

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 13: Additional relief for expenditure on research and development

Overview

Chapter 3: Relief for SMEs: R&D sub-contracted to SME

Overview

2762. This Chapter allows a company which is a small or medium-sized enterprise to claim relief for research and development sub-contracted to it. It is based on Part 2 of Schedule 12 to FA 2002.
2763. The Chapter applies only to expenditure incurred on or after 1 April 2002. See paragraph 20(1) of Schedule 12 to FA 2002. Schedule 2 (transitionals and savings) preserves this commencement rule (which, for the purposes of this Act, is relevant only to pre-trading expenditure).

Section 1063: Additional deduction in calculating profits of trade

2764. This section allows a small or medium-sized enterprise to claim relief for expenditure on research and development contracted out to it. It is based on paragraph 11 of Schedule 12 to FA 2002.
2765. As with relief under Chapter 2, relief under this Chapter is given as an additional deduction for expenditure that is already deductible in calculating trade profits (see *subsections (4) and (6)*). The amount of the deduction is increased by 30% (see *subsection (7)*).
2766. This section makes clear that relief is given only to companies liable to corporation tax. See *Change 77* in Annex 1 and the commentary on section 1039 (overview of Part).

Section 1064: R&D threshold

2767. This section gives the minimum amount of qualifying expenditure the company must incur in an accounting period to claim relief under this Chapter. It is based on paragraph 7 of Schedule 12 to FA 2002.
2768. The rules are very similar to those in section 1050. The minimum amount of expenditure is £10,000, reduced proportionately if the accounting period is less than 12 months long. As in section 1050, the source legislation does not explicitly state how the reduction is done. *Subsection (2)* removes any uncertainty by prescribing the arithmetic formula to be used. See *Change 78* in Annex 1.
2769. A significant difference to section 1050 is the treatment of pre-trading expenditure.

2770. Under *subsection (5)*, unlike section 1050, the normal rules in section 61 for dealing with pre-trading expenditure are not suspended. Pre-trading expenditure is bunched into the accounting period in which the trade starts and counts towards the threshold for that period. This includes expenditure that qualifies under Chapter 2 of this Part. For the purposes of claiming relief under Chapter 2 itself section 61 is suspended (see section 1050(6)).

Section 1065: Qualifying Chapter 3 expenditure

2771. This section identifies the expenditure that qualifies for relief under this Chapter. It is based on paragraph 8 of Schedule 12 to FA 2002.
2772. Relief is given to companies that undertake the research and development themselves (section 1066), and to companies that commission the research and development from certain other persons (section 1067). This section prevents more than one company claiming the relief and the relief leaking out into the income tax sector.
2773. If a large company commissions the research and development that company will not be able to claim relief under Chapter 5 of this Part. This is because that Chapter requires the company to carry out the research and development itself. If the research and development is contracted out to a small or medium-sized enterprise the effect of *subsection (2)* is to allow that small or medium-sized enterprise company to claim relief under this Chapter.
2774. If the research and development is contracted out by another small or medium-sized enterprise that company will be able to claim relief itself under Chapter 2. Subsection (2) prevents relief being given to the sub-contractor company under this Chapter.
2775. The relief given by this Part is restricted to corporation tax payers. Subsection (2) prevents a sub-contractor company getting relief if the work has been contracted out by a person, other than a large company, who could get a deduction for the payment in calculating its trade profits. This prevents the sub-contractor passing on some of the benefit of the relief to an income tax payer by charging lower prices.

Section 1066: Expenditure on sub-contracted R&D undertaken in-house

2776. This section identifies the expenditure which qualifies for relief if the company undertakes the research and development itself. It is based on paragraph 9 of Schedule 12 to FA 2002.
2777. As in section 1052, this section uses the label “in-house” to describe research and development that the source legislation describes as being “directly undertaken” by the company.
2778. The section does not reproduce the condition in paragraph 9(4) of Schedule 12 to FA 2002 that the expenditure is not of a capital nature. This condition is unnecessary because section 53 in Part 3 (trading income) already prohibits a deduction for capital expenditure.

Section 1067: Expenditure on sub-contracted R&D not undertaken in-house

2779. This section identifies the expenditure which qualifies for relief if the company commissions another person to do the research and development. It is based on paragraph 10 to Schedule 12 to FA 2002.
2780. The section does not reproduce the condition in paragraph 10(4) of Schedule 12 to FA 2002 that the expenditure is not of a capital nature. This condition is unnecessary because section 53 in Part 3, the trading income Part, already prohibits a deduction for capital expenditure.