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HMRC internal manual

Corporate Intangibles Research and Development Manual

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Back to contents > CIRD80000 > CIRD82000

CIRD83250 - R&D tax relief: categories of qualifying expenditure: staffing costs - ITEPA benefits in kind changes in 2003

Expenditure incurred in accounting periods ending on or after 6 April 2003 and incurred before 1 April 2004

When ITEPA03 was introduced there was no intention to change the definition of staffing costs for R&D purposes, except to update the terms as appropriate. However, despite this intention there were unintended changes introduced by ITEPA03. These were cancelled for expenditure incurred on or after 1 April 2004 by FA04/SCH17/PARA7 (1) (now consolidated at CTA09/Sch2 Paras 119(1), (2) and 126).

In the intervening period (for accounting periods ending on or after 6 April 2003) qualifying expenditure on staffing costs became:

- the earnings paid by the company to the directors or employees of the company
- the secondary Class 1 national insurance contributions paid by the company
- the contributions paid by the company to any pension fund (ICTA88/S231A (4)) operated for the benefit of directors or employees of the company

Earnings for these purposes took the meaning of earnings or amounts treated as earnings which constitute employment income under ITEPA03/S7 (2)(a) or (b). While this part of ITEPA03 was in force, it therefore included benefits in kind in staffing costs.

Limit based on deductibility

Although the definition of staffing costs was widened for this period, there remains a requirement that in order for the amount to be eligible for the R&D tax relief the expenditure must be deductible in calculating the profit of the period. So what qualifies for the credit is the amount assessable on the employee which was also deductible by the company (FA00/SCH20/PARA13 and FA02/SCH12/PARA11 - 12), i.e. the overlap.

For example, if a car cost £400 per month to lease and the benefit assessable on the employee was £500 per month, then, only £400 of that cost would qualify as staffing costs for calculation of the R&D tax credit. Alternatively, if the cost was £400 and the assessable benefit was £300 then only £300 would qualify.

The prohibition on capital expenditure also takes effect. So where, for example, a company made a property available to an employee, it would only be eligible for the tax credit on its revenue costs directly relating to that property, up to, but not exceeding the measure of the benefit to the employee. It would not be able to claim any amortisation on the property that it charged to the P&L, as this would represent capital expenditure.

← **Previous page (/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird83200)**

→ **Next page (/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird83800)**

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