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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

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## CIRD133000 - R&D Tax Reliefs: reformed reliefs: categories of qualifying expenditure: staffing costs

CTA09/S1123 & S1124

Only staffing costs of directors or employees directly and actively engaged in relevant R&D (see [CIRD81910 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81910\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81910) for the DSIT guidelines on the meaning of R&D for tax purposes – hereafter “DSIT Guidelines” -, and

[CIRD81400 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81400\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81400) for the meaning of “relevant R&D”), can be qualifying expenditure.

Where only a proportion of a director’s or employee’s work constitutes direct and active engagement in relevant R&D, then only that proportion of their staffing costs can qualify.

In what follows, paragraph references are to the DSIT Guidelines unless otherwise specified.

This includes both those directly and actively engaged in activities which directly contribute to achieving the advance in science or technology (Para. 4) and those directly and actively engaged in ‘qualifying indirect activities’ which are detailed in the exhaustive list at Para. 31, to the extent that such activities are relevant R&D.

An appropriate proportion of the staffing cost can be qualifying expenditure if the director or employee is only partly directly and actively involved in relevant R&D, CTA09/S1124(4).

Para. 31 only applies to activities that form part of a project (to seek an advance in science or technology). A project is defined at Para. 19 as ‘a number of activities conducted to a method or plans in order to achieve an advance in science or technology’. So, only activities conducted on this basis and which fall within the specific categories listed in Para. 31 are qualifying indirect activities.

Some of the activities listed (those at Para. 31(a), (b), (c), and (d)) are described as being ancillary, or supporting, activities, so themselves have to be carried on in support of activities which are themselves R&D, while others (Para. 31(e), (f) and (g)) have a more independent character. However, for all categories only such activity that is specifically identifiable as a particular part of the activity of an R&D project can qualify. The costs of other supporting activities undertaken by the company outside the R&D project itself are therefore not included.

Also, persons not themselves directly and actively engaged in R&D, but supporting others who are, are not regarded as being directly engaged in the activities of those they support (CTA09/S1124(5) and (6)). For instance, Para. 31(b) is limited to supporting activities undertaken for R&D. Any other activity to support those carrying out such supporting activities does not come within the 'qualifying indirect activities'.

Whether an employee is directly and actively engaged in R&D, and the extent of such engagement, is a question of fact based on the duties performed and not on the job title. It is therefore not possible to give an exhaustive list of which support staff are included, and which are not, and it in many cases it may be that support staff are only partly engaged in R&D.

### **Example**

Doctor X heads a small nanotechnology research team within a larger company. All the team's current work is on a project to develop a new motor technology (this is the advance being sought by the project). Doctor X spends much of her time directly and actively engaged on activities that directly contribute to seeking this advance. The remainder of her time is spent directly and actively engaged on other activity within the project that falls within the categories of qualifying indirect activities. 100 per cent of her costs can qualify for relief.

Mr M in her team also works full time on this particular project. He checks the Internet for information on other related studies, ensures the lab is clean, checks that the equipment is in good working order and reports it to the maintenance team if it is not. Mr M's costs can qualify, because he is directly and actively engaged in activity within the project that falls within the categories of qualifying indirect activities.

The relevant portion of the maintenance engineer's time (i.e. that part spent repairing the research unit's equipment being used specifically

and solely for the R&D project) forms part of the project and can be qualifying indirect activity in which the engineer is directly engaged. The part of the engineer's time spent on maintaining any other equipment on the same site cannot.

Secretarial and administrative work in the company's maintenance department would not qualify, as this is not part of the R&D project. So while the staff costs attributable to the time Mr M spends filing experimental results as part of the R&D project could qualify, the costs attributable to the time a clerk in the Maintenance department spends filing completed maintenance job sheets would not.

Suppose that the work is promising, and the team is to expand. Dr X therefore spends time interviewing to recruit an extra scientist to work on the project. Dr X's time on this can be a qualifying indirect activity, but support Dr X receives from the Corporate HR Department is not.

Similarly, time Dr X spends on line management of Mr M can qualify, but not the Corporate HR Department's support of her line management activities. If Dr X is responsible for managing the project budget, this could qualify, but not the activity of the corporate finance department to prepare accounts or audit project expenditure.

The measure of staffing costs is dealt with at [CIRD133100 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird133100\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird133100).

Only staffing costs of the employees and directors of the company making the claim can be qualifying expenditure. Staffing costs of another company in the same group recharged to the company do not qualify as staffing expenses, although there may be a case that the recharge amounts to a payment for externally provided workers ([CIRD137000 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird137000\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird137000)). Any such cases should be dealt with on their particular facts.

## Employees

Where a person has a contract of employment with a company they should generally be accepted as an employee of that company.

Sometimes, one group company may employ all the staff for the group, and recharge other group companies for their services. The fact that group claimant companies are recharged for the use of employees of another group company does not make this recharge into their own staffing expenditure, although the recharged expenditure may qualify for the claimant company as expenditure on externally provided workers ([CIRD137000 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird137000\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird137000)), even though it does not qualify as expenditure on their own staffing costs.

Groups sometimes either have one company operating the payrolls for all companies in the group or use a payroll service. The fact that Company A may have its payroll operated by Company B does not mean that Company A's employees are employees of company B. It also does not stop the PAYE and NIC in respect of the employees being Company A's liability for the purposes of the cap on payable R&D credit ([CIRD140000 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird140000\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird140000)).



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