
Status: Point in time view as at 01/04/2009.

Changes to legislation: Corporation Tax Act 2009, Cross Heading: Tax credit: entitlement and payment is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Corporation Tax Act 2009

2009 CHAPTER 4

PART 13

ADDITIONAL RELIEF FOR EXPENDITURE ON RESEARCH AND DEVELOPMENT

CHAPTER 2

RELIEF FOR SMES: COST OF R&D INCURRED BY SME

Tax credit: entitlement and payment

1054 Entitlement to and payment of tax credit

- (1) A company is entitled to an R&D tax credit for an accounting period if it has a Chapter 2 surrenderable loss in the period (see section 1055).
- (2) For the company to obtain an R&D tax credit in respect of all or part of the Chapter 2 surrenderable loss it must make a claim.

See section 1057 (which prevents a company from making a claim if it is not a going concern).
- (3) The amount of an R&D tax credit to which the company is entitled is determined in accordance with section 1058.
- (4) If a company makes a claim for an R&D tax credit to which it is entitled for an accounting period, an officer of Revenue and Customs must pay to the company the amount of the credit.

This is subject to section 1060.

- (5) This section is subject to section 1113 (cap on R&D aid in relation to a particular research and development project).

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- (6) See also section 1062, which restricts the carry forward of losses where a company claims an R&D tax credit.

1055 Meaning of “Chapter 2 surrenderable loss”

- (1) For the purposes of this Chapter a company has a “Chapter 2 surrenderable loss” if in an accounting period—
- (a) it obtains an additional deduction under section 1044 in calculating the profits of a trade and it makes a trading loss in that period in the trade, or
 - (b) it is treated as making a trading loss under section 1045.
- (2) If relief is obtained under section 1044 the amount of the Chapter 2 surrenderable loss is—
- (a) so much of the trading loss as is unrelieved, or
 - (b) if less, 175% of the qualifying Chapter 2 expenditure in respect of which the relief was obtained.
- (3) If relief is obtained under section 1045 the amount of the Chapter 2 surrenderable loss is so much of the trading loss as is unrelieved.

1056 Amount of trading loss which is “unrelieved”

- (1) This section applies for the purposes of section 1055.
- (2) The amount of a trading loss that is “unrelieved” is the amount of the loss reduced by—
- (a) any relief that was or could have been obtained by the company making a claim under section 393A(1)(a) of ICTA to set the loss against profits of the same accounting period,
 - (b) any other relief obtained by the company in respect of the loss, including relief under section 393A(1)(b) or 393B(3) of that Act (losses set against profits of an earlier accounting period), and
 - (c) any loss surrendered under section 403(1) of that Act (surrender of relief to group or consortium members).
- (3) No account is to be taken for this purpose of any losses—
- (a) brought forward from an earlier accounting period under section 393(1) of ICTA, or
 - (b) carried back from a later accounting period under section 393A(1)(b) or 393B(3) of that Act.

1057 Tax credit only available where company is going concern

- (1) A company may only make a claim under section 1054 at a time when it is a going concern.
- (2) If a company ceases to be a going concern after making a claim under section 1054, it is treated as if it had not made the claim (and accordingly there is treated as having been no payment of R&D tax credit to carry interest under section 826 of ICTA).
- (3) Subsection (2) does not apply so far as the claim relates to an amount that was paid or applied before the company ceased to be a going concern.

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- (4) For the purposes of this section a company is a going concern if—
 - (a) its latest published accounts were prepared on a going concern basis, and
 - (b) nothing in those accounts indicates that they were only prepared on that basis because of an expectation that the company would receive relief or R&D tax credits under this Chapter or Chapter 7.
- (5) Section 436(2) of the Companies Act 2006 (meaning of “publication” of documents) has effect for the purposes of this section.

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