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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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## CIRD97100 - R&D tax relief: avoidance: types of avoidance

There are many ways in which a claim can be incorrect without constituting tax avoidance. There may be genuine misunderstandings as to what constitutes R&D, or how to quantify a claim, that can be dealt with as a normal part of enabling or enquiry work. This section does not address those areas - it focuses on artificial avoidance arrangements.

While the list below is not necessarily exhaustive, it identifies the sorts of arrangement that might be

seen in an artificial avoidance arrangement, and where the use of the specific R&D anti-avoidance legislation ([CIRD97150 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird97150\)\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird97150)) would be considered.

## Devices to inflate expenditure

Such devices commonly involve the company representing that it has spent more on R&D than it has actually incurred in terms of economic cost. A common structure might involve the company taking out a large 'loan' to finance most of the expenditure, but also entering into arrangements that mean it is never likely to have to repay the loan, or that guarantee it will receive sufficient funds from elsewhere to enable it to do so.

The normal use of subsidies, grants and loans would not be regarded as coming within this category - it is a normal feature of R&D that money must be raised to finance the R&D. The arrangements that cause concern are those that involve a circular or other artificial structure whereby the payer and recipient take part in a series of transactions to increase the money flow without the commensurate level of qualifying R&D activity taking place.

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## Devices to increase the amount of payable R&D tax credit that can be received

There are caps to the amount of payable credit that can be received based on the company's surrenderable losses, and PAYE and NIC position. If artificial arrangements are put into place to get round these caps it would be necessary to look at the possible operation of the specific anti-avoidance legislation.

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## Devices to manipulate the company's SME status

Because the deductions are more generous under the SME company scheme than under the large company scheme, and there is also potentially a payable credit for loss making companies, there may be large companies that enter into artificial arrangements to bring their R&D within the SME company regime. Such arrangements may well be challengeable under the EU approach to the definition of SMEs ([CIRD91000](#)

<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird91000>) onwards), but if the definition was not clearly effective to counter such arrangements, it would also be necessary to consider use of domestic anti-avoidance rules such as, for example, those mentioned in [CIRD97150](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird97150>).

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