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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)  
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## CIRD84000 - R&D tax reliefs: categories of qualifying expenditure: externally provided workers

CTA09/Ss1127 - 1132

Qualifying expenditure on externally provided workers may qualify for R&D tax relief where it is incurred on or after:

- 27 September 2003 for the SME scheme, and
- 9 April 2003 for Research & Development Expenditure Credit (RDEC)

Externally provided workers (EPWs) are defined at [CIRD84100 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84100\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84100). This category of qualifying expenditure addresses the situation where a staff provider is contracted to supply external workers. This does not include the recruitment costs of staff provided by employment agencies, nor does it include the situation where the contract is for more than the provision of workers and amounts to subcontracting of a part of the R&D activity. Subcontracting is dealt with at [CIRD84200 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84200\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84200). The expenditure must be for the provision of staff and not for other services. It does not therefore include payments to self-employed consultants - see [CIRD84100 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84100\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84100).

The legislation is based on the income tax rules for agency workers at Section 44 Income Tax (Earnings and Pensions) Act 2003 which require staffing providers to operate PAYE in relation to individual workers supplied to clients. The main difference is that the externally provided worker rules also apply where the worker is an employee of the staff provider.

Expenditure for the provision of staff may include payments of reimbursed expenses, where the expenses are incurred initially by an EPW, subsequently refunded by a staff provider or staff controller, and then recharged to the company.

Whether or not the worker is an employee of the staff provider, the legislation is based on a tripartite arrangement between the R&D claimant company, the staff provider and the individual worker. If another company is inserted between the staff provider and the worker, for example if the individual has a personal service company that contracts with the staff provider for the supply of his or her services to the R&D company, then the worker will not qualify as an externally provided worker.

FA12 removed the tripartite restriction for expenditure incurred on or after 1 April 2012 allowing relief where more than three persons are involved in the contractual arrangements.

CTA 2009 S1128 (7) is amended replacing the term 'staff provider' with 'a person other than the company'.

The term 'staff controller' is introduced to represent any persons between the staff provider and the externally provided workers in the contractual arrangements.

The workers must be directly and actively engaged in the R&D, i.e. the costs must relate to staff time engaged in activity that constitutes R&D for tax purposes, which includes 'qualifying indirect activities'.

If the workers are only partly directly and actively engaged in the R&D, then an appropriate proportion of the qualifying expenditure should be arrived at.

### **Unconnected staff provider**

If the persons in the arrangements are not all connected to the company then 65% of the expenditure paid to the staff provider for the supply of EPWs is potentially eligible to be treated as qualifying expenditure.

The deduction when the company, the staff provider, and the staff controller(s) are all connected is dealt with at [CIRD84050](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84050)  
(<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird84050>)

The company may jointly elect with the staff provider and the staff controller(s) to be treated as connected. Such an election is irrevocable and applies to all payments under the same contract or arrangement. The election must be made to HMRC in writing within two years from the end of the accounting period in which the contract or

arrangement was entered into, (CTA09/S1130).  
There is no provision for extending this time limit.  
The definition of expenditure on externally  
provided workers applies equally for RDEC as for  
the SME scheme.

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