

*Status: Point in time view as at 22/04/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, Part 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 13

#### TAX RELIEF FOR EXPENDITURE ON VACCINE RESEARCH ETC

##### PART 2

###### MANNER OF GIVING EFFECT TO RELIEF: SMALL AND MEDIUM-SIZED COMPANIES

###### *Application of this Part*

- 13 This Part provides for how relief under this Schedule for an accounting period is to be given in the case of a company that qualifies as a small or medium-sized company in that period.

###### **Commencement Information**

- II** Sch. 13 has effect in relation to expenditure incurred on or after 22.4.2003 by The Finance Act 2002, Schedule 13 (Appointed Day) Order 2003 ([S.I. 2003/1472](#)), art. 2 (with para. 28(1))

###### *Deduction in computing profits of trade*

- 14 (1) Where a company—
- (a) is entitled to relief under this Schedule for an accounting period in respect of any qualifying expenditure, and
  - (b) is carrying on a trade in that period,
- it may (on making a claim) make the appropriate deduction in computing the profits of the trade for that period.
- (2) For this purpose the appropriate deduction is—
- (a) 50% of so much of the qualifying expenditure as is expenditure in respect of which the company is also entitled to relief under Schedule 20 to the Finance Act 2000 (c. 17), and
  - (b) 150% of so much of the qualifying expenditure as is not expenditure in respect of which the company is also entitled to relief under that Schedule.
- (3) This paragraph is without prejudice to any other deduction in respect of the qualifying expenditure.

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*Alternative treatment of pre-trading expenditure: deemed trading loss*

- 15 (1) Where a company—
- (a) is entitled to relief under this Schedule for an accounting period in respect of any qualifying expenditure, and
  - (b) is not carrying on a trade in that period,
- it may elect to be treated as if it had incurred a trading loss in that accounting period.
- (2) The amount of the trading loss is—
- (a) 50% of so much of the qualifying expenditure as is expenditure in respect of which the company is also entitled to relief under Schedule 20 to the Finance Act 2000, and
  - (b) 150% of so much of the qualifying expenditure as is not expenditure in respect of which the company is also entitled to relief under that Schedule.
- (3) Section 401 of the Taxes Act 1988 (relief for pre-trading expenditure) does not apply to qualifying expenditure in respect of which an election is made under this paragraph.
- (4) An election under this paragraph must—
- (a) specify the accounting period in respect of which it is made, and
  - (b) be made by notice in writing to the Inland Revenue given not later than two years after the end of the accounting period to which the election relates.
- (5) Where a company is treated under this paragraph as incurring a trading loss in an accounting period, the trading loss may not be set off against profits of a preceding accounting period under section 393A(1)(b) of the Taxes Act 1988 unless the company is entitled to tax relief under this paragraph for that earlier period.
- (6) Where a company is treated under this paragraph as incurring a trading loss in an accounting period and the company begins, in that accounting period or a later accounting period, to carry on a trade derived from the research and development in relation to which the tax relief in question was obtained under this paragraph, then—
- (a) subject to paragraph 19 (restriction on losses carried forward), and
  - (b) to the extent that—
    - (i) the company has not obtained relief in respect of the trading loss under any other provision, and
    - (ii) the loss has not been surrendered under section 403(1) of the Taxes Act 1988 (surrender of relief to group or consortium members),
 the loss shall be treated as if it were a loss of that trade brought forward under section 393 of that Act (relief of trading losses against future trading profits).

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*Entitlement to tax credit*

- 16 (1) A company may claim a tax credit for an accounting period in which it has a surrenderable loss.

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- (2) A company has a “surrenderable loss” for an accounting period—
  - (a) if paragraph 14 applies and the company incurs a trading loss in that period in the trade mentioned in sub-paragraph (1)(b) of that paragraph;
  - (b) if paragraph 15 applies and the company is treated under that paragraph as incurring a trading loss.
- (3) The amount of the surrenderable loss is equal to the lower of—
  - (a) so much of the trading loss referred to in sub-paragraph (2) above as is unrelieved, and
  - (b) the total amount deductible under paragraph 14 or, as the case may be, the total deemed trading loss under paragraph 15.
- (4) For this purpose the amount of a trading loss that is “unrelieved” means the amount of that 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 the Taxes Act 1988 to set the loss against profits of whatever description 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) of that Act (losses set against profits of an earlier accounting period),
  - (c) any loss surrendered under section 403(1) of that Act (surrender of relief to group or consortium members), or
  - (d) any loss surrendered under paragraph 15 of Schedule 20 to the Finance Act 2000 (c. 17) (entitlement to R&D tax credit).
- (5) No account shall be taken for this purpose of any losses—
  - (a) brought forward from an earlier accounting period under section 393(1) of the Taxes Act 1988, or
  - (b) carried back from a later accounting period under section 393A(1)(b) of that Act.

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#### *Amount of credit*

- 17
- (1) The amount of the tax credit to which a company is entitled for an accounting period is 16% of the surrenderable loss for the period, subject to the following limit.
  - (2) The limit is that the total of the tax credits to which the company is entitled for an accounting period under this Schedule and under Schedule 20 to the Finance Act 2000 (c. 17) may not exceed the total of the company’s PAYE and NICs liabilities for payment periods ending in that accounting period.
  - (3) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1) such other percentage as they think fit.
  - (4) An order under sub-paragraph (3) may make such incidental, supplementary, consequential and transitional provision as the Treasury think fit.

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- (5) Paragraph 17 of Schedule 20 to the Finance Act 2000 (calculation of total amount of company's PAYE and NICs liabilities for a payment period) applies for the purposes of this paragraph as it applies for the purposes of paragraph 16 of that Schedule.

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*Payment in respect of tax credit*

- 18 (1) Where—
- (a) a company is entitled to a tax credit under this Schedule for an accounting period, and
  - (b) makes a claim,
- the Inland Revenue shall pay to the company the amount of the credit.
- (2) An amount payable in respect of—
- (a) a tax credit under this Schedule, or
  - (b) interest on a tax credit under this Schedule under section 826 of the Taxes Act 1988,
- may be applied in discharging any liability of the company to pay corporation tax, and to the extent that it is so applied the Inland Revenue's obligation under sub-paragraph (1) is discharged.
- (3) Where the company's company tax return for the accounting period is enquired into by the Inland Revenue, no payment in respect of a tax credit under this Schedule for that period need be made before the Inland Revenue's enquiries are completed (see paragraph 32 of Schedule 18 to the Finance Act 1998 (c. 36)).
- In those circumstances the Inland Revenue may make a payment on a provisional basis of such amount as they think fit.
- (4) No payment need be made in respect of a tax credit under this Schedule for an accounting period before the company has paid to the Inland Revenue any amount that it is required to pay for payment periods ending in that accounting period—
- (a) under the PAYE regulations, or
  - (b) in respect of Class 1 national insurance contributions.

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*Restriction on losses carried forward*

- 19 (1) For the purposes of section 393 of the Taxes Act 1988 (relief of trading losses against future trading profits), a company's trading loss for a period for which it claims a tax credit under this Schedule is treated as reduced by the amount of the loss surrendered.
- (2) The amount of the loss surrendered is—

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- (a) where the maximum amount of tax credit was claimed, the whole of the surrenderable loss for that period, and
- (b) where less than the maximum amount was claimed, a corresponding proportion of the surrenderable loss for that period.

The “maximum amount” here means the amount specified in paragraph 17(1).

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*Payment in respect of tax credit not income*

- 20 A payment in respect of a tax credit under this Schedule is not income of the company for tax purposes.

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