schedule E.
 - (5) Any apportionment of expenditure of the company or the staff provider necessary for the purposes of this paragraph shall be made on a just and reasonable basis.

Election for connected persons treatment

- 8D
- (1) The company and the staff provider may in any case jointly elect that paragraph 8C shall apply to the staff provision payments made by the company to the staff provider.
 - (2) Any such election must be made in relation to all staff provision payments paid under the same contract or arrangement.
 - (3) The election must be made by notice in writing given to the Inland Revenue.
 - (4) The notice must be given before the end of the period of two years beginning with the end of the company’s accounting period in which the contract or other arrangement is entered into.
 - (5) An election under this paragraph, once made, is irrevocable.

Treatment of staff provision payment in other cases

- 8E
- Where—
- (a) the company makes a staff provision payment,
 - (b) the company and the staff provider are not connected persons, and
 - (c) no election is made under paragraph 8D,

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65% of the amount of the staff provision payment is treated as qualifying expenditure on externally provided workers.]

Qualifying expenditure on sub-contracted research and development

- 9 (1) The provisions of paragraphs 10 to 12 have effect for determining the amount of the qualifying expenditure of a company (“the company”) on sub-contracted research and development.
- (2) For the purposes of this Schedule the company incurs expenditure on sub-contracted research and development if it makes a payment (a “sub-contractor payment”) to another person (“the sub-contractor”) in respect of relevant research and development contracted out by the company to that person.

Treatment of expenditure where company and sub-contractor are connected persons

- 10 (1) Where—
- (a) the company and the sub-contractor are connected persons, and
 - (b) in accordance with [F22 generally accepted accounting practice]—
 - (i) the whole of the sub-contractor payment has been brought into account in determining the sub-contractor’s profit or loss for a relevant period, and
 - (ii) all of the sub-contractor’s relevant expenditure has been so brought into account,the whole of the payment (up to the amount of the sub-contractor’s relevant expenditure) is qualifying expenditure on sub-contracted research and development.
- (2) In sub-paragraph (1)—
- (a) references to the “relevant expenditure” of the sub-contractor are to expenditure that—
 - (i) is incurred by the sub-contractor in carrying on, on behalf of the company, the activities to which the sub-contractor payment relates,
 - (ii) is not of a capital nature,
 - (iii) is incurred on staffing costs or on [F11 software or consumable items][F23 or is qualifying expenditure on externally provided workers], and
 - (iv) is not subsidised;
 - (b) a “relevant period” means a period
 - (i) for which accounts are drawn up for the sub-contractor, and
 - (ii) that ends not more than twelve months after the end of the company’s period of account in which the sub-contractor payment is, in accordance with [F24 generally accepted accounting practice], brought into account in determining the company’s profit or loss.
- [F25(3) For the purpose of determining whether the sub-contractor’s expenditure meets the requirements of sub-paragraph (2)(a)(iii) and (iv), the following provisions apply—
- (a) paragraph 5 (staffing costs),
 - (b) paragraph 8 (subsidised expenditure), and

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(c) paragraphs 8A to 8E (qualifying expenditure on externally provided workers),

but for that purpose the references in those paragraphs to a company shall be read as references to the sub-contractor.]

(4) Any apportionment of expenditure of the company or the sub-contractor necessary for the purposes of this paragraph shall be made on a just and reasonable basis.

Textual Amendments

- F11** Words in Sch. 20 substituted (1.4.2005) (with effect in accordance with s. 141(3)-(7) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 141\(2\)\(a\)](#); S.I. 2005/123, art. 2
- F22** Words in Sch.20 para.10(1)(b) substituted (24.7.2002) by [2002 c. 23, s. 103\(4\)\(f\)](#)
- F23** Words in Sch. 20 para. 10(2)(a)(iii) inserted (10.7.2003) (with effect in accordance with s. 168(3)(a) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 31 para. 7\(2\)](#)
- F24** Words in Sch. 20 para. 10(2)(b)(ii) substituted (24.7.2002) by [2002 c. 23, s. 103\(4\)\(f\)](#)
- F25** Sch. 20 para. 10(3) substituted (10.7.2003) (with effect in accordance with s. 168(3)(a) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 31 para. 7\(3\)](#)

Election for connected persons treatment

- 11 (1) The company and the sub-contractor may in any case jointly elect that paragraph 10 shall apply to sub-contractor payments made by the company to the sub-contractor.
- (2) Any such election must be made in relation to all sub-contractor payments paid under the same contract or other arrangement.
- (3) The election must be made by notice in writing given to the Inland Revenue.
- (4) The notice must be given before the end of the period of two years beginning with the end of the company's accounting period in which the contract or other arrangement is entered into.
- (5) An election under this paragraph, once made, is irrevocable.

Treatment of sub-contractor payment in other cases

- 12 Where—
- (a) the company makes a sub-contractor payment, ^{F26} . . .
- [^{F27}(b) the company and the sub-contractor are not connected persons, and
- (c) no election is made under paragraph 11,]
- 65% of the amount of the sub-contractor payment is treated as qualifying expenditure on sub-contracted research and development.

Textual Amendments

- F26** Word in Sch. 20 para. 12(a) repealed (24.7.2002) by [2002 c. 23, s. 141, Sch. 40 Pt. 3\(5\)](#) Note
- F27** Sch. 20 para. 12(b)(c) substituted for para. 12(b) (24.7.2002 with effect as mentioned in [s. 56](#) of the amending Act) by [2002 c. 23, s. 56, Sch. 15 para. 5](#)

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PART II

MANNER OF GIVING EFFECT TO RELIEF

Deduction in computing profits of trade

- 13 Where—
- (a) a company is entitled to R&D tax relief for an accounting period,
 - (b) it is carrying on a trade in that period, and
 - (c) it has qualifying R&D expenditure that is allowable as a deduction in computing for tax purposes the profits of the trade for that period,
- it may (on making a claim) treat that qualifying R&D expenditure as if it were an amount equal to 150% of the actual amount.

Alternative treatment of pre-trading expenditure

- 14 (1) This paragraph applies where a company—
- (a) is entitled to R&D tax relief for an accounting period, and
 - (b) has incurred qualifying R&D expenditure in that accounting period which—
 - (i) is not allowable as a deduction in computing, for tax purposes, the profits of a trade that was carried on by it at the time the expenditure was incurred, but
 - (ii) would have been so allowable had the company, at that time, been carrying on a trade consisting of the activities in respect of which the expenditure was incurred.
- (2) The company may elect to be treated as if it had incurred a trading loss in the accounting period equal to 150% of the amount of that qualifying R&D expenditure.
- (3) Where an election is made under this paragraph in respect of the accounting period, section 401 of the Taxes Act 1988 (relief for pre-trading expenditure) does not apply to that qualifying R&D expenditure.
- (4) An election under this paragraph must specify the accounting period in respect of which it is made.
- (5) The election must be made by notice in writing to the Inland Revenue.
- (6) The notice must be given before the end of the period of two years beginning with the end of the company's accounting period to which the election relates.

Entitlement to R&D tax credit

- 15 (1) A company may claim an R&D tax credit for an accounting period in which it has a surrenderable loss.
- (2) A company has a "surrenderable loss" for this purpose if in an accounting period—
- (a) paragraph 13 applies and the company incurs a trading loss in that period in the trade mentioned in sub-paragraph (1)(b) of that paragraph, or
 - (b) paragraph 14 applies and the company is treated under that paragraph as incurring a trading loss.
- (3) The amount of the surrenderable loss is equal to—

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- (a) so much of that trading loss as is unrelieved, or
 - (b) if less, 150% of the related qualifying R&D expenditure.
- (4) For this purpose the amount of a trading loss that is “unrelieved” means the amount of that loss reduced by the amount of—
- (a) any relief that was or could have been obtained by the company making a claim under section 393A(1)(a) of the Taxes Act 1988 to set the loss against profits of whatever description of the same accounting period,
 - (b) any other relief obtained by the company in respect of the loss, including relief under section 393A(1)(b) of that Act (losses set against profits of an earlier accounting period), and
 - (c) any loss surrendered under section 403(1) (surrender of relief to group or consortium members) of that Act.
- (5) No account shall be taken for this purpose of any losses—
- (a) brought forward from an earlier accounting period under section 393(1) of the Taxes Act 1988, or
 - (b) carried back from a later accounting period under section 393A(1)(b) of that Act.

Amount of credit

- 16 (1) The amount of the R&D tax credit to which a company is entitled for an accounting period is an amount equal to—
- (a) 16% of the amount of the surrenderable loss for the period, or
 - (b) if less, the total amount of the company’s PAYE and NICs liabilities for payment periods ending in the accounting period.
- (2) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1)(a) such other percentage as they think fit.
- (3) An order under sub-paragraph (2) may make such incidental, supplemental, consequential and transitional provision as the Treasury think fit.

Total amount of company’s PAYE and NICs liabilities

- 17 (1) For the purposes of paragraph 16 the total amount of the company’s PAYE and NICs liabilities for a payment period is the total of—
- (a) the amount of income tax for which the company is required to account to the Inland Revenue for that period under the PAYE regulations, disregarding any deduction the company is authorised to make in respect of [^{F28}child tax credit or working tax credit], and
 - (b) the Class 1 national insurance contributions for which the company is required to account to the Inland Revenue for that period, disregarding any deduction the company is authorised to make in respect of payments of statutory sick pay, statutory maternity pay, [^{F28}child tax credit or working tax credit].
- (2) A “payment period” means a period which ends on the 5th day of a month and for which the company is liable to account for income tax and national insurance contributions to the Inland Revenue.

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Textual Amendments

- F28** Words in Sch. 20 para. 17(1)(a)(b) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 59; S.I. 2003/962, art. 2(3)(d)(iii)

Modifications etc. (not altering text)

- C8** Sch. 20 para. 17 applied (24.7.2002 with effect as mentioned in Sch. 13 para. 28(1) of the amending Act) by 2002 c. 23, s. 54, Sch. 13 para. 17(5)
- C9** Sch. 20 para. 17 applied (22.4.2003) by Finance Act 2002 (c. 23), Sch. 13 para. 17(5); S.I. 2003/1472, art. 2

Payment in respect of R&D tax credit

- 18 (1) Where—
- (a) the company is entitled to an R&D tax credit for an accounting period, and
 - (b) makes a claim,
- the Inland Revenue shall pay to the company the amount of the credit.
- (2) An amount payable in respect of—
- (a) an R&D tax credit, or
 - (b) interest on an R&D tax credit under section 826 of the Taxes Act 1988,
- may be applied in discharging any liability of the company's to pay corporation tax, and to the extent that it is so applied the Inland Revenue's obligation under subparagraph (1) is discharged.
- (3) Where the company's company tax return for the accounting period is enquired into by the Inland Revenue, no payment in respect of an R&D tax credit for that period need be made before the Inland Revenue's enquiries are completed (see paragraph 32 of Schedule 18 to the ^{M1}Finance Act 1998).
- In those circumstances the Inland Revenue may make a payment on a provisional basis of such amount as they think fit.
- (4) No payment need be made in respect of an R&D tax credit for an accounting period before the company has paid to the Inland Revenue any amount that it is required to pay for payment periods ending in that accounting period—
- (a) under the PAYE regulations, or
 - (b) in respect of Class 1 national insurance contributions.

Marginal Citations

- M1** 1998 c. 36.

Restriction on losses carried forward

- 19 (1) For the purposes of section 393 of the Taxes Act 1988 (relief of trading losses against future trading profits), a company's trading loss for a period for which it claims an R&D tax credit is treated as reduced by the amount of the loss surrendered.
- (2) The amount of the loss surrendered is—

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- (a) where the maximum amount of R&D tax credit was claimed, the whole of the surrenderable loss for that period;
- (b) where less than the maximum amount was claimed, a corresponding proportion of the surrenderable loss for that period.

The “maximum amount” here means the amount specified in paragraph 16(1)(a).

Payment in respect of R&D tax credit not income

- 20 A payment in respect of an R&D tax credit is not income of the company for any tax purposes.

PART III

SUPPLEMENTARY PROVISIONS

Artificially inflated claims for deduction or R&D tax credit

- 21 (1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it shall be disregarded in determining for an accounting period the amount of—
- (a) any relief to which a company is entitled under paragraph 13 or 14, and
 - (b) any R&D tax credit to which a company is entitled.
- (2) Arrangements are entered into wholly or mainly for a “disqualifying purpose” if their main object, or one of their main objects, is to enable a company to obtain—
- (a) relief under paragraph 13 or 14 to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled; or
 - (b) an R&D tax credit to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled.
- (3) In this paragraph “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

Restriction on consortium relief

- 22 Where—
- (a) the company claims relief under paragraph 13 or 14 in respect of an accounting period, and
 - (b) at any time during that period the company is owned by a consortium at least one of the members of which is a company which is not a small or medium-sized enterprise,
- no amount in respect of that period may be surrendered by the company, for the purposes of a claim to group relief under section 402(3) of the Taxes Act 1988 (group relief available where surrendering company owned by consortium), to any other company that is not a small or medium-sized enterprise.

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Treatment of deemed trading loss

- 23 (1) This paragraph applies where under paragraph 14 (alternative treatment of pre-trading expenditure) a company is treated as incurring a trading loss in an accounting period (“the accounting period”).
- (2) The trading loss may not be set off against profits of a preceding accounting period under section 393A(1)(b) of the Taxes Act 1988 unless the company is entitled to R&D tax relief under paragraph 14 above for that earlier period.
- (3) If the company begins, in the accounting period or a later period, to carry on a trade which falls within sub-paragraph (4), then—
- (a) subject to paragraph 19 (restriction on losses carried forward), and
 - (b) to the extent that—
 - (i) the company has not obtained relief in respect of the trading loss under any other provision, and
 - (ii) the loss has not been surrendered under section 403(1) of the Taxes Act 1988 (surrender of relief to group or consortium members),the loss shall be treated as if it were a loss of that trade brought forward under section 393 of the Taxes Act 1988 (relief of trading losses against future trading profits).
- (4) A trade falls within this sub-paragraph if it is derived from the research and development in relation to which the R&D tax relief in question was obtained under paragraph 14.

Funding of R&D tax credits

- 24 Section 10 of the ^{M2}Exchequer and Audit Departments Act 1866 (gross revenues to be paid to Exchequer) shall be construed as allowing the Commissioners of Inland Revenue to deduct payments for or in respect of R&D tax credits before causing the gross revenues of their department to be paid to the accounts mentioned in that section.

Marginal Citations

M2 1866 c. 39.

Interpretation

- 25 (1) In this Schedule—
- “the Inland Revenue” means any officer of the Board;
 - “national insurance contributions” means contributions under Part I of the ^{M3}Social Security Contributions and Benefits Act 1992 or Part I of the ^{M4}Social Security Contributions and Benefits (Northern Ireland) Act 1992;
 - ^{F29} . . .
 - “PAYE regulations” means regulations under section 203 of the Taxes Act 1988;
 - “payment period” has the meaning given in paragraph 17(2);
 - “research and development” has the meaning given by section 837A of the Taxes Act 1988; and

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“surrenderable loss” has the meaning given in paragraph 15(2).

- (2) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this Schedule.
- (3) For the purposes of this Schedule a company not within the charge to corporation tax which incurs qualifying R&D expenditure is treated as having such accounting periods as it would have if—
 - (a) it carried on a trade consisting of the activities in respect of which the expenditure is incurred, and
 - (b) it had started to carry on that trade when it started to carry on relevant research and development.

Textual Amendments

F29 Definition in Sch. 20 para. 25(1) repealed (24.7.2002) by [2002 c. 23, s. 141, Sch. 40 Pt. 3\(16\)](#)

Marginal Citations

M3 [1992 c. 4.](#)

M4 [1992 c. 7.](#)

Transitional provisions

- 26 (1) This Schedule does not apply to expenditure incurred before 1st April 2000.
- (2) For this purpose no account shall be taken of section 401 of the Taxes Act 1988 (pre-trading expenditure treated as incurred when trading begins).

Status:

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Changes to legislation:

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