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HMRC internal manual

Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
([/government/organisations/hm-revenue-customs](#))

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[Back to contents](#)

CIRD137100 - R&D Tax Reliefs: reformed reliefs: categories of qualifying expenditure: externally provided workers: definition

CTA09/S1128

The definition of externally provided workers is based on the income tax rules for agency workers at Section 44 Income Tax (Earnings and Pensions) Act 2003 which require staffing providers to operate PAYE in relation to individual workers supplied to clients. The main difference is that the

externally provided worker rules also apply where the worker is an employee of the staff provider.

A person is an externally provided worker in relation to the claimant company if the following conditions are satisfied:

- A. The worker is an individual (not a company)
- B. The worker is not a director or employee of the company
- C. The worker personally provides, or is under an obligation personally to provide, services to the company
- D. The worker is subject to (or to the right of) supervision, direction or control by the company as to the manner in which those services are provided
- E. The worker's services are supplied to the company through a staff provider (whether or not he or she is a director or employee of the staff provider or staff controller or any other person)
- F. The worker provides, or is under an obligation to provide, those services personally to the company under the terms of a contract between the worker and a person other than the company (the "staff controller").
- G. The provision of those services does not constitute the carrying on of activities contracted out by the company, see [CIRD160000](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird160000) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird160000>) and following

Condition B may be relevant in groups of companies where the staff provider or staff controller is in the same group as the claimant company and an individual is a director or employee of both companies. The individual cannot be an externally provided worker for the claimant company because of point B, but his normal staff costs (as defined by CTA09/S1123)

paid by the R&D claimant may qualify for R&D relief, see [CIRD133000 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird133000\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird133000).



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