

HM REVENUE AND CUSTOMS
CONSULTATION

R&D Tax Reliefs - Draft guidance

Submission by: National Centre for
Universities and Business (NCUB)

Date: February 2023



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Introduction

1. The National Centre for Universities and Business (NCUB) represents a collective voice of leaders across business and higher education that promotes, develops and supports business-university collaboration across the UK.
2. This input is in response to HMRC's draft guidance for companies claiming R&D tax reliefs to be included in the Finance Bill 2023. Our comments are based on policy positions set out in prior NCUB publications and discussions with both NCUB university and business members.
3. In summary, NCUB understands the Government's intention behind guidance aimed at tackling abuse and improving compliance and notes the Government's ongoing consultation to merge the two existing R&D schemes into one. The draft guidance was intended to bring clarity and certainty to businesses for whom R&D tax incentives are a key part of financing their innovations. Below, we highlight where there remain question marks around what these compliance requirements will look like in practice and the potential administrative burden of the e-filing and advanced notification requirements on genuine R&D claimants. The details hoped for in some areas (such as the guidance for qualifying overseas expenditure and the extent of additional documentation) were not included in the draft, and it is hoped that the final set of guidance will be more comprehensive on these issues. Finally, we urge HMRC to consider further how the restrictions on overseas workers will likely affect claimants, particularly in different sectors.
4. Given the additional administrative burden on companies, it is therefore important that the differentiated impact of the reforms on smaller companies and particularly in different sectors is acknowledged and any resulting impact on R&D investment in affected sectors monitored. It may become necessary for example, to develop sector specific interventions and guidance or alternative measures to ensure that the UK remains a competitive place to conduct R&D in all sectors.

Response

Role of R&D tax reliefs in the research and innovation system

5. R&D tax reliefs are an important mechanism to encourage private investment and are generally valued by business. In the UK, science and innovation sits at the heart of the UK Government's economic growth strategy. R&D tax credits form a significant part of that. In 2019, UK companies claimed tax relief on £47.5bn of R&D expenditure¹. It is understood that the Government wants to ensure that the scheme is effective and

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/103734/8/RD_Tax_Reliefs.pdf

represents value for money. NCUB has previously argued for the further enhancement of both the level of R&D tax relief and the effectiveness of the scheme designs². We comment below on the draft guidance and suggest additional changes that we believe would improve implementation and guidance for companies affected by these reforms.

NCUB comments on the draft guidance

Qualifying overseas expenditure (QOE)

1. HMRC is looking to restrict the eligibility of qualifying activities as part of the design of a single R&D tax credit regime. While it would be impractical and limiting to attempt to define all activities that will be eligible under these exemptions, it is likely that ongoing guidance and advice will be necessary to help businesses identify eligible exemptions. Disappointingly, the guidance provides limited and potentially restrictive examples when illustrating how QOE will work in practice (e.g. R&D related to volcanoes or tropical diseases not prevalent in the UK).
2. The guidance on reforms relating to externally provided workers (EPWs) and subcontractors list is not exhaustive and the examples provided do not include factors relating to the availability of skilled workers to undertake R&D. In the short term this is likely to create greater uncertainty as to what could be seen as meeting these criteria. Clarification within the draft guidance to specify which circumstances this would apply, would be welcome.

Claim notification and additional information

3. Although we appreciate the Government's ambition to tackle abuse, the increase in scrutiny of claims and level of documentation required is likely to increase the administrative burden for R&D intensive SMEs and startups carrying out legitimate claims and, in turn, negatively impact their appetite to qualify.
4. Specifically, the requirement for a company to pre-notify HMRC of its intention to make a claim may have a significant impact on new claimants by adding extra burden. Where SMEs and smaller firms do not have robust time/project internal data capture systems to identify overseas workers readily and where granular data gathering exercises (e.g. invoices and contracts) will be required to substantiate the location of the third party worker, it may affect a claimant's appetite to qualify.

Any further requirements for 'additional information' that may be required in future should be reviewed to ensure that they are not overly onerous and so do not diminish the attractiveness of the scheme.

² https://www.ncub.co.uk/wp-content/uploads/2021/10/5403_NCUB_CSR_Report_V3.pdf