

## Relief for key employees engaged in Research and Development activities

### Part 15-01-40

This Manual should be read in conjunction with Section 472D of the Taxes Consolidation Act (TCA) 1997

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A more recent version of this manual is available.

## 1. Introduction

This Manual outlines the relief for key employees engaged in research and development (“R&D”) activities under Section 472D TCA 1997.

Section 472D TCA 1997, which applies for the tax year 2012 and subsequent years, allows key employees engaged in R&D activities to avail of the R&D tax credit (or part thereof) to which their employer company is entitled (under section 766 TCA 1997) and which is surrendered by the company in favour of such key employees.

Where the R&D tax credit is to be used by key employees, the key employees can use it only as a credit against income tax charged on their income from the employment with that employer. The relief under section 472D does not impact on an employee’s liability to the Universal Social Charge (USC) or to PRSI.

A key employee cannot avail of a section 472D credit if the effective rate of income tax on his or her total income (including the income of his or her spouse or civil partner) for the tax year of claim is 23% or less. However, where, before claiming the credit, the employee’s effective rate of income tax is more than 23%, he or she can claim the credit to the extent that it reduces the effective rate of tax on his or her total income to not less than 23%.

The definitions used in section 472D are reproduced in the Appendix.

**Note:** While section 472D applies for 2012 and subsequent years, the first tax year for which individuals could claim the credit provided for by the section was 2013 (see examples in [Paragraph 2](#) of this Manual).

## 2. To whom does the relief apply?

Section 472D applies to ‘key employees’ engaged in R&D activities with their employer company.

A key employee means an individual who –

- is not, and has not been, a director of the relevant employer or an associated company of the relevant employer and is not connected to such a director;
- does not, and did not, have a material interest in the relevant employer or an associated company of the relevant employer and is not connected to a person who has such a material interest; and
- in the accounting period for which his or her relevant employer was entitled to claim relief for R&D expenditure under section 766(2), performed 50% or more of the duties of his or her employment in the conception or creation of new knowledge, products, processes, methods or systems.

For this purpose, a material interest in relation to a company means the beneficial ownership of or ability to control, directly or through the medium of a connected

company or connected companies or by any other indirect means, more than 5% of the ordinary share capital of the company.

In addition, in order for an individual to be a key employee, 50% or more of the cost of his or her emoluments from the relevant employer must qualify as expenditure on research and development, under section 766(1)(a), in the accounting period for which the relevant employer would be entitled to claim the R&D credit under section 766.

A relevant employer means a company that employs a key employee, and which is entitled to relief under section 766(2).

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[...]

### 3. The credit against tax charged

Where, in accordance with section 766(2A), a company surrenders a R&D tax credit (to which it is entitled) to a key employee, that employee can, subject to the restrictions set out in [Paragraph 3](#) of this Manual, claim to have the income tax charged on his or her relevant emoluments from that company for a tax year reduced by the amount surrendered.

A company will not be in a position to determine the amount of credit available for surrender before the end of their accounting period. As such, the claim for the credit can be made by an employee for a tax year, after the tax year during which the accounting period in respect of which the company surrenders the credit ends.

A 'tax year' means a year of assessment for income tax purposes, i.e. a calendar year.

**Note:** Only companies with an accounting period beginning and ending after 1 January 2012 can surrender credit to key employees.

Further information on the R&D credit can be found on [Revenue's website](#).

**Example 1**

Research Co has an accounting period that ends on 30 June 2020. Research Co surrenders credit of €20,000 from that period to Mary, a key employee. Mary is entitled to use the credit against the income tax charged on her salary from Research Co in 2021 (provided the effective rate of tax on her total income does not fall below 23%). Mary can make the claim in 2022 in respect of the 2021 credit (see [Paragraph 6](#) of this Manual regarding making a claim).

**Example 2**

Beta Co has a 12-month accounting period ending on 31 December 2020. Beta Co surrenders credit of €30,000 from that period to John, a key employee. John is entitled to use the credit against the income tax charged on his salary from Beta Co in 2021 (provided the effective rate of tax on his total income does not fall below 23%). John can make the claim in 2022 in respect of the 2021 tax credit.

Where for a tax year an employee is no longer a key employee of the company that surrendered the credit, but remains an employee of that company, he or she will still be entitled to claim the credit for that tax year provided that he or she was a key employee in the accounting period in respect of which the credit was surrendered.

**Example 3**

Using example 2 above, if in 2021 John, while remaining an employee of Beta Co, is no longer a key employee (for example he performed less than 50% of the duties of his employment in the conception or creation of new knowledge etc.) he will still be entitled to use the credit in 2021 as he was a key employee in the accounting period in respect of which the credit was surrendered (i.e. 2020). This is provided the effective rate of tax on his total income does not fall below 23% in 2021.

#### 4. Limit on relief

The amount of relief that an employee can claim in any tax year is limited by reference to his or her effective rate of tax for that year.

Before and after claiming the relief, the employee must have an effective rate of tax on his or her total income (including the income of his or her spouse or civil partner where joint assessment applies) of not less than 23%. In addition, the credit can only be offset against income tax on the emoluments from the employer who surrendered the credit. It cannot be offset against income tax due on other sources of income that the employee may have.

**Example 4**

Ben (single) is a key employee of Develop Co that has an accounting year ending on 31 December 2021. Develop Co decided to surrender €10,000 of its R&D credit for 2021 to Ben. Ben's salary for 2022 is €125,000 and he has no other source of income.

Ben seeks to claim this as a credit against the income tax on his income from Develop Co in 2022 as follows:

Salary		€125,000
Tax	€36,800 @ 20% =	€ 7,360
	€88,200 @ 40% =	<u>€35,280</u>
		€42,640
Less Personal and Employee Tax Credits		<u>€ 3,400</u>
Tax		€39,240

The tax attributable to Ben's salary from Develop Co is €39,240. This is sufficient to absorb the full credit surrendered by Develop Co of €10,000. However, Ben's effective rate of income tax must be determined to ensure that the minimum threshold of 23% is not breached.

Effective rate before the credit = 31.39% (€39,240/€125,000).

Tax	€39,240
R&D credit	<u>€10,000</u>
Tax after R&D credit	€29,240

Effective rate after the full credit = 23.39% (€29,240/€125,000). Ben can therefore use the full credit against the income tax on his salary in 2022. Ben can submit his claim from 1 January 2023.

**Example 5**

Maria (single) is also a key employee of Develop Co. The company decided to surrender €10,000 of its R&D credit for 2021 to Maria. Maria's salary for 2022 is €75,000 and she has no other sources of income.

Maria seeks to claim this as a credit against the income tax on her income from Develop Co in 2022 as follows:

Salary		€75,000
Tax	€36,800@ 20% =	€7,360
	€38,200@ 40% =	<u>€15,280</u>
		€22,640
Less Personal and Employee Tax Credits		<u>€ 3,400</u>
Tax		€19,240

The tax attributable to Maria's salary from Develop Co is €19,240. This is sufficient to absorb the full credit surrendered by Develop Co of €10,000. However, Maria's effective rate of income tax must be determined to ensure that the minimum threshold of 23% is not breached.

Effective rate before the credit = 25.65% (€19,240/€75,000).

Tax	€19,240
R&D credit	<u>€10,000</u>
Tax after R&D credit	€ 9,240

Effective rate if the full credit is utilised = 12.32% (€9,240/€75,000).

Maria cannot use the full R&D tax credit in 2022 as her effective rate would be less than 23%. She can only use so much of the R&D credit as to give a minimum effective rate of 23%. Income tax of €17,250 (€75,000 x 23%) must be charged in order to reach the minimum effective rate of 23%. Therefore, the R&D credit available to Maria in 2022 is restricted to €1,990 (€19,240 - €17,250)

The credit balance of €8,010 (i.e. €10,000 less €1,990) can be carried forward for use against income tax on her income from Develop Co in subsequent years.

**Example 6**

Sean (married) is a key employee of Beta Co, which has an accounting year ending on 31 December 2021. Beta Co decided to surrender €15,000 of its R&D credit for 2021 to Sean.

Sean seeks to claim this as a credit against the income tax on his income from Beta Co in 2022. Sean and his wife Joan are jointly assessed for tax purposes. Their joint income/liability for 2022 is as follows:

Income	Salary Beta Co. (Sean)	€130,000
	Salary Wings Co (Joan)	€80,000
	Rental income	€15,000
	Case III income	<u>€5,000</u>
	Total	€230,000
Tax	€73,600 @ 20% =	€14,720
	€156,400 @ 40% =	<u>€62,560</u>
		€77,280
Less Personal and Employee Tax Credits		€ 6,800
Tax		€70,480

In order to determine whether any restriction of the credit is required, the tax attributable to Sean's income from Beta Co must be calculated together with his effective rate of income tax.

Tax attributable to Sean's income with Beta Co:

$$\frac{€70,480 \times €130,000}{€230,000} = €39,837$$

The tax attributable to Sean's salary from Beta Co is €39,837. This is sufficient to absorb the full credit surrendered by Beta Co of €15,000. However, Sean's effective rate of income tax must also be determined to ensure that the minimum threshold of 23% is not breached.

Effective rate of tax before the R&D credit = 30.64% (€70,480/€230,000)



Tax	€70,480
R&D credit	<u>€15,000</u>
Tax after R&D credit	€55,480

Effective rate after the full R&D credit = 24.12% (€55,480/€230,000).

As the tax attributable to Sean's income from Beta Co exceeds the credit surrendered, and as the 23% effective rate test has been satisfied, Sean is entitled to use the full credit against his 2022 income tax liability. Sean can claim this relief from 1 January 2023.

### Example 7

If in example 6 above, Beta Co had instead surrendered an R&D credit of €40,000, the position would be as follows:

Tax	€70,480
R&D credit	<u>€40,000</u>
Tax after credit	€30,480

Effective rate if the full R&D credit = 13.25% (€30,480/€230,000).

Sean cannot use the full R&D tax credit in 2022 as his effective rate would be less than 23%. He can only use so much of the R&D credit as to give a minimum effective rate of 23%. Income tax of €52,900 (€230,000 x 23%) must be charged in order to reach the minimum effective rate of 23%. Therefore, the R&D credit available to Sean in 2022 is restricted to €17,580 (€70,480 - €52,900)

Sean may carry forward €22,420 (i.e. €40,000 less €17,580) of unused R&D credit to use in subsequent years against income tax on his emoluments from Beta Co.

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## 5. Carry forward of unused credit

Where, as a result of the restriction mentioned in Paragraph 3 above, a key employee cannot use the full amount of the credit surrendered by his or her employer in a tax year, the amount not used can be carried forward to reduce the income tax charged on the employment income of the next tax year and each succeeding tax year until the full credit has been used. This will apply provided that:

- (i) the individual remains an employee of the company (but not necessarily a key employee), and

- (ii) the individual passes the 23% effective rate test in each subsequent year in which credit is used, and
- (iii) the individual pays sufficient tax, on his or her income from the employment with the company that surrendered the credit, to absorb the credit carried forward.

### Example 8

Greg (single) is a key employee of XYZ Co, which has an accounting year ending on 31 December 2020. XYZ Co decided to surrender €15,000 of its R&D credit from its 2020 accounting period to Greg.

Greg seeks to claim a credit against the tax on his income from XYZ Co in 2021 as follows:

#### 2021

Salary		€115,000
Tax	€35,300 @ 20% =	€ 7,060
	€79,700 @ 40% =	<u>€31,880</u>
		€38,940
Less Personal and Employee Tax Credits		<u>€ 3,300</u>
Tax		€35,640

The tax attributable to Greg's salary from XYZ Co is €35,640. This is sufficient to absorb the full credit surrendered by XYZ Co of €15,000. However, Greg's effective rate of income tax must be determined to ensure that the minimum threshold of 23% is not breached.

Effective rate before the R&D credit = 30.99% (€35,640/€115,000).

Tax	€35,640
R&D credit	<u>€15,000</u>
Tax after credit	€20,640

Effective rate if the full R&D credit = 17.95% (€20,640/€115,000).

Greg cannot use the full R&D tax credit in 2021 as his effective rate would be less than 23%. He can only use so much of the R&D credit as to give a minimum effective rate of 23%. Income tax of €26,450 (€115,000 x 23%) must be charged in order to reach the minimum effective rate of 23%. Therefore, the R&D credit available to Greg in 2021 is restricted to €9,190 (€35,640 – €26,450).

Greg may carry forward €5,810 i.e. €15,000 less €9,190 of unused R&D credit to use in subsequent years against income tax on his emoluments from XYZ Co.

**2022**

In 2021 XYZ Co decide to surrender a further €6,000 of its R&D credit from its 2020 accounting period to Greg, who is still a key employee of the company. Greg can use this as a credit against the tax on his income from XYZ Co in 2022. He also has R&D credit carried forward to 2022 of €5,810. His 2022 tax liability is as follows:

Salary		€129,000
Car Benefit in Kind		<u>€ 9,000</u>
Total Income		€138,000
Tax	€36,800@ 20% =	€ 7,360
	€101,200@ 40% =	<u>€ 40,480</u>
		€ 47,840
Less Personal and Employee Tax Credits		<u>€ 3,400</u>
Tax		€ 44,080

The tax attributable to Greg's employment income from XYZ Co is €44,080. This is sufficient to absorb the full credit surrendered by XYZ Co of €6,000 and the credit carried forward of €5,810 (i.e. total of €11,810). However, Greg's effective rate of income tax must be determined to ensure that the minimum threshold of 23% is not breached.

Effective rate before the credit = 31.94% (€44,080/€138,000).

Tax	€44,080
R&D credit 2020 carried forward	€ 5,810
R&D credit 2021	<u>€ 6,000</u>
Tax after R&D credit	€32,270

Effective rate after the full credit = 23.35% (€32,270/€138,000).

Greg may use the full R&D credit (including the amount carried forward) in 2022 as his effective rate of income tax is 23.35% and the tax on his employment income (€44,080) can absorb the credit.

### Example 9

Leo (married) is a key employee of XYZ Co, which has an accounting year ending on 31 December. Leo has an R&D credit from 2020 (surrendered in 2019) for carry forward to 2021 of €21,500. XYZ Co. decided to surrender a further €25,500 of its R&D credit for 2020 to Leo. This gives a combined credit of €47,000 available in 2021.

Leo seeks to claim this credit against the tax on his income from XYZ Co in 2022. Leo and his wife Mary are jointly assessed for tax purposes. Their joint income/liability for 2022 is as follows:

Income	Salary XYZ Co (Leo)	€135,000
	Salary ABC Co (Mary)	€85,000
	Rental income	€14,000
	Case III income	<u>€2,000</u>
	Total	€236,000
Tax	€73,600@ 20% =	€14,720
	€162,400@ 40% =	<u>€64,960</u>
		€79,680
Less Personal and Employee Tax Credits		€6,800
Tax		€72,880

In order to determine whether any restriction of the credit is required, the tax attributable to Leo's income from XYZ Co must be calculated together with his effective rate of income tax.

Tax attributable to Leo's income with XYZ Co:

$$\begin{aligned} & \text{€72,880} \times \frac{\text{€135,000}}{\text{€236,000}} = & \text{€41,690} \end{aligned}$$

The tax attributable to Leo's salary from XYZ Co is €41,690. This is not sufficient to absorb the combined credit surrendered by XYZ Co of €25,500 and the amount carried forward of €21,500 (i.e. total credit of €47,000). Therefore, the maximum credit that Leo can claim is restricted to €41,690 (first restriction).

In addition, Leo's effective rate of income tax must be determined to ensure that the minimum threshold of 23% is not breached.

Tax	€72,880
R&D credit (restricted)	€41,690
Tax after restricted credit	€31,190

Effective rate after restricted credit (first restriction) = 13.22% (€31,190/€236,000)

Therefore, Leo cannot use the full credit remaining after the first restriction in 2022. He can only use so much of the R&D credit as to give a minimum effective tax rate of 23%. Income tax of €54,280 (€236,000 x 23%) must be charged in order to reach the minimum effective rate of 23%. Therefore, the R&D credit available to Leo in 2022 is further restricted to €18,600 (€72,880 - €54,280).

The remaining credit balance of €28,400 (i.e. €47,000 - €18,600) can be carried forward to 2023 provided Leo remains an employee of XYZ Co.

## 6. PAYE must be paid

A key employee cannot have the tax charged on his or her emoluments reduced where all tax deductible under the PAYE system by the relevant company from the employee's emoluments for a tax year is not remitted by the company to the Collector General.

This condition applies not just to a tax year in which an employee makes a claim but also to any tax year in which credit is carried forward from a previous tax year and used in the later year.

## 7. Making a claim and submitting a tax return

An employee making a claim under section 472D TCA 1997 or seeking to avail of a tax credit under the section where unused credit is carried forward is a “chargeable person” for self-assessment Pay & File purposes. Such an employee must, therefore, file a tax return for all years in which he or she avails of a tax credit under the section, and not just the first year of claim. This is particularly relevant to cases where an employee carries forward unused credit from one tax year to the next or following years.

Claims are subject to the 4-year time limit. For example, where an individual is first entitled to make a claim for the tax year 2022 (in relation to amounts surrendered by a company in 2021), then the latest time that the claim can be made is 31 December 2026. A claim for the 2022 year of assessment can be made from 1 January 2023.

## 8. Withdrawal of Relief

### 2014 and subsequent years

For the tax year 2014 and subsequent years, any tax foregone as a consequence of an employee not being entitled to an R&D credit (or part thereof) can, depending on the circumstances, be pursued with the company (under the terms of section 766 TCA 1997) and/or with the employee (under self-assessment rules).

Where it is found that a surrender claim by a company under section 766(2A) is deliberately false or overstated and that the amount surrendered is not as authorised by section 766, the company shall be liable to tax (under Case IV of Schedule D) on an amount equal to 8 times the unauthorised amount surrendered.

In circumstances where it is found that a surrender claim by a company is not deliberately false or overstated but is not authorised by section 766, the company may be liable to tax at the 25% rate of Corporation Tax (under Case IV of Schedule D) on an amount equal to 4 times the incorrect amount.

In the circumstances referred to in the previous paragraph, recovery of the relief should be sought from the employee where the employee ought to have known that no valid claim could be made under section 472D e.g. the employee is a director of the employing company or a connected company or has a material interest in the employing company or connected company. Where relief is withdrawn from an employee, there should be no need to pursue the company.

## 2013 Tax year

For the tax year 2013, any relief granted must be withdrawn from an employee if for any reason the employee was not entitled to the credit or part of the credit given under section 472D. Reasons for withdrawal of the relief would include:

- (i) an employee was not a key employee during the accounting period in respect of which the company surrendered the credit,
- (ii) the amount surrendered by the relevant company exceeded that which the company was entitled to surrender (see [Paragraph 8](#)).

Where an employee is not entitled to relief (or part of the relief), he or she must pay to the Revenue Commissioners an amount equal to the excess relief claimed.

In addition, where it is found that a surrender claim by a company is not authorised by section 766, the company may be liable to tax at the 25% rate of Corporation Tax (under Case IV of Schedule D) on an amount equal to 4 times the incorrect amount.

In the first instance, recovery of the relief should be sought from the employee. Only in situations where this proves impractical will the employer be pursued.

## 9. Changes to amount surrendered

It may happen that, on review, it is found that a company surrendered more credit than it was entitled to surrender. Where this happens for the tax year 2013, the company is obliged to inform the employee of the change to the amount.

Where the employer company fails to give details of the revised amount (known as the “relevant authorised amount”) to the key employee, such failure does not exempt the employee from having to pay to the Revenue Commissioners an amount equal to any excess relief claimed.

The above does not apply for the tax year 2014 and subsequent years. In those years, the tax foregone can be pursued with the company or the employee, as outlined in Paragraph 7 of this Manual.

## 10. Interaction with high income individual’s restriction

In the legislation dealing with the high income individual’s restriction, section 485G(4) TCA 1997 provides that:

- the calculation of a credit, which requires total income, taxable income, tax payable or tax chargeable for a year to be taken into account, must take place before the application of the restriction, but
- the benefit of such a credit is to be given against tax chargeable following the application of the restriction.

Therefore, calculation of R&D relief under section 472D should be carried out before the high income individual's restriction is applied but the benefit of the allowable amount of the R&D credit (as calculated before applying the restriction) should be given against the tax chargeable following application of the restriction.

### Example 10

Jack (single) is a key employee of ABC Co, which has an accounting year-ending on 31 December 2021. The company surrendered an R&D credit of €15,000 to Jack from its 2021 accounting period. Jack had a salary from ABC Co in 2022 of €115,000. He also had rental income in that year of €100,000, which he covered with rental losses carried forward. These losses arose from "section 23-type" relief, which is a specified relief for the purposes of the high income individual's restriction.

Jack seeks to claim the surrendered R&D amount of €15,000 as a credit against the tax on his income from ABC Co in 2022 as follows:

Salary		€115,000
Case V Income	€100,000	
Losses forward (specified reliefs)	<u>(€100,000)</u>	<u>€ NIL</u>
Total income/taxable income		€115,000
Tax	€36,800@ 20% =	€7,360
	€78,200@ 40% =	<u>€31,280</u>
		€38,640
Less Personal and Employee Tax Credits		<u>€3,400</u>
Tax		€35,240

The tax attributable to Jack's salary from ABC Co is €35,240. This is sufficient to absorb the full credit surrendered by ABC Co of €15,000. However, Jack's effective tax rate must be determined to ensure that the minimum threshold of 23% is not breached.

Effective rate before the credit = 30.64% (€35,240/€115,000)

Tax	€35,240
R&D credit	<u>€15,000</u>
Tax after credit	€20,240

Effective rate if full credit used = 17.6% (20,240/€115,000)

As Jack must have a minimum effective rate of 23%, he cannot use the full R&D tax credit in 2020. He can only use so much of the R&D credit as to give a minimum



effective rate of 23%. Income tax of €26,450 ( $€115,000 \times 23\%$ ) must be charged in order to reach the minimum effective rate of 23%. Therefore, the R&D credit available to Jack in 2022 is restricted to €8,790 ( $€35,240 - €26,450$ ).

The credit balance of €6,210 ( $€15,000 - €8,790$ ) can be carried forward for use against income tax on his income from ABC Co in subsequent years.

### Application of high income individual's restriction

Jack is subject to the high income individual's restriction for 2022 as:

- (i) his adjusted income<sup>1</sup> for the year of €215,000 is greater than €125,000, and
- (ii) his use of specified reliefs (i.e. "section 23 type" rental losses of €100,000) is greater than both -
  - the relief threshold amount of €80,000, and
  - 20% of his adjusted income ( $€215,000 \times 20\% = €43,000$ ).

His recalculated taxable income for 2022, using the formula  $T + (S - Y^2)$  in section 485E TCA 1997 is:

$$T (\text{€}115,000) + S (\text{€}100,000) - Y (\text{€}80,000) = \text{€}135,000$$

Therefore, Jack's taxable income for 2022 is increased from €115,000 to €135,000.

His revised income tax position for 2022 is as follows, after application of the high income individual's restriction:

Recalculated Taxable Income		€135,000
Tax		
€ 36,800 @ 20% =	€7,360	
€98,200 @ 40% =	<u>€ 39,280</u>	€ 46,640
Less		
Personal and Employee Tax Credits	€3,400	
R&D credit (restricted)	<u>€ 9,190</u>	<u>€ 12,590</u>
Net tax payable		€ 34,050

Further information on the high income individual's restriction can be found in Tax and Duty Manual [Part 15-02a-05](#).

<sup>1</sup> Adjusted income = taxable income (T) + specified reliefs (S) – ring fenced income (R) (see Section 485C)

<sup>2</sup> Y is the greater of €80,000 and 20% of an individual's adjusted income

## Appendix – Definitions

“**associated company**”, in relation to a relevant employer, means a company which is that employer’s associated company within the meaning of section 432 TCA 1997.

“**control**” has the same meaning as in section 432 TCA 1997. See Tax and Duty Manual [Part 01-00-05](#): ‘Meaning of “control” in certain contexts’.

“**emoluments**” has the same meaning as in Chapter 4 of Part 42 which is “anything assessable to income tax under Schedule E, and references to payments of emoluments include references to payments on account of emoluments”.

“**key employee**” means an individual who –

- is not, and has not been, a director of his or her employer or an associated company and is not connected to such a director;
- does not, and did not, have a material interest in his or her employer or an associated company and is not connected to a person who has such a material interest, and
- in the accounting period for which his or her relevant employer was entitled to claim relief under section 766(2) TCA 1997, performed 50% or more (75 per cent or more in 2012) of the duties of his or her employment in the conception or creation of new knowledge, products, processes, methods or systems.

In addition, in order for an individual to be a key employee, 50% or more (75% or more in 2012) of the cost of his or her emoluments from the relevant employer must qualify as expenditure on research and development under section 766(1)(a) in the accounting period for which the relevant employer would be entitled to claim relief under section 766.

“**material interest**”, in relation to a company, means the beneficial ownership of or ability to control, directly or through the medium of a connected company or connected companies or by any other indirect means, more than 5 per cent of the ordinary share capital of the company.

“**ordinary share capital**”, in relation to a company, means all the issued share capital (by whatever name called) of the company.

“**relevant emoluments**” means emoluments paid by a relevant employer to a key employee.

“**relevant employer**” means a company that is entitled to relief under section 766(2) and that employs a key employee.

“**tax year**” means a year of assessment for income tax purposes.