SCHEDULES

SCHEDULE 3 U.K.

Section 20

RELIEF FOR EXPENDITURE ON R&D

Introductory

1 Part 13 of CTA 2009 (additional relief for expenditure on research and development) is amended as follows.

Amount of relief for expenditure on R&D by small or medium-sized enterprises ("SMEs")

2 (1) Chapter 2 (relief for SMEs: cost of R&D incurred by SME) is amended as follows.

[F1](2) . . . . . .

[F1](3) . . . . . .

[F1](4) . . . . . .

(5) In section 1058 (amount of tax credit), in subsection (1)(a), for "12.5%" substitute " 11% ".

Textual Amendments

F1 Sch. 3 para. 2(2)-(4) omitted (with effect in accordance with s. 27(5) of the amending Act) by virtue of Finance Act 2015 (c. 11), **s. 27(4)**

Removal of R&D threshold

3 (1) Chapter 2 (relief for SMEs: cost of R&D incurred by SME) is amended as follows.

(2) In section 1043 (overview of Chapter), in subsection (3), omit paragraph (e) (but not the "and" after it).

(3) In section 1044 (additional deduction in calculating profits of trade), omit subsection (3).

(4) In section 1045 (alternative treatment for pre-trading expenditure: deemed trading loss)—

(a) in subsection (1), omit ", B", and

(b) omit subsection (3).

(5) Omit section 1050 (R&D threshold).

4 (1) Chapter 3 (relief for SMEs: R&D sub-contracted to SME) is amended as follows.

(2) In section 1063 (additional deduction in calculating profits of trade)—

(a) in subsection (1), omit ", B", and

(b) omit subsection (3).

(3) Omit section 1064 (R&D threshold).

5 (1) Chapter 4 (relief for SMEs: subsidised and capped expenditure on R&D) is amended as follows.

(2) In section 1068 (additional deduction in calculating profits of trade)—

(a) in subsection (1), omit “, B”, and

(b) omit subsection (3).

(3) Omit section 1069 (R&D threshold).

6 (1) Chapter 5 (relief for large companies) is amended as follows.

(2) In section 1074 (additional deduction in calculating profits of trade)—

(a) in subsection (1), omit “, B”, and

(b) omit subsection (3).

(3) Omit section 1075 (R&D threshold).

F2 7 . . . . . .

Textual Amendments

F2 Sch. 3 para. 7 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

8 In consequence of the amendments made by paragraphs 3 to 7, in Schedule 4 to CTA 2009 omit each of the entries for “R&D threshold”.

Company not a going concern when in administration or liquidation

9 Chapter 2 (relief for SMEs: cost of R&D incurred by SME) is amended as follows.

10 (1) Section 1046 (relief only available where company is going concern) is amended as follows.

(2) At the end of subsection (2) insert—

“This is subject to subsection (2A).”

(3) After subsection (2) insert—

“(2A) A company is not a going concern at any time if it is in administration or liquidation at that time.

(2B) For the purposes of this section a company is in administration if—

(a) it is in administration under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.

(2C) For the purposes of this section a company is in liquidation if—

(a) it is in liquidation within the meaning of section 247 of that Act or Article 6 of that Order, or

(b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company."

11 (1) Section 1057 (tax credit only available where company is going concern) is amended as follows.

(2) At the end of subsection (4) insert—

"This is subject to subsection (4A)."

(3) After subsection (4) insert—

"(4A) A company is not a going concern at any time if it is in administration or liquidation at that time.

(4B) For the purposes of this section a company is in administration if—

(a) it is in administration under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.

(4C) For the purposes of this section a company is in liquidation if—

(a) it is in liquidation within the meaning of section 247 of that Act or Article 6 of that Order, or

(b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company."

F3 12 . . . . . .

Textual Amendments

F3 Sch. 3 paras. 12-14 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

F3 13 . . . . . .

Textual Amendments

F3 Sch. 3 paras. 12-14 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

F3 14 . . . . . .

Textual Amendments

F3 Sch. 3 paras. 12-14 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

Removal of limit on amount of tax credit based on PAYE and NIC liabilities

15 (1) Chapter 2 (relief for SMEs: cost of R&D incurred by SME) is amended as follows.

(2) In section 1058 (amount of tax credit), in subsection (1), omit paragraph (b) (and the "or" before it).

(3) Omit section 1059 (total amount of company's PAYE and NIC liabilities).

Abolition of vaccine research relief for SMEs

16 (1) Section 1039 (overview of Part 13) is amended as follows.

[F4](2) . . . . . .

(3) In subsection (7)—

(a) for "Chapters 2 and 7 also provide" substitute " Chapter 2 also provides ", and

(b) in paragraph (a), omit "or 7".

Textual Amendments

F4 Sch. 3 para. 16(2) omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F5]17 . . . . . .

Textual Amendments

F5 Sch. 3 para. 17 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

18 In section 1046 (relief only available where company is going concern), in subsection (2)(b), omit "or Chapter 7".

19 In section 1057 (tax credit only available where company is going concern), in subsection (4)(b), omit "or Chapter 7".

[F6]20 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]21 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]22 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]23 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]24 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]25 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]26 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]27 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]28 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]29 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

[F6]30 . . . . . .

Textual Amendments

F6 Sch. 3 paras. 20-30 omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

31 (1) Chapter 8 (cap on aid for R&D) is amended as follows.

[F7](2) . . . . . .

(3) In section 1115 ("the tax credits"), in subsection (1), omit "or 7".

Textual Amendments

F7 Sch. 3 para. 31(2) omitted (with effect in accordance with s. 47(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 47(14)(a)**

32 In consequence of the amendments made by paragraphs 16 to 31—

(a) in Schedule 4 to CTA 2009 (index of defined expressions), omit the entry for "Chapter 7 surrenderable loss",

(b) in Schedule 1 to CTA 2010, omit paragraphs 672 to 674, and

(c) in section 43 of FA 2011, omit subsections (7) to (11).

Qualifying expenditure on externally provided workers

33 Chapter 9 (supplementary) is amended as follows.

34 (1) Section 1128 ("externally provided worker") is amended as follows.

(2) In subsection (7), for "the staff provider" substitute " a person other than the company (the "staff controller") ".

(3) After subsection (8) insert—

"(9) In sections 1129 to 1131 references to "staff controller" are to be read in accordance with subsection (7)."

35 (1) Section 1129 (connected persons) is amended as follows.

(2) In subsection (1), for paragraphs (b) and (c) substitute—

"(b) the company, the staff provider and (if different) the staff controller (or staff controllers) are all connected, and

(c) 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 relevant expenditure of each staff controller has been brought into account in determining the staff controller's profit or loss for a relevant period.”

(3) In subsection (2)(b), for “the staff provider's relevant expenditure” substitute “ the aggregate of the relevant expenditure of each staff controller ”.

(4) In subsection (3)—

(a) for “of the staff provider” substitute “ , in relation to a staff controller, ”, and

(b) in paragraph (a), for “staff provider” substitute “ staff controller ”.

(5) In subsection (4)—

(a) after “ “Relevant period”” insert “ , in relation to a person, ”, and

(b) in paragraph (a), for “staff provider” substitute “ person ”.

(6) In subsection (5)—

(a) for “the staff provider's expenditure” substitute “ the expenditure of a staff controller ”, and

(b) for “the staff provider” substitute “ a staff controller ”.

(7) In subsection (7), for “staff provider” substitute “ a staff controller ”.

36 (1) Section 1130 (election for connected persons treatment) is amended as follows.

(2) For subsection (1) substitute—

“(1) If—

(a) a company makes a staff provision payment, and

(b) the company, the staff provider and (if different) the staff controller (or staff controllers) are not all connected,

they may jointly elect that section 1129 is to apply to them as if they were all connected.”

(3) In subsection (2), for “must be made” substitute “ has effect ”.

37 In section 1131 (qualifying expenditure on externally provided workers: other cases), in subsection (1), for paragraph (b) (but not the “and” following it) substitute—

“(b) the company, the staff provider and (if different) the staff controller (or staff controllers) are not all connected,”.

Application

38 The amendments made by paragraphs 2 and 16 to 37 have effect in relation to expenditure incurred on or after 1 April 2012.

39 The amendments made by paragraphs 3 to 8 and 15 have effect in relation to accounting periods ending on or after 1 April 2012.

40 The amendments made by paragraphs 9 to 14 have effect in relation to claims or elections made on or after 1 April 2012.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2012, SCHEDULE 3.