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HMRC internal manual

Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
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CIRD90700 - R&D tax relief: SME scheme: payable tax credit - recovery of [FA98/Sch18/PARA52](#)

Where it is identified that a company has overclaimed a payable tax credit or RDEC for an accounting period which is under enquiry this conclusion should be stated in the closure notice issued when the enquiry is closed. This creates the liability for the company to pay the overpaid sum to HMRC

If a COTAX closure notice is issued it should:

- State that the payable credit/RDEC is reduced to "X"
- State the amount due to HMRC
- Where possible, provide the payment reference

If a manual closure notice is issued, any payable tax credit or RDEC should not be included in the total of "Additional tax due". This is because overpaid credits are not tax due to HMRC. The notice should clearly state:

- The adjustment made to the credit
- The amount due to HMRC
- The payment reference

The Duty Repaid in Error Refunded (DRIER) procedure should be used, for internal purposes only, to recover the overpaid credit. Instructions can be found in the Debt Management and Banking Manual in pages 215000 to 215220. Where a closure notice has been issued it is not necessary to send any of the DRIER letters to the company.

Where it is found that a payable tax credit ought not to have been paid, or has been overpaid, outside of an enquiry period HMRC needs to establish whether an assessment can be raised using the provisions in **FA98/SCH18/PARA52(2)(ba) and 5(ab)** .

An assessment cannot be raised under the above legislation if, for example, the conditions in neither **FA98/SCH18/PARA43** nor **FA98/SCH18/PARA44** are met. When an assessment cannot be raised use the DRIER procedure. Instructions can be found in the Debt Management and Banking Manual in pages 215000 to 215220.

If an assessment can be raised using the provisions in **FA98/SCH18/PARA52 (2)(ba) and 5(ab)** that assessment should be made. Instructions can be found in the COTAX manual at COM23130 and subsequent pages.

The assessment carries interest (**FA98/SCH18/PARA52(6)**) under **TMA70/S87A** from the date the payment being recovered was made until it is received by HMRC. The assessment is treated as an assessment of the accounting period for which the tax credit was paid.

The payable tax credit is not a profit, so a claim to losses under **CTA010 S37 and S42** cannot be set against the assessment. The payable tax credit is not an income from a transaction so Part 10 Chapter 8 losses cannot be set against the assessment either.

Time limit

FA98/SCH18/PARA53 prescribes the time limits for making assessments under Paragraph 52. The time limit is the latest of:

- four years after the end of the accounting period to which it relates,
- the end of the accounting period following that in which the amount being recovered was paid,
- three months after the completion of an enquiry into a relevant company tax return.

In cases involving careless or deliberate conduct, the time limit is extended to up to 20 years after the end of the accounting period.

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