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HMRC internal manual

Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
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CIRD80520 - R&D tax relief: examining a claim: introduction

The R&D tax relief schemes are intended to encourage expenditure on R&D. For some companies, particularly small start up companies, the cash flow that can result from a payable credit can make the difference between success and failure. Payable credit claims should be dealt with quickly. Where an enquiry has been opened without making payment of a credit that has been claimed HMRC officers should keep under review whether it is possible to make at least a partial payment.

Some of the risk factors HMRC officers may consider when examining an R&D claim are mentioned at [CIRD80530 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80530\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80530), the more common errors are listed at [CIRD80540 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80540\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80540). The sorts of records HMRC may wish to consider are discussed at [CIRD80550 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80550\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80550) onwards.

When asking questions about a claim the size of the company and the nature of its trade should be taken into account.

Anyone making a claim to R&D should be expected to be proud of the product and care should be taken not to belittle their efforts in communications.

An open-minded approach should be adopted as to whether a project, or part of a project, is relevant R&D. It is important to gather all of the facts, and listen to the company's representations before making a decision. The aim is to test the information provided against the guidelines ([CIRD81300 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81300\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81300)). Although not all of the following questions would be applicable in every case HMRC would normally ask the company to explain in plain language:

- what was the advance in science or technology that was being sought
- what the R&D project was, and if relevant what the larger commercial project was,
- the particular scientific or technological uncertainties that needed to be resolved to seek the advance,
- in what way does the project go beyond what was the current state of knowledge,

- why the knowledge or capability sought was not readily deducible by a competent professional in the field,
- when the particular uncertainties were overcome.
- what activities within the project fall within the statutory definition of R&D for tax purposes i.e. fall to be accounted for as R&D under GAAP (i.e. be capable of being accounted for as R&D , whether or not they are) and also fall within the special definitions set out in the BIS Guidelines (formerly DTI Guidelines) for activities to be treated either as 'directly contributing' to seeking the advance in science or technology, or as 'qualifying indirect activity'

If agreement cannot be reached

Where agreement cannot be reached with the company whether a project, or particular activity within the project, is relevant R&D, or whether the other tests are satisfied, the normal course of action is to close the enquiry. The enquiry should not be closed until all other points have been settled and all necessary documentation and information has been obtained. The sort of information that may be necessary is dealt with at [CIRD80550](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80550) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80550>), [CIRD80560](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80560) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80560>) and [CIRD80570](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80570) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80570>). Before closing the enquiry the HMRC officer dealing with the case should review all of the evidence and make sure that wherever possible there is a statement of agreed facts. The company then has the opportunity to appeal against the amended assessment. If the company makes an approach to HMRC to make a joint referral to the tribunal the officer dealing with the case should refer to [ARTG7555](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/artg7555)

(<https://www.gov.uk/hmrc-internal-manuals/appeals-reviews-and-tribunals-guidance/artg7555>).

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Practice in the LBS

The LBS has issued a practice note on their general approach to R&D tax relief [CIRD80370](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80000) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80000>). Much of the content reflects the fact that the Officers in the LBS are usually in regular contact with the groups they deal with and have developed experience of the structure and activities of those groups. Because of the complexity and costs of compliance associated with large groups there will often be discussions regarding projects at an early stage.

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Practice in ISBC and WMBC

Compliance work is handled by trained HMRC Officers, supported by R&D Specialists, within designated Individuals and Small Business (ISBC) and Wealthy and Mid-sized Business Compliance (WMBC) teams. The approach to handling claims, payable credits and enquiries by ISBC and WMBC is contained in the published practice note [CIRD80525](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80525) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80525>).

Contact details for R&D Compliance are provided at [CIRD80350](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80350) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80350>). Companies are encouraged to contact R&D teams in advance of submitting a claim if they have any doubts about how the schemes operate or how HMRC Officers will approach the claim. If you're a small and medium-sized enterprise making your first R&D claim, you may want to consider making an

application for [advance assurance](https://www.gov.uk/guidance/research-and-development-tax-relief-advance-assurance) (<https://www.gov.uk/guidance/research-and-development-tax-relief-advance-assurance>). This enables HMRC to check the details in your application and if we agree the relief applies to you, we'll guarantee the claim will be accepted, as long as it's in line with what was discussed and agreed in your application.

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Guidance on claims

There is some judicial guidance on how to prepare an R&D claim in *BE Studios Ltd v Smith & Williamson Ltd* (the case number at the High Court is HC04C0110).

Mr. Justice Evans-Lombe accepted that assuming that all the company's activities were R&D, and then knocking out specific disallowable activities such as marketing, was an 'entirely inappropriate' approach to preparing the claim. The provisions of SSAP13 acted as a 'gateway' through which all claims must pass to be allowable.

The correct approach to preparing a claim was to read the guidelines and the legislation, to refer to the documentation and to consult with the people undertaking the work.

Mr. Justice Evans-Lombe stressed the need to identify any scientific or technological uncertainties and quantify the expenditure on seeking to resolve these. He made clear that there had to be sufficient evidence that the company was engaged in an R&D project, and which employees were so engaged, and for what proportion of their working time. He also indicated that oral evidence might be acceptable in the absence of full written records.



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