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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD92400 - R&D tax relief: SME definition: voting rights for the purposes of EC SME Recommendations

Possession of voting rights in normal company circumstances will equate to possession of the ordinary share capital. Sometimes the share capital may be comprised of different classes, such as A shares and B shares, with different voting rights, and you may need to see the articles of association or equivalent document to establish the voting rights of particular types of shares.

If there is a separate agreement between holders of voting rights whereby one party is enabled to exercise the votes of the other at its own discretion, we would aggregate the rights.

As part of testing whether a company is an SME we may need to test bodies such as partnerships, or foreign businesses constituted under different legal regimes, and in these cases it may be necessary to examine other forms of voting rights than those conferred by share capital. There may, for example, be a partnership agreement recording voting rights.

Because of the variety of possible structures and arrangements each case will need to be decided on its own facts. However, in the majority of cases, the position will be clear and straightforward. In cases of difficulty concerning eligibility for SME R&D tax relief HMRC officers will seek the advice of CTIAA (Technical).

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