

SCHEDULES

SCHEDULE 31

TAX RELIEF FOR EXPENDITURE ON RESEARCH AND DEVELOPMENT

PART 1

SMALL AND MEDIUM-SIZED ENTERPRISES: SCHEDULE 20 TO FINANCE ACT 2000

Qualifying expenditure on externally provided workers

6 After paragraph 8 (subsidised expenditure) insert—

“Qualifying expenditure on externally provided workers

- 8A (1) The provisions of paragraphs 8C to 8E have effect for determining the amount of the qualifying expenditure of a company (“the company”) on externally provided workers.
- (2) The provisions of sub-paragraphs (4) to (6) have effect for determining how much of any such expenditure is attributable to relevant research and development.
- (3) For the purposes of this Schedule the company incurs expenditure on externally provided workers if it makes a payment (a “staff provision payment”) to another person (the “staff provider”) in respect of the supply to the company, by or through the staff provider, of the services of any externally provided workers.
- (4) Qualifying expenditure on externally provided workers is attributable to relevant research and development if the externally provided workers are directly and actively engaged in such research and development.
- (5) In the case of any externally provided worker partly engaged directly and actively in relevant research and development, an appropriate proportion of the qualifying expenditure relating to him is treated as attributable to the relevant research and development.
- (6) For the purposes of sub-paragraphs (4) and (5) persons who provide services, such as secretarial or administrative services, in support of activities carried on by others, are not, by virtue of providing those services, to be treated as themselves directly and actively engaged in those activities.

Status: This is the original version (as it was originally enacted).

Meaning of “externally provided worker”

- 8B For the purposes of this Schedule a person is an “externally provided worker” in relation to the company if the following conditions are satisfied—
- (a) he is an individual,
 - (b) he is not a director or employee of the company,
 - (c) he personally provides, or is under an obligation personally to provide, services to the company,
 - (d) he is subject to (or to the right of) supervision, direction or control by the company as to the manner in which those services are provided,
 - (e) his services are supplied to the company by or through the staff provider (whether or not he is a director or employee of the staff provider or of any other person),
 - (f) he provides, or is under an obligation to provide, those services personally to the company under the terms of a contract between him and the staff provider,
 - (g) the provision of those services does not constitute the carrying on of activities contracted out by the company.

Treatment of expenditure where company and staff provider are connected persons

- 8C (1) Where—
- (a) the company and the staff provider are connected persons, and
 - (b) in accordance with generally accepted accounting practice—
 - (i) the whole of the staff provision payment has been brought into account in determining the staff provider’s profit or loss for a relevant period, and
 - (ii) all of the staff provider’s relevant expenditure has been so brought into account,
 the whole of the payment (up to the amount of the staff provider’s relevant expenditure) is qualifying expenditure on externally provided workers.
- (2) In sub-paragraph (1)—
- (a) references to the “relevant expenditure” of the staff provider are to expenditure that—
 - (i) is incurred by the staff provider in providing for the company the externally provided workers to which the staff provision payment relates,
 - (ii) is not of a capital nature, and
 - (iii) is incurred on staffing costs or agency workers’ remuneration;
 - (b) a “relevant period” means a period—
 - (i) for which accounts are drawn up for the staff provider, and
 - (ii) that ends not more than twelve months after the end of the company’s period of account in which the staff

Status: This is the original version (as it was originally enacted).

provision payment is, in accordance with generally accepted accounting practice, brought into account in determining the company's profit or loss.

- (3) Paragraph 5 (staffing costs) applies for the purposes of determining whether the staff provider's expenditure meets the requirements of subparagraph (2)(a)(iii) so far as relating to staffing costs.

For this purpose the references in that paragraph to a company shall be read as references to the staff provider.

- (4) For the purposes of this Schedule "agency workers' remuneration", in the case of any person who is an externally provided worker in relation to the company, means remuneration receivable by the worker under or in consequence of the contract mentioned in paragraph 8B(f)—
- (a) that does not constitute employment income of the worker apart from Chapter 7 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (application of provisions to agency workers), and
 - (b) that is not, apart from section 134 of the Taxes Act 1988 (workers supplied by agencies), chargeable to income tax under Schedule E.
- (5) Any apportionment of expenditure of the company or the staff provider necessary for the purposes of this paragraph shall be made on a just and reasonable basis.

Election for connected persons treatment

- 8D (1) The company and the staff provider may in any case jointly elect that paragraph 8C shall apply to the staff provision payments made by the company to the staff provider.
- (2) Any such election must be made in relation to all staff provision payments paid under the same contract or arrangement.
- (3) The election must be made by notice in writing given to the Inland Revenue.
- (4) The notice must be given before the end of the period of two years beginning with the end of the company's accounting period in which the contract or other arrangement is entered into.
- (5) An election under this paragraph, once made, is irrevocable.

Treatment of staff provision payment in other cases

- 8E Where—
- (a) the company makes a staff provision payment,
 - (b) the company and the staff provider are not connected persons, and
 - (c) no election is made under paragraph 8D,
- 65% of the amount of the staff provision payment is treated as qualifying expenditure on externally provided workers."