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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](#)

## CIRD81670 - R&D tax relief: conditions to be satisfied: effect of notified State aid

As a Member State of the EU, the UK was subject to the European rules on State aid. In limited circumstances these rules continue to apply by virtue of Article 10 of the Northern Ireland protocol and the legislation still reflects these obligations.

### Effect of notified State aid on the SME R&D tax relief

A notified State aid is defined as a State aid that has been notified to, and approved by, the

European Commission. Notified State aids can include Government funded grant schemes although not all government grants are necessarily State aids, and increasingly will not be – and funding under some schemes may or may not be State aid depending on the circumstances. Given the number of different schemes available and the fact that schemes and their names change, HMRC is not able to give specific guidance on which grants are State aids. If your company receives, or may receive, a grant you should consult the scheme/grant provider about this.

### **The SME R&D tax relief scheme**

If a company is in receipt of a notifiable State aid for an R&D project it cannot claim SME R&D relief. This is to avoid the company receiving more State Aid than is permitted under the State Aid cumulation rules.

If excess aid were received this could be ‘clawed back’ by the EU, and the company could also be charged interest on the aid received.

A company that has received a grant or other form of support which is notified state aid for a project cannot subsequently repay this support in order to claim R&D relief. See the legislative test in **CTA09/S1138** as to whether a notified state aid is, or has been, obtained.

General measures that are not restricted to a specific group are not notified State aid. This includes:

- the Research and Development Expenditure Credit Scheme (RDEC) (for work undertaken from 1 April 2013)

A company in receipt of a notified State aid can claim RDEC.

In addition, companies can also claim RDEC for qualifying R&D costs funded by a grant. This is because there is no provision under the RDEC scheme preventing subsidised expenditure from qualifying for R&D tax relief – see

[CIRD89000 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird89000\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird89000)

## **General Block Exemption Regulations (GBER)**

HMRC considers all aid subject to GBER to be treated as notified State aid for the purposes of s1138 CTA 2009.

This is because;

- Aid which fulfils the conditions of the State aid General Block Exemption is exempted from the requirement of prior notification and European Commission (EC) approval.
- However, providers of such aid must register the award of aid, or the scheme under which it operates, with the EC.

## **De Minimis Aid**

If a company is in receipt of aid of less than €200,000 over 3 years where that aid was granted on or before 31 December 2023, and €300,000 when the aid was granted on or after 1 January 2024 this aid may qualify as de minimis aid under the De Minimis Regulation. Awarding authorities should tell companies when they are receiving de minimis aid and the company in receipt of de minimis aid must keep records for 10 years of the total amount of aid received and what they used the de minimis aid for.

- A company cannot claim SME R&D tax credit for costs within a project that are funded by de minimis aid.
- A company can claim SME relief or payable credit for costs within the project not funded by de minimis aid.

This means a company cannot top up SME R&D tax credits with de minimis aid, though if they are already in receipt of de minimis aid they can cumulate it with other aid as long as the aid intensity as set out in the State aid rules isn't breached for the aid scheme they are claiming under. This is typically 50% of project costs. This is

to prevent companies receiving more than the amount of aid permitted for a project, or in EU terminology, to exceed the maximum permitted aid intensity. This rule applies only to the project costs, not on a company basis. A link to the latest EU Aid intensity table is below

[\(http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52006XC1230\(01\)\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52006XC1230(01)(link is external))

## EU Funded programmes

The EU provides grants for research and innovation that are not notified State aid as they are not channelled through the UK Government, for example:

- ‘Horizon 2020’
- Framework Programme.

However structural funds such as ERDF (European Regional Development Fund) are controlled by the UK Government and therefore are State aid.

SMEs in receipt of direct EU funding can therefore claim relief under the SME R&D tax credits scheme for their own expenditure on the project including the payable tax credit if appropriate. In addition, relief on the EU grant can be claimed under the RDEC.

In order to qualify as an SME company (and therefore be eligible for the SME R&D Credit Scheme), a company has to have fewer than 500 employees and either an annual turnover not exceeding €100 million; or a balance sheet not exceeding €86 million.

## Sources of further information

For further information about some of the basics of State Aid see the guidance at [\(https://www.gov.uk/state-aid\(link is external\)\)](https://www.gov.uk/state-aid(link is external)), including the linked guidance at [State Aid: the basics](https://www.gov.uk/guidance/state-aid).

<https://www.gov.uk/government/publications/state-aid-the-basics>



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