Research and Development Credit

Part 29-02-04

This document should be read in conjunction with Tax and Duty Manuals (TDMs) in Part 29

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1. Introduction

Sections 766 and 766A provide for a tax credit for research and development (R&D) activities and for expenditure on buildings used for R&D.

(i) The rate is 25% of qualifying expenditure.

(ii) Sections 766(4A) and 766A(4A) allow for any excess in a period to be set back against corporation tax of the previous accounting period. Where a company has offset the credit against the liability of the previous period or if there is no liability in the previous period, any excess that remains to be claimed by the company can be paid by Revenue under subsection (4B) of sections 766 and 766A.

Section 766B places a limit on the the aggregate amount of payable credits in respect of R&D expenditure in an accounting period (See section 2.5 of TDM Part 29-02-03).

Finance (No 2) Act 2008 introduced changes to sections 766 and 766A which were effective for accounting periods commencing on or after 1 January 2009. For accounting periods commencing on or before 31 December 2008: (a) the rate is 20%, and (b) the credit is first used to reduce the liability to corporation tax for that period. Any excess may be carried forward indefinitely or offset to another company within the group, if any.

2. Rules for payment of excess R&D for S.766 and S.766A

The payments will be paid in 3 instalments over 33 months from the end of the accounting periods in which the expenditure occurred and Section 766B imposes a limit to the amounts that will be paid.

The first payment of the excess shall not be paid earlier than the date on which the return for the period is due to be filed; and shall not be greater than 33% of the excess.

Any remaining excess is then carried forward to reduce the CT liability of the following period and if there is any further excess remaining, the company can claim for this amount to be paid back to it. This second instalment will not be paid earlier than 12 months after the date on which the return for the period is due to be filed and will be 50% of the remaining amount.

Where any excess remains, it will be carried forward further to reduce the liability of the next period. If an excess still remains, Revenue will pay a third instalment equal to the remaining amount. The third payment will not be paid earlier than 24 months after the date on which the return for the period is due to be filed.

All payments of excess R&D credit are subject to the provisions of Section 1006A; payments will be withheld if there are outstanding returns for any taxes and will be offset against any outstanding liability.

2.1. Changes to address the impact of Covid-19

Changes were introduced in March 2020 to assist taxpayers, and their agents, experiencing difficulties caused by the impact of the COVID-19 virus. One of the changes was the early payment of 2020 instalments of excess R&D tax credits.

As per paragraph 2 above, section 766 and section 766A provide that each of the instalments cannot be paid earlier than the date specified for that instalment.

In the exceptional circumstances of the Covid-19 pandemic and subject to appropriate checks in selected cases, Revenue will expedite the payment of any instalment of excess R&D tax credit that is due to be paid in 2020, bringing forward payment in advance of the date provided by section 766 and section 766A.

Requests for Revenue to expedite the payment of any 2020 instalments of excess R&D tax credits should be made through MyEnquiries. To enable payment of the excess credits, the form CT1 for the company's accounting period ending in 2019 and for accounting periods ending up to March 2020 must, at the time of the request, be submitted.

To ensure timely processing, requests should be tagged appropriately within MyEnquiries as **enquiry relates to** 'Corporation Tax, and **more specifically** 'R&D instalments payable in 2020'.

3. Time limit for all R&D claims

Finance (No 2) Act introduced a time limit for all claims for R&D. With effect from 1 January 2009, all claims must be made within 12 months from the end of the accounting period in which the expenditure occurred.

Expenditure may be incurred on the construction or refurbishment of a building which spans two or more accounting periods. Where this occurs, the aggregate expenditure may be treated as having been incurred on the date that it was actually incurred, or on the date the building is first brought into use. The 12-month claim period applies by reference to the date that the expenditure is treated as incurred (see Chapter 5 of the TDM Part 29-02-03 Research and Developments (R&D) Tax Credit Guidelines).

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