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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)  
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## CIRD91100 - R&D tax relief: SME definition: introduction

### What is an SME for R&D tax relief purposes

The SME company R&D tax relief counts as a State Aid under EC rules ([CIRD81670](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81670>)). Because of EC regulations on the permissible levels of State Aid the definition of an SME for the purposes of the scheme must not

be wider than the definition of an SME provided for by the EC Recommendation on the definition of an SME. When the SME scheme began FA00/SCH20/PARA2 adopted the EC SME definition in recommendation 1996/280/EC ([CIRD92700 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92700\)\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92700)).

In 2003 the EC recognised difficulties in the interpretation and requirements of the 1996 recommendation, and published a new recommendation 2003/361/EC ([CIRD92800 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92800\)\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92800)), which replaces the 1996 definition with effect from 1 January 2005. This is a new recommendation rather than simply a rewording of the old recommendation. The new recommendation was brought into effect for R&D tax relief purposes on 1 January 2005.

Interpretation of the definition is usually straight forward, but is not always problem free. The Recommendation has been adopted into UK law, but it remains a EC Recommendation, made under European law, and its interpretation has to be in that context. In other words there is no read-across from the use of terms for UK tax law to interpretation of the Commission's Recommendation.

Our understanding is that any interpretation has to be purposive, based on the aims of the Recommendation, and has to be made in the context of the EC treaty. A detailed consideration of these aspects is beyond the scope of this manual. But a helpful feel for the approach to be adopted can be gained from a consideration of the 'whereas' recitals of the 1996 EC Recommendation ([CIRD92700 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92700\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92700)) and the 2003 EC Recommendation ([CIRD92800 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92800\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird92800)).

[manual/cird92800](#) ). These are not just preamble - they provide helpful pointers as to the approach adopted in arriving at the Recommendation.

## **Transfer pricing and other areas using the same or similar definitions of SME**

The guidance in this manual should not be taken as being more generally applicable. It is solely for the purposes of the R&D tax relief. Although the definition of a SME is similar for purposes of transfer pricing it is not identical.

The SME tax relief was extended to 'larger SMEs' with effect from 1 August 2008 (FA07/S50). From that date, the references in the Annex to Commission Recommendation 2003/361/EC of 6 May 2003 to 250 persons, €50m and €43m are to be read as 500 persons, €100m and €86m (see [CIRD91900](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird91900>))

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