

Finance (No.2) Bill 2023

Representation from the Association of Taxation Technicians (ATT)

Clause 10 and Schedule 1: Relief for research and development

Executive Summary

A new requirement for certain companies to notify HMRC of their intention to claim R&D tax relief is unlikely to reduce abuse. Instead, it could prevent genuine claimants from accessing the relief to which they are otherwise entitled.

The commencement date of the requirement for additional information to be submitted in support of R&D relief claims has been brought forward significantly. A concerted education and information campaign is required to ensure that genuine claimants are not prevented from claiming relief due to a lack of awareness of this change.

Overall, the current and proposed pace and scale of change in the R&D relief regime is hard for taxpayers and their advisers to keep up with. Rather than introducing further changes this year, alterations to the regime should be paused until a clearer picture is available as to its future.

1. Background

1.1 Clause 10 and Schedule 1 introduce a number of changes to the research and development (R&D) relief scheme for small and medium sized companies (the 'SME scheme') and the R&D Expenditure Credit ('RDEC') scheme, which is mainly used by larger companies.

1.2 These changes include two administrative measures:

- A requirement for certain companies to make a 'claim notification' within six months of the end of the period in respect of which they wish to claim R&D relief (Part 1 of Schedule 1)
- A requirement to provide 'additional information' in relation to R&D claims on or before the date a claim is submitted (Part 3 of Schedule 1).

1.3 Below we set out our concerns regarding these new measures, as well as the overall pace and scale of change to the R&D relief regimes.

2. Claim notification

2.1 For accounting periods beginning on or after 1 April 2023, if a company wishes to claim R&D relief under either the SME or RDEC schemes, they will be required to submit a claim notification to HMRC within six months of the end of that accounting period. However, a claim notification will not be required if the company has claimed under either scheme in the last three years.

2.1 This requirement was first proposed as a way of tackling abuse of the R&D relief schemes in the HM Treasury *R&D Tax Reliefs Report*¹ published in November 2021. However, as set out

¹ <https://www.gov.uk/government/publications/rd-tax-reliefs-report>

Finance (No.2) Bill 2023 ATT Representation

in our response² to that report, we believe that claim notification is likely to affect the ability of companies undertaking genuine R&D to access the relief to which they are otherwise entitled, whilst doing little to reduce abuse. The House of Lords Economic Affairs Finance Bill Sub-Committee report *Research and Development tax relief and expenditure credit*³ published in January this year supported this view.

2.2 Small and new companies, which are often most in need of the support offered by R&D relief, are the most likely to miss the six month deadline for claim notification. Such businesses often lack dedicated in house tax or R&D expertise, and may be focused on shorter term goals, getting products to market etc. They might not appreciate the opportunity for R&D relief sufficiently far in advance to meet the claim notification deadline, and may not be able to afford timely professional advice.

2.3 It does not seem at all equitable that a company carrying out genuine R&D activity and incurring qualifying expenditure should be excluded from relief solely on the grounds of whether they are practically able to notify HMRC by a certain time. There is already a statutory time limit which applies to the making of R&D claims (broadly two years from the end of the period), and it seems unreasonable to introduce another, earlier notification time limit as well.

2.4 We therefore think that this requirement should be dropped, especially in light of the wider changes to the R&D relief regime currently being planned (see section 4 below).

3 Additional information

3.1 Whilst the provision of additional information in support of R&D relief claims is not, in itself, unreasonable, we are concerned that this requirement will now take effect much earlier than originally planned.

3.2 In draft guidance released for consultation on 20 December 2022⁴ it was proposed that the additional information requirement would take effect for accounting periods beginning on or after 1 April 2023. As a result, the first submissions of additional information would be unlikely to occur until 2024.

3.3 However, Schedule 1 confirms that additional information will now need to be submitted in respect of any claim made on or after 1 August 2023 (regardless of the accounting period).

3.4 We are concerned that this change could catch out businesses and their advisers who are either unaware of it or thought they would have longer to prepare. If the required additional information is not submitted by the time the corporation tax return is filed, any R&D claim will not be allowed. A lack of awareness of this change could therefore see genuine claimants unable to access the tax relief to which they are otherwise entitled.

3.5 It will be essential for HMRC to undertake a comprehensive education and information campaign in the run up to 1 August, to ensure that all affected parties are aware of the requirement.

² <https://www.att.org.uk/sites/default/files/220208%20R%26D%20Tax%20Reliefs%20Report%20-%20ATT%20comments.pdf>

³ <https://committees.parliament.uk/committee/230/finance-bill-subcommittee/news/185805/lords-committee-publishes-report-on-research-and-development-tax-relief-and-expenditure-credit>

⁴ <https://www.gov.uk/government/consultations/draft-guidance-research-and-development-rd-tax-reliefs>

4. Pace and scale of change in the R&D relief regimes

- 4.1 The measures discussed above are just a selection of the changes being made to R&D relief this year, which also include a reduction in the rate of relief available under the SME scheme and the introduction of enhanced relief for 'R&D intensive' SMEs announced at the Spring Budget.
- 4.2 In addition, HMRC and HM Treasury launched a consultation⁵ in January 2023 looking at combining the SME and RDEC schemes into a new, single R&D relief scheme from as early as 1 April 2024.⁵
- 4.3 Taken together, this is a large volume of change for businesses and advisers to adapt to within a short period of time. It also creates an overall feeling of uncertainty and makes it hard to plan. Businesses and advisers are concerned about making changes to their processes to accommodate administrative updates, when the whole R&D regime could be replaced in under a year. There is a real risk this uncertainty will discourage the R&D processes which the tax relief is designed to promote.
- 4.4 We would therefore like to see the reduction in the SME relief rate and the administrative reforms planned for this year paused until there is a clearer picture on the future of the R&D relief regime as a whole. To give businesses certainty, and allow them to plan and budget accordingly, a clear roadmap for reform should also be published.

Association of Taxation Technicians

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Note:

The Association of Taxation Technicians

The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has over 9,500 members and Fellows together with over 6,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively

⁵ <https://www.gov.uk/government/consultations/rd-tax-reliefs-review-consultation-on-a-single-scheme>.