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Changes to legislation: Finance Act 2003, SCHEDULE 31 is up to date with all changes known to be in force on or before 27 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 31

Section 168

TAX RELIEF FOR EXPENDITURE ON RESEARCH AND DEVELOPMENT

PART 1

SMALL AND MEDIUM-SIZED ENTERPRISES: SCHEDULE 20 TO FINANCE ACT 2000

Introductory

- 1 Schedule 20 to the Finance Act 2000 (c. 17) (tax relief for expenditure on research and development by small and medium-sized enterprises) is amended in accordance with the following provisions of this Part of this Schedule.

Required minimum aggregate expenditure: reduction from £25,000 to £10,000

- 2 (1) Paragraph 1 (entitlement to R&D tax relief) is amended as follows.
- (2) In sub-paragraph (1)(b) (requirement for minimum aggregate expenditure of £25,000 or time apportioned part of that amount) in sub-paragraphs (i) and (ii) for “£25,000” substitute “ £10,000 ”.

Commencement Information

- II** Sch. 31 para. 2 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

Required minimum aggregate expenditure: inclusion of new class of expenditure

- 3 (1) Paragraph 1 is also amended as follows.
- (2) In sub-paragraph (1)(b) (requirement for minimum aggregate expenditure)—
- (a) for “paragraph 3) and” substitute “ paragraph 3), ”; and
 - (b) after “Finance Act 2002)” insert “ and its qualifying additional SME expenditure (as defined in paragraph 10B of that Schedule) ”.
- (3) In sub-paragraph (3A) (meaning of “deductible” in relation to qualifying sub-contracted R&D expenditure)—
- (a) after “(1)(b)” insert “, each of the following—
 - (a) ”;
 - (b) after “Finance Act 2002)” insert “, and ”; and
 - (c) after the paragraph (a) so formed, insert the following paragraph—
 - “(b) a company’s qualifying additional SME expenditure (as defined in paragraph 10B of that Schedule),”.

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Commencement Information

- I2** Sch. 31 para. 3 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

Qualifying R&D expenditure: expenditure on externally provided workers

- 4 In paragraph 3 (qualifying R&D expenditure) for sub-paragraph (4) (the third condition, that the expenditure is incurred on staffing costs or consumable stores or is qualifying expenditure on sub-contracted research and development) substitute—
- “(4) The third condition is that the expenditure—
- (a) is incurred on staffing costs (see paragraph 5),
 - (b) is incurred on consumable stores (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).”.

Commencement Information

- I3** Sch. 31 para. 4 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

Staffing costs: persons partly engaged directly and actively in relevant R&D

- 5 (1) In paragraph 5 (staffing costs) sub-paragraph (3) (person partly engaged in relevant research and development) is amended as follows.
- (2) In the opening words, omit “the following rules apply”.
- (3) Omit paragraphs (a) and (b) (person spending less than 20% or more than 80% of total working time on relevant research and development).
- (4) In paragraph (c), omit “in any other case,”.

Commencement Information

- I4** Sch. 31 para. 5 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

Qualifying expenditure on externally provided workers

- 6 After paragraph 8 (subsidised expenditure) insert—

“Qualifying expenditure on externally provided workers

- 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.

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- (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 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

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- (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—
 - (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.

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- (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,
- 65% of the amount of the staff provision payment is treated as qualifying expenditure on externally provided workers.”

Commencement Information

- I5** Sch. 31 para. 6 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

Qualifying expenditure on sub-contracted R&D: externally provided workers

- 7 (1) Paragraph 10 (treatment of qualifying expenditure on sub-contracted research and development where company and sub-contractor are connected persons) is amended as follows.
- (2) In sub-paragraph (2)(a) (relevant expenditure of sub-contractor) in sub-paragraph (iii) after “on consumable stores” insert “ or is qualifying expenditure on externally provided workers ”.
- (3) For sub-paragraph (3) (which applies paragraphs 5 and 8) substitute—
- “(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
 - (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.”

Commencement Information

- I6** Sch. 31 para. 7 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

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PART 2

LARGE COMPANIES: PART 1 OF SCHEDULE 12 TO FINANCE ACT 2002

Introductory

- 8 Part 1 of Schedule 12 to the Finance Act 2002 (c. 23) (entitlement to R&D relief: large companies) is amended in accordance with the following provisions of this Part of this Schedule.

Required minimum aggregate expenditure: reduction from £25,000 to £10,000

- 9 (1) Paragraph 1 (entitlement to relief under Part 1 of the Schedule) is amended as follows.
- (2) In sub-paragraph (1)(b) (requirement for minimum qualifying R&D expenditure of £25,000 or time apportioned part of that amount) in sub-paragraphs (i) and (ii) for “£25,000” substitute “ £10,000 ”.

Qualifying expenditure on externally provided workers

- 10 In paragraph 4 (qualifying expenditure on direct research and development) for sub-paragraph (3) (the second condition, that the expenditure is incurred on staffing costs or consumable stores) substitute—

“(3) The second condition is that the expenditure—

- (a) is incurred on staffing costs,
- (b) is incurred on consumable stores, or
- (c) is qualifying expenditure on externally provided workers.”.

PART 3

WORK SUB-CONTRACTED TO SMES: PART 2 OF SCHEDULE 12 TO FINANCE ACT 2002

Introductory

- 11 Part 2 of Schedule 12 to the Finance Act 2002 (c. 23) (entitlement to relief for R&D expenditure: work sub-contracted to small or medium-sized enterprise) is amended in accordance with the following provisions of this Part of this Schedule.

Required minimum aggregate expenditure: reduction from £25,000 to £10,000

- 12 (1) Paragraph 7 (entitlement to relief under Part 2 of the Schedule) is amended as follows.
- (2) In sub-paragraph (1)(b) (requirement for minimum R&D expenditure of £25,000 or time apportioned part of that amount) in sub-paragraphs (i) and (ii) for “£25,000” substitute “ £10,000 ”.

Required minimum aggregate expenditure: inclusion of new class of expenditure

- 13 (1) Paragraph 7 is also amended as follows.

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- (2) In sub-paragraph (2) (meaning of “aggregate R&D expenditure”) omit the word “and” immediately preceding paragraph (b) and at the end of that paragraph add “, and
- (c) its qualifying additional SME expenditure (see paragraph 10B).”.

R&D directly undertaken by SME: qualifying expenditure on externally provided workers

- 14 In paragraph 9 (expenditure on research and development directly undertaken by SME) for sub-paragraph (2) (the second condition, that the expenditure must be incurred on staffing costs or consumable stores) substitute—
- “(2) The second condition is that the expenditure—
- (a) is incurred on staffing costs,
- (b) is incurred on consumable stores, or
- (c) is qualifying expenditure on externally provided workers.”.

PART 4

ENTITLEMENT OF SME TO CERTAIN RELIEF AVAILABLE TO LARGE COMPANIES

Insertion of Part 2A of Schedule 12 to the Finance Act 2002

- 15 After Part 2 of Schedule 12 to the Finance Act 2002 (entitlement to relief for R&D expenditure: work sub-contracted to small or medium-sized enterprise) insert the following Part—

“PART 2A

ENTITLEMENT OF SME TO ADDITIONAL RELIEF AVAILABLE TO LARGE COMPANIES

Entitlement to relief under this Part

- 10A (1) A company (“the SME”) is entitled to tax relief under this Part for an accounting period if—
- (a) it qualifies as a small or medium-sized enterprise in that period, and
- (b) its aggregate R&D expenditure for that period is not less than—
- (i) £10,000, if the accounting period is a period of 12 months, or
- (ii) such amount as bears to £10,000 the same proportion as the accounting period bears to 12 months.
- (2) Sub-paragraphs (2) and (3) of paragraph 7 (meaning of “aggregate R&D expenditure” and “for an accounting period”) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- (3) Any relief to which a company is entitled under this Part for an accounting period is in addition to any relief to which it may be entitled under—
- (a) Schedule 20 to the Finance Act 2000, or

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(b) Part 2 of this Schedule.

Qualifying additional SME expenditure

- 10B For the purposes of this Schedule, the SME’s “qualifying additional SME expenditure” is any expenditure which—
- (a) had the SME been a large company throughout the accounting period in question, would have been qualifying R&D expenditure of that company (see paragraph 3), but
 - (b) is not qualifying R&D expenditure for the purposes of Schedule 20 to the Finance Act 2000 (see paragraph 3 of that Schedule) in the case of the SME by reason only of paragraph 3(7) or 10(2)(a)(iv) of that Schedule (subsidised expenditure, within the meaning given by paragraph 8 of that Schedule); and
 - (c) is not qualifying sub-contracted R&D expenditure for the purposes of this Schedule (see paragraph 8) in the case of the SME.”.

PART 5

SUPPLEMENTARY: AMENDMENTS TO PARTS 3 TO 6 OF SCHEDULE 12 TO FINANCE ACT 2002

Introductory

- 16 Parts 3 to 6 of Schedule 12 to the Finance Act 2002 (c. 23) are amended in accordance with the following provisions of this Part of this Schedule.

Deduction in computing profits of trade

- 17 (1) Paragraph 11 is amended as follows.
- (2) In sub-paragraph (1) (application of paragraph) for “Part 1 or 2” substitute “ Part 1, 2 or 2A ”.
 - (3) In sub-paragraph (3) (meaning of “qualifying expenditure”) omit the word “and” immediately preceding paragraph (b) and at the end of that paragraph insert “, and
 - (c) in the case of relief under Part 2A, qualifying additional SME expenditure (see paragraph 10B).”.

Refunds of contributions to independent research and development

- 18 In paragraph 15(1) (refunds of certain payments) omit the word “or” immediately preceding paragraph (c) and at the end of that paragraph insert “, or
 - (d) any expenditure which is qualifying additional SME expenditure.”.

Meaning of “qualifying expenditure on externally provided workers”

- 19 (1) Paragraph 17 (which applies certain definitions from Schedule 20 to the Finance Act 2000 (c. 17)) is amended as follows.
- (2) Omit the word “and” immediately preceding paragraph (c).

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- (3) At the end of paragraph (c) add “; and
(d) paragraphs 8A to 8E (qualifying expenditure on externally provided workers).”.
- (4) The heading to the paragraph accordingly becomes—

“Meaning of “relevant research and development”, “staffing costs”, “consumable stores” and “qualifying expenditure on externally provided workers”
”.

PART 6

EXPENDITURE ON VACCINE RESEARCH ETC: SCHEDULE 13 TO FINANCE ACT 2002

Introductory

- 20 Schedule 13 to the Finance Act 2002 (tax relief for expenditure on vaccine research etc) is amended in accordance with the following provisions of this Part of this Schedule.

Reduction of required qualifying expenditure from £25,000 to £10,000

- 21 (1) Paragraph 1 (entitlement to relief under the Schedule) is amended as follows.
- (2) In sub-paragraph (1) (requirement for minimum qualifying expenditure of £25,000 or time apportioned part of that amount) in paragraphs (a) and (b) for “£25,000” substitute “£10,000”.

Commencement Information

- 17 Sch. 31 para. 21 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

Direct research and development: qualifying expenditure on externally provided workers

- 22 In paragraph 3 (qualifying expenditure on direct research and development) for sub-paragraph (5) (the fourth condition, that the expenditure is incurred on staffing costs or consumable stores) substitute—

“(5) The fourth condition is that the expenditure—

- (a) is incurred on staffing costs,
(b) is incurred on consumable stores, or
(c) is qualifying expenditure on externally provided workers.”.

Commencement Information

- 18 Sch. 31 para. 22 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

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Meaning of “qualifying expenditure on externally provided workers”

- 23 (1) Paragraph 5(3) (which applies certain definitions in Schedule 20 to the Finance Act 2000 (c. 17)) is amended as follows.
- (2) Omit the word “and” immediately preceding paragraph (d).
- (3) In paragraph (d), for “(subsidised expenditure),” substitute “ (subsidised expenditure); and ”.
- (4) After paragraph (d) insert the following paragraph—
 “(e) paragraphs 8A to 8E (qualifying expenditure on externally provided workers),”.
- (5) The heading to paragraph 5 accordingly becomes—

“Meaning of “relevant R&D”, “small or medium-sized enterprise”, “staffing costs”, “consumable stores”, “subsidised” and “qualifying expenditure on externally provided workers”
 ”.

Commencement Information

- 19** Sch. 31 para. 23 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), [art. 2](#)

Relevant expenditure of sub-contractor: qualifying expenditure on externally provided workers

- 24 In paragraph 9 (relevant expenditure of sub-contractor) for sub-paragraph (3) (the second condition, that the expenditure must be incurred on staffing costs or consumable stores) substitute—

- “(3) The second condition is that the expenditure—
- (a) is incurred on staffing costs,
 - (b) is incurred on consumable stores, or
 - (c) is qualifying expenditure on externally provided workers.

In applying for the purposes of this sub-paragraph (by virtue of paragraph 5 above)—

paragraph 5 of Schedule 20 to the Finance Act 2000 (meaning of “staffing costs”), or

paragraphs 8A to 8E of that Schedule (qualifying expenditure on externally provided workers),

the references to the company shall be read as references to the sub-contractor.”.

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Commencement Information

I10 Sch. 31 para. 24 has effect as specified by [The Finance Act 2003, Section 168 \(Appointed Day\) Order 2003 \(S.I. 2003/2497\)](#), **art. 2**

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