



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 13

#### ADDITIONAL RELIEF FOR EXPENDITURE ON RESEARCH AND DEVELOPMENT

#### CHAPTER 2

#### RELIEF FOR SMES: COST OF R&D INCURRED BY SME

#### *Amount of tax credit*

#### **[<sup>F1</sup>1058D] Exceptions to tax credit cap**

- (1) This section applies (and accordingly, section 1058(1)(aa) does not apply) in relation to a company for an accounting period if the company meets conditions A and B.
- (2) A company meets condition A for an accounting period if, during the period, the company is engaged in—
  - (a) taking, or preparing to take, steps in order that relevant intellectual property will be created by it,
  - (b) creating relevant intellectual property, or
  - (c) performing a significant amount of management activity in relation to relevant intellectual property it holds.
- (3) For the purposes of subsection (2)—
  - (a) a company is only engaged in an activity mentioned in paragraph (a), (b) or (c) of subsection (2) if the activity is wholly or mainly undertaken by employees of the company;
  - (b) intellectual property is “relevant” intellectual property in relation to a company if the whole or the greater part (in terms of value) of it is created by the company;

*Status: Point in time view as at 01/04/2021. This version of this provision has been superseded.*

*Changes to legislation: Corporation Tax Act 2009, Section 1058D is up to date with all changes known to be in force on or before 13 September 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)*

- (c) intellectual property is created by a company if it is created in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).
- (4) For the purposes of this section—
- “intellectual property” means—
- (a) any patent, trade mark, registered design, copyright, design right or plant breeder's right,
  - (b) any rights under the law of a country or territory outside the United Kingdom which correspond or are similar to those falling within paragraph (a), or
  - (c) any information or technique not protected by a right within paragraph (a) or (b) but having industrial, commercial or other economic value;
- “management activity”, in relation to intellectual property, means formulating plans and making decisions in relation to the development or exploitation of the intellectual property.
- (5) A company meets condition B for an accounting period if the amount given by subsection (6) (if any) does not exceed 15% of the company's qualifying Chapter 2 expenditure (see section 1051) for the period.
- (6) The amount given by this subsection is the sum of the following incurred by the company in the period—
- (a) qualifying expenditure on externally provided workers (see section 1127), where the company, the staff provider and (if different) the staff controller (or staff controllers)—
    - (i) are all connected (see section 1129), or
    - (ii) have jointly elected (under section 1130) that section 1129 is to apply to them as if they were all connected;
  - (b) qualifying expenditure on contracted out research and development (see section 1053) where the company and the sub-contractor—
    - (i) are connected (see section 1134), or
    - (ii) have jointly elected (under section 1135) that section 1134 is to apply to them as if they were connected.
- (7) The Treasury may by regulations replace the percentage for the time being specified in subsection (5) with a different percentage.]

#### Textual Amendments

- F1** Ss. 1058A-1058D inserted (with effect in accordance with Sch. 3 para. 4 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 3 para. 3](#)

**Status:**

Point in time view as at 01/04/2021. This version of this provision has been superseded.

**Changes to legislation:**

Corporation Tax Act 2009, Section 1058D is up to date with all changes known to be in force on or before 13 September 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.