

SCHEDULES

SCHEDULE 20

TAX RELIEF FOR EXPENDITURE ON RESEARCH AND DEVELOPMENT

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.

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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—
- (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

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any deduction the company is authorised to make in respect of the working families' tax credit or disabled person's 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, working families' tax credit or disabled person's 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.

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 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.

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—
- (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.

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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.