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HMRC internal manual

Corporate Intangibles Research and Development Manual

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Purpose

HMRC's Large Business (LB) directorate deals with the tax affairs of the largest businesses in the UK, and therefore receives claims from companies conducting significant and substantial research and development (R&D) projects.

This practice note is aimed at facilitating best practice, as well as to support the cooperative compliance model adopted with LB customers by identifying how LB approaches R&D claims and assurance work.

Overview and roles

The Government recognises the important role that research and development plays in driving economic growth. R&D tax reliefs have a key role in incentivising this investment by reducing the costs of innovation. The government wants companies undertaking R&D to get the incentives to which they are entitled in a simple way that gives them:

- Early certainty (even though R&D is not part of a formal clearance regime).
- The ability to plan R&D activities in the knowledge of the incentives they will receive.

Where companies are undertaking qualifying R&D work LB has taken steps to ensure our approach complements these objectives. This involves working with customers to understand the commercial context to their activity and being supportive should the company face any problems

in assessing whether its work is qualifying R&D and, if so, how much tax relief it may be entitled to.

It is vital that we balance these objectives against the need to make legitimate enquiries into R&D claims where our risk assessment indicates a possible concern. The paragraphs below (under Procedure) set out what we will do to achieve this balance and our general approach to R&D claims.

Roles and responsibilities

LB is responsible for dealing with its customers' R&D claims and each LB region has an R&D Specialist that will support the CCM team in fulfilling that responsibility. If customers have any queries or wish to discuss their claim with an R&D Specialist, then they should contact LB via the relevant Contact us email address, copying in their Customer Compliance Manager (CCM).

Contacts:

Contactus email addresses for LB regions -

<https://www.gov.uk/guidance/hm-revenue-and-customs-large-business>

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Procedure

Claim Facilitation

Officers in LB are in regular contact with the customers they are working with and seek to develop an in-depth understanding of the structure and activities of the businesses.

Understanding the operation of customer's businesses will help inform our risk assessment process and engagement with customers. Claims to R&D tax relief are a prime area where this

understanding can pay dividends to both our customers and LB, so we will:

- Strongly encourage early and ongoing contact from our customers to determine whether they are undertaking (or will be undertaking) qualifying R&D activity.
- Work with customers to enable them to develop simple procedures, which will result in acceptable claims. In general, these should draw from and fit with the company's existing processes and accounting systems to avoid a disproportionate amount of extra work being needed to formulate the R&D tax relief claim.
- Encourage customers to include in these simple procedures:
 - The decision-making scientists/engineers who lead and undertake R&D activities, ensuring these individuals have an understanding of what activities may qualify for relief,
 - Input from competent professionals, in the appropriate field, to decide whether there is the requisite scientific or technological uncertainty in the activity to qualify, together with a record of this decision making,
 - An identified start and end of qualifying activities.
- Advise customers what records we will expect to see in support of their claims and, in particular, advise on what documentation might assist the determination of whether or not the R&D in question qualifies.
- Ensure that the process the customer has in place identifies the RDEC qualifying expenditure appropriately. This includes any apportionments and/or sampling methodologies (see below for more information) that the customer may be using to ensure they are both appropriate and proportionate.
- Ask customers to identify any "problem areas" where they are not certain if the expenditure will

qualify for R&D relief, as well as any areas of change in their claim, for early discussion.

Our customers have a significant role to play in this process and we need them to be:

- open and clear about their R&D activities
- helpful and co-operative
- willing to proactively seek early engagement.

This will allow us to reach a mutually acceptable position as quickly as possible so that LB can provide the early certainty that our customers need.

The CCM, Corporation Tax Specialist and R&D Specialists will have a key role in encouraging dialogue with customers about their R&D work and helping them to develop processes designed to formulate claims.

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Approach to claims and assurance work

LB has developed a process for dealing with claims that allows HMRC to focus on the areas of highest risk. For this process to be effective, case teams and R&D Specialists work together bringing their specific R&D expertise and knowledge of the customer.

As part of this process, a risk assessment may be conducted on a customer's R&D claim. If the risk assessment identifies areas of risk or concern, then the R&D Specialist may seek to discuss these areas with the company. This risk assessment will include reviewing the information provided on the Claim Notification and Additional Information forms that are supplied with claims.

It would be helpful for the R&D Specialist to have access to the people within the company undertaking the R&D work so they can discuss the

concerns directly with them, as well as accounting or finance staff who have prepared the submitted claim.

Our aim here is to minimise time spent and compliance costs to assure the company's claim and, if needed, to identify ways in which the company's processes can be improved to produce acceptable claims in the future.

However, if there continues to be risks in the claim, it will be necessary for formal enquiry procedures to be adopted, including the use of information powers and the consideration of penalty proceedings where appropriate.

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Additional Information form

From 8 August 2023, all companies are required to complete the Additional Information form to meet the legislative and validation requirements. This is a requirement for an RDEC claim to be made and should build upon and/or utilise information that is available to the company as part of existing claim preparation processes.

There is no pre-determined expectation of the amount of information required to be provided for any individual project when completing the Additional Information form. What you provide should be sufficient to explain to HMRC why the project qualifies for R&D relief/RDEC. Where we do have questions about your projects, we can write to you for further information.

As all companies are required to complete the Additional Information form, CCMs do not have any discretion to disregard the submission of the form, nor the number of projects that information must be provided for.

CCMs, with support of R&D Specialists within LB, may agree an approach to the amount of detail which is provided that takes account of HMRC's

knowledge of a group's R&D activities and claim preparation process. For example, information could be provided as bullet points where details of the project have been discussed with HMRC in a pre-filing meeting or the approach to identifying R&D has previously been agreed by HMRC.

If a project extends across multiple claim periods, companies can reuse the text box entries from previous Additional Information forms, updated where necessary if the project uncertainties or activities have changed.

Also, to note, where the company is required to provide 10 project write ups and the top 10 projects by qualifying expenditure is not a fair representation of the R&D done, or a prior agreement with the R&D Specialists and CCM is in place in regard to the project write ups, then companies can provide specific project write ups in agreement with the R&D Specialists and CCMs. This will be on a case-by-case basis and will need to be agreed with the R&D Specialists and CCMs in advance. This will ensure that what is provided fairly represents the work being claimed for. Examples of agreements could include:

- 4 project write ups by highest qualifying expenditure, then 2 each from a spread of 'high', 'medium' and 'low' levels of R&D. Or;
- a spread of projects across different R&D divisions within the company if the top 10 projects by qualifying expenditure does not cover all divisions. Or;
- 10 projects from within a sample providing the sampling methodology has previously been agreed with HMRC.

Reports

R&D reports can provide valuable assurance to HMRC and contain additional information to that provided in the Additional Information form, such as details of competent professional experience

and R&D claim methodology. We encourage customers to continue to provide reports to supplement the information supplied in the Additional Information form.

Customers who wish to file a report detailing their R&D activities, claim methodology (including sampling), details on the competent professionals, calculations etc. are encouraged to do so when filing the Company Tax return online or, separately, via the relevant contact us email address (under Contacts), copying in their Customer Compliance Manager (CCM).

If a customer wishes to discuss the specific contents of an R&D report prior to preparing or filing (such as what would be ideal to include), then it is advised the customer discusses this with an LB R&D Specialist. However, it is noted that good practice includes (but is not limited to):

- Ensuring the advance and uncertainties are described specifically and sufficiently, not simply the commercial aim of the project.
- Explaining the methodology used to calculate the claim.
- Explaining and detailing the background records and systems used to identify qualifying activities and costs, e.g. information about the use of project documents, timesheets/time recording systems, estimates etc.
- Showing expenditure and eligibility breakdowns by project.
- Showing how the identified expenditure/R&D percentage(s) applied to individual(s) links to the qualifying activities which are described.

Apportionment

LB accepts that there may be occasions where expenditure may not be wholly used for the direct purposes of R&D. LB will be open to the use of apportionment methodologies on a just and reasonable basis that follows the underlying facts

in each individual case. This may include, but is not limited to, apportionments made using head count or floor space. For further guidance or if a customer wants to discuss apportionment methodologies, the relevant R&D Specialist should be contacted via the CCM at the earliest opportunity.

Similarly, some expenditure, such as fuel costs, may need to be apportioned between projects. This should be done on a just and reasonable basis and therefore reasonable estimations will be acceptable.

Sampling

LB accepts that there may be occasions where the extent of the work that would be required to follow through and formulate a claim would be disproportionate compared to the benefit received. LB do not want to discourage claims being made. So, in such circumstances, LB will be open to the use of sampling techniques where:

- These techniques can be relied upon to give a reasonable answer in the circumstances, especially where there are a significant number of projects and records;
- The process involved in arriving at the sample is transparent, open and utilises the information that is held and available from the customer in a way that gives an answer consistent with the work and cost incurred by the customer;
- LB is provided with full supporting detail of both the underlying information and assumptions relied upon and is given the opportunity to challenge not only the final sample but also all the information used by the customer, if appropriate.

If customers wish to use sampling, the methodology, potential size/nature and reasons for relying on this technique needs to be discussed and agreed in advance of a claim with an R&D

Specialist. This is because the use of sampling may lead to a less accurate claim.

Customers should not expect that agreement will be given to the use of sampling in all circumstances. LB will need to be sure that there are valid reasons why the use of sampling may be appropriate and why a more substantive methodology cannot be used. LB may want to explore those reasons and consider carefully what the difficulty in using a more substantive methodology may indicate about the quality of the underlying records and source data.

The following are the principles on which LB will review requests for the use of sampling:

- Sampling is considered on case-by-case basis
- Customers should demonstrate the criteria they intend to use, why it is considered appropriate and what other options have been disregarded
- Customers should look to group “like” projects together (see note below)
- Customers should look to remove outlier projects that may distort results from sampling
- Customers should demonstrate a sense check of the relevant percentage to be used
- Customers should explain what records are available to check the results of sampling and to support the sampling technique to be used is appropriate.

Note - Where “like” projects are grouped together, a minimum of 15 “like” projects will need to be sampled. “Like” projects are considered to be where the level of R&D undertaken is reasonably similar across the grouped population. Where there are less than 15 “like” projects, then it is probable sampling will not be appropriate and the projects will need to be reviewed individually. This is because the sample is too small to provide a reliable result.

If a customer seeks to use sampling or has any additional questions, then the relevant R&D

Specialist should be contacted via the CCM at the earliest opportunity.

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Time limits and late claims

A claim to R&D can only be made in a Company Tax return or an amended company tax return.

For accounting periods which commenced before 1 April 2023, a claim to R&D can be made within the normal time limit of 12 months following the filing date. For a standard 12-month accounting period this will be 2 years from the last day of that accounting period.

For accounting periods which commence on or after 1 April 2023, a claim to R&D can be made:

- within 2 years beginning with the last day of the period of account, in a case where the period of account to which the claim relates is not longer than 18 months, or
- 42 months beginning with the first day of the period of account, in any other case.

From 8 August 2023, R&D claims will only be valid if an Additional Information form has also been provided. This form has to be provided before the Company Tax Return is submitted.

For accounting periods starting on or after 1 April 2023, R&D claims may require a Claim Notification form. If a Claim Notification form is required, the time limit for the submission is 6 months after the end of the period of account that the claim relates to.

Any late claims will have to be made by the customer and considered in accordance with Statement of Practice 5/01.

The following is the process for late claims to R&D relief:

1. Customer makes a late claim to R&D relief.
2. If the late claim does not refer to SP5/01 when delivered, CCM team or R&D Specialist sends a copy of SP5/01 to the customer requesting a claim in accordance with the criteria in SP5/01. This claim should make clear the reasons for it being late with reference to paragraphs 9-12 of SP5/01.
3. Late claim under SP5/01 received, or customer notifies the withdrawal of late claim.
4. R&D Specialist reviews the claim.
5. The claim is passed to the Grade 6 Decision Maker to make their decision.
6. If the decision is to refuse the claim, details are sent to Business, Assets & International (BAI) for review. Supporting documentation from the customer is attached with the late claim template.
7. BAI confirms (or otherwise) that the decision to refuse the claim is consistent with HMRC policy and approach.
8. Grade 6 Decision Maker sends the decision to the customer.

Please refer to the SP5/01 text at [CTM97060](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm97060) (<https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm97060>) for further information.

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Research and Development Expenditure Credit

Finance Act 2013 introduced a stand-alone credit to be brought into account as a receipt in calculating the profits of large companies for research and development (R&D) expenditure incurred on or after 1 April 2013 known as the Research and Development expenditure credit (RDEC).

For tax purposes the RDEC is treated as a receipt of the trade and must be brought into account in calculating the company's taxable profit of the period in which the claim is to be made, as per s104A(1) CTA 2009.

If the RDEC is not brought into account for tax purposes in the year of the claim, there is no claim.

Payment processing:

LB will pay any RDEC claim as soon as possible

Delays may occur where:

- (1) We identify a risk with the RDEC claim, or
- (2) HMRC is aware of other issues that mean it would not be appropriate for a payment to be made, or
- (3) Up-to-date BACS details have not been supplied to HMRC, or
- (4) Companies are part of a closed Group Payment Arrangement (GPA).

In the event of (1), the case team will discuss with the customer whether it is appropriate to make any payment on account of a portion of the RDEC claim while the risk is being resolved. This will be decided on a case-by-case basis.

For the purposes of (2), "other issues" can include, but not be limited to, situations where the customer is likely to incur liabilities across any head of tax and there is a concern about their ability to meet these liabilities.

For the purposes of (2), "other issues" does not include situations where a wider risk assessment is due to take place by HMRC at some later date, and there are no underlying concerns regarding the customer's ability to fund liabilities incurred as a result of any enquiries arising from that risk assessment.

For the purposes of (3), the latest BACS details for the claimant company should be provided in the Company Tax return when the claim is made to mitigate delay.

For the purposes of (4), RDEC payments can only be made when the completed GPA notice is received.

To note:

CT liabilities should be paid when due and any amounts already paid will be refunded when surrenders of RDEC are paid. This is advised because liabilities will attract interest until RDEC surrenders have been set against the liability. Failure to pay liabilities shown on GPA notices before RDECs are processed will also attract interest.

Payment of RDEC does not indicate acceptance that the claim is correct. The usual enquiry and discovery rules apply.

Customers should contact LB via the relevant contact us email address (under Contacts), copying in their Customer Compliance Manager (CCM), if they have any issues or queries.

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