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 and R&D Corporation Tax Credit Tax and Duty Manual (TDM 29-02-03)

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1. Introduction

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

Section 472D TCA 1997, which applies for the tax year 2012 and subsequent years, allows key employees engaged in qualifying 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, or
- the excess of the R&D corporation tax credit, or part thereof, to which their employer company is entitled under section 766C[1] TCA 1997,

and which is surrendered by the company in favour of such key employees[2].

Where the R&D tax credit or excess of the R&D corporation tax credit is surrendered to 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 TCA 1997 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 TCA 1997 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 TCA 1997 are reproduced in the Appendix.

References in this TDM to the ‘R&D credit’ include both the R&D tax credit under section 766 and the excess R&D corporation tax credit under section 766C, unless otherwise stated.

Note: While section 472D TCA 1997 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 3 of this Manual).

[1] Section 766C TCA 1997 was introduced in Finance Act 2022. The excess of the R&D corporation tax credit is the difference between the credit and the company’s tax liabilities in the period

[2] Research & Development (R&D) Corporation Tax Credit – Tax Duty Manual – Part 29-02-03. Paragraph 9 Key Employee

2. To whom does the relief apply?

Section 472D TCA 1997 applies to 'key employees' engaged in qualifying 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 the R&D credit for R&D expenditure incurred in the carrying on of qualifying R&D activities under section 766(2) or 766C(2) TCA 1997, 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) or 766C(1) TCA 1997, in the accounting period for which the relevant employer would be entitled to claim the R&D credit under section 766 or 766C TCA 1997.

A relevant employer means a company that employs a key employee, and which is entitled to claim the R&D credit under section 766(2) or section 766C(1) TCA 1997.

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3. The credit against tax charged

Where, in accordance with section 766(2A) or section 766C(2) TCA 1997, a company surrenders the R&D tax credit or the excess[3] of the R&D corporation tax credit to a key employee, that employee can, subject to the restrictions set out in Paragraph 4

[3] The excess of the R&D corporation tax credit is the difference between the credit and the company's tax liabilities in the period.

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 the R&D tax credit or the amount of the excess R&D corporation tax credit which is 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 R&D tax credit or R&D corporation tax 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 the R&D tax credit to key employees[4].

Further information on the R&D credit can be found on Revenue's website or in the Research and Development (R&D) Corporation Tax Credit Tax and Duty Manual (Part 29-02-03).

Example 1

R&D tax credit surrendered under section 766 TCA 1997

Research Co. has an accounting period that ends on 30 June 2022. Research Co. surrenders the R&D tax credit of €20,000 from that period to Mary, a key employee. Mary is entitled to use the R&D tax credit of €20,000 against the income tax charged on her salary from Research Co. in 2023 (provided the effective rate of tax on her total income does not fall below 23%). Mary can make the claim in 2024 in respect of the 2023 credit (see Paragraph 7 of this Manual regarding making a claim).

Example 2

Excess of the R&D corporation tax credit surrendered under section 766C

Research Co. has an accounting period ending 31 December 2023. Research Co. claimed it's R&D corporation tax credit in accordance with section 766C TCA 1997. The excess amount of the R&D corporation tax credit that is available to be surrendered is €20,000. The company surrenders this excess R&D corporation tax credit of €20,000 to Mary, a key employee. Mary is entitled to use the amount surrendered of €20,000 against the income tax charged on her salary from Research Co. in 2024 (provided the effective tax rate on her total income doesn't fall below 23%. Mary can make the claim in 2025 in respect of the credit.

Where for a tax year an employee is no longer a key employee of the company that surrendered the R&D 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

[4] Finance Act 2022 introduced the R&D corporation tax credit which may also be surrendered to a key employee as set out in section 766C TCA 1997.

key employee in the accounting period in respect of which the R&D credit was surrendered.

Example 3

Using example 2 above, if in 2024 Mary, while remaining an employee of Research Co., is no longer a key employee (for example she performed less than 50% of the duties of her employment in the conception or creation of new knowledge etc.), she will still be entitled to use the R&D tax credit in 2024 as she was a key employee in the accounting period in respect of which the R&D credit was surrendered (i.e. 2023). This is provided the effective rate of tax on her total income does not fall below 23% in 2024.

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 R&D 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 2023. Develop Co. decided to surrender €10,000 of its R&D credit for 2023 to Ben. Ben's salary for 2024 is €140,000 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 2024 as follows:

Salary		€140,000
Tax	€42,000 @ 20% =	€8,400
	€98,000 @ 40% =	€39,200
		€47,600
Less Personal and Employee Tax Credits		€3,750
Tax		€43,850

The tax attributable to Ben's salary from Develop Co. is €43,850. This is sufficient to absorb the full amount of the R&D credit which was 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 = 31.32% (€43,850/€140,000).

Tax	€43,850
R&D credit	€10,000
Tax after R&D credit	€33,850

Effective rate after the full credit is utilised = 24.18% (€33,850/€140,000).

Ben can therefore use the full amount of the R&D tax credit as a credit against the income tax on his salary in 2024. Ben can submit his claim from 1 January 2025.

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 2023 to Maria. Maria's salary for 2024 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 2024 as follows:

Salary		€75,000
Tax	€42,000@ 20% =	€8,400
	€33,000@ 40% =	€13,200
		€21,600
Less Personal and Employee Tax Credits		€3,750
Tax		€17,850

The tax attributable to Maria's salary from Develop Co. is €17,850. This is sufficient to absorb the full amount of the R&D credit which was 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 = 23.8% (€17,850/€75,000).

Tax	€17,850
R&D credit	€10,000
Tax after R&D credit	€7,850

Effective rate if the full credit is utilised = 10.47% (€7,850/€75,000).

Maria cannot use the full amount of the R&D credit surrendered by Develop Co. in 2024 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 2024 is restricted to €600 (€17,850 - €17,250).

The balance of the R&D credit of €9,400 (i.e., €10,000 less €600) 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 2023. Beta Co. decided to surrender €15,000 of its R&D credit for 2023 to Sean.

Sean seeks to claim this as a credit against the income tax on his income from Beta Co. in 2024. Sean and his wife Joan are jointly assessed for tax purposes. Their joint income/liability for 2024 is as follows:

Income	Salary Beta Co. (Sean)	€150,000
	Salary Wings Co. (Joan)	€80,000
	Rental income	€15,000
	Case III income	€5,000
	Total	€250,000
Tax	€84,000 @ 20% =	€16,800
	€166,000@ 40% =	€66,400
		€83,200
Less Tax Credits	Personal and Employee	€7,500
Tax		€75,700

In order to determine whether any restriction of the R&D 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.:

$$€75{,}700 \times \frac{€150{,}000}{€250{,}000} = €45{,}420$$

The tax attributable to Sean’s salary from Beta Co. is €45,420. This is sufficient to absorb the full amount of the R&D 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 credit = 30.28% (€75,700/€250,000)

Tax	€75,700
R&D credit	€15,000
Tax after R&D credit	€60,700

Effective rate after the full credit is utilised = 24.28% (€60,700/€250,000).

As the tax attributable to Sean’s income from Beta Co. exceeds the R&D credit, which was surrendered, and as the 23% effective rate test has been satisfied, Sean is entitled to use the full amount of the R&D credit against his 2024 income tax liability. Sean can claim this relief from 1 January 2025.

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	€75,700
R&D credit	€40,000
Tax after R&D credit	€35,700

Effective rate if the full credit is utilised = 14.28% (€35,700/€250,000).

Sean cannot use the full amount of the R&D tax credit surrendered by Beta Co. in 2023 against his 2024 income tax liability 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 €57,500 (€250,000 x 23%) must be charged in order to reach the minimum effective rate of 23%. Therefore, the R&D credit available to Sean in 2024 is restricted to €18,200 (€75,700 – €57,500).

Sean may carry forward €21,800 (i.e., €40,000 less €18,200) 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 4 above, a key employee cannot use the full amount of the R&D credit which was 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 the credit is used, and

(iii) the individual pays sufficient tax, on his or her income from the employment with the company that surrendered the R&D credit, to absorb the R&D credit carried forward.

Example 8

Greg (single) is a key employee of XYZ Co., which has an accounting year ending on 31 December 2022. XYZ Co. decided to surrender €15,000 of its R&D tax credit from its 2022 accounting period to Greg.

Greg seeks to claim this as a credit against the income tax on his income from XYZ Co. in 2023 as follows:

2023

Salary		€115,000
Tax	€40,000 @ 20% =	€8,000
	€75,000 @ 40% =	€30,000
		€38,000
Less Personal and Employee Tax Credits		€3,550
Tax		€34,450

The tax attributable to Greg's salary from XYZ Co. is €34,450. This is sufficient to absorb the full amount of the R&D credit which was 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 credit = 29.96% (€34,450/€115,000).

Tax	€34,450
R&D tax credit	€15,000

Tax after R&D credit	€19,450

Effective rate if the full R&D credit is utilised= 16.91% (€19,450/€115,000).

Greg cannot use the full amount of the R&D tax credit in 2023 as his effective rate would be less than 23%. He can only use so much of the R&D tax 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 tax credit available to Greg in 2023 is restricted to €8,000 (€34,450 - €26,450).

Greg may carry forward €7,000 (i.e., €15,000 less €8,000) of unused R&D tax credit to use in subsequent years against income tax on his emoluments from XYZ Co.

2024

In 2023 XYZ Co. decide to surrender a further €6,000 of its R&D tax credit from its 2022 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 2024. He also has R&D tax credit carried forward to 2024 of €7,000. His 2024 tax liability is as follows:

Salary		€140,000
Car Benefit in Kind		€10,000
Total Income		€150,000
Tax	€42,000@ 20% =	€8,400
	€108,000@ 40% =	€ 43,200
		€51,600
Less Personal and Employee Tax Credits		€3,750
Tax		€47,850

The tax attributable to Greg's employment income from XYZ Co. is €47,850. This is sufficient to absorb the full amount of the R&D tax credit surrendered by XYZ Co. of €6,000 and the R&D tax credit carried forward of €7,000 (i.e., total of €13,000). 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 credit = 31.9% (€47,850/€150,000).

Tax	€47,850
R&D credit 2022 carried forward	€7,000
R&D credit 2023	€6,000
Tax after R&D credit	€34,850

Effective rate after the full credit = 23.23% (€34,850/€150,000).

Greg may use the full R&D credit (including the amount carried forward) in 2024 as his effective rate of income tax is 23.23% and the tax on his employment income (€47,850) 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 tax credit from 2023 (surrendered in 2022) for carry forward to 2024 of €21,500. In 2023 XYZ Co. decided to surrender €25,500 of its R&D credit in respect of the accounting period ending 31 December 2023 to Leo. This gives a combined credit of €47,000 available in 2024.

Leo seeks to claim the R&D credit against the tax on his income from XYZ Co. in 2024. Leo and his wife Mary are jointly assessed for tax purposes. Their joint income/liability for 2024 is as follows:

Income	Salary XYZ Co. (Leo)	€135,000
	Salary ABC Co. (Mary)	€85,000
	Rental income	€14,000
	Case III income	€2,000
	Total	€236,000
Tax	€84,000@ 20% =	€16,800
	€152,000@ 40% =	€60,800
		€77,600
Less Tax Credits	Personal and Employee	€7,500
Tax		€70,100

In order to determine whether any restriction of the R&D 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.:

$$€70{,}100 \times \frac{€135{,}000}{€236{,}000} = €40{,}100$$

The tax attributable to Leo's salary from XYZ Co. is €40,100. This is not sufficient to absorb the combined amount of the R&D credits which were surrendered to him 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 €40,100 (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	€70,100
R&D credit (restricted)	<u>€40,100</u>
Tax after restricted credit	€30,000

Effective rate after restricted credit (first restriction) = 12.71% (€30,000/€236,000).

Therefore, in respect of the R&D tax credit surrendered in 2022, Leo cannot use the full amount of the R&D tax credit remaining after the first restriction in 2024. He can only use so much of the R&D tax 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 tax credit available to Leo in 2024 is further restricted to €15,820 (€70,100 - €54,280).

The remaining credit balance of €31,180 (i.e., €47,000 - €15,820) which consists of the R&D credit surrendered to him in 2023 of €25,500 and the remaining balance of the R&D tax credit of €5,680 (i.e., €21,500 - €15,820) can be carried forward to 2025 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 2024 (in relation to amounts surrendered by a company in 2023), then the latest time that the claim can be made is 31 December 2028. A claim for the 2024 year of assessment can be made from 1 January 2025.

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 or section 766C 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) or section 766C(2) TCA 1997 is deliberately false or overstated and that the amount surrendered is not as authorised by section 766 or section 766C TCA 1997, the company shall be liable to tax (under Case IV of Schedule D) on an amount equal to either 8 times or 4 times the unauthorised amount surrendered, as the case may be.

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 or section 766C TCA 1997 , 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 TCA 1997 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 TCA 1997. 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 9).

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 TCA 1997, 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 R&D tax 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 8 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 TCA 1997 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 2023. The company surrendered an R&D credit of €15,000 to Jack from its 2023 accounting period. Jack had a salary from ABC Co. in 2024 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 credit amount of €15,000 as a credit against the tax on his income from ABC Co. in 2024 as follows:

Salary			€115,000
Case V Income		€100,000	
Losses forward (specified reliefs)		(€100,000)	€ NIL
Total income/taxable income			€115,000
Tax	€42,000@20% =	€8,400	
	€73,000@ 40% =	€29,200	€37,600
Less Personal and Employee Tax Credits			€3,750
Tax			€33,850

The tax attributable to Jack's salary from ABC Co. is €33,850. This is sufficient to absorb the full amount of the R&D 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 = 29.43% (€33,850/€115,000)

Tax	€33,850
R&D credit	€15,000
Tax after credit	€18,850

Effective rate if the full amount of the credit is utilised = 16.39% (€18,850/€115,000)

As Jack must have a minimum effective rate of 23%, he cannot use the full amount of the R&D credit surrendered by ABC Co. in 2023. 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 Jack in 2024 is restricted to €7,400 (€33,850 - €26,450).

The R&D credit balance of €7,600 (€15,000 - €7,400) 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 2024 as:

(i) his adjusted income[5] 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 x 20% = €43,000).

His recalculated taxable income for 2024, using the formula T + (S – Y[6]) in section 485E TCA 1997 is:

T (€115,000) + **S** (€100,000) - **Y** (€80,000) = €135,000

Therefore, Jack's taxable income for 2024 is increased from €115,000 to €135,000.

His revised income tax position for 2024 is as follows, after application of the high income individual's restriction:

Recalculated Taxable Income		€135,000
Tax		
€42,000 @ 20% =	€8,400	
€93,000@ 40% =	€37,200	€45,600
Less		
Personal and Employee Tax	€3,750	

[5] Adjusted income = taxable income (T) + specified reliefs (S) – ring fenced income (R) (see Section 485C TCA 1997)

[6] Y is the greater of €80,000 and 20% of an individual's adjusted income

Credits		
R&D credit (restricted)	€7,400	€11,150
Net tax payable		€34,450

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

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 TCA 1997 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) or section 766C(1) 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) or 766C(1) TCA 1997 in the accounting period for which the relevant employer would be entitled to claim the R&D credit under section 766 or 766C TCA 1997.

"**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 claim the R&D credit under section 766(2) or section 766C(1) TCA 1997 and that employs a key employee.

"**tax year**" means a year of assessment for income tax purposes.