



# Finance Act 2015

## 2015 CHAPTER 11

### PART 1

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 3

#### CORPORATION TAX: GENERAL

#### **28 Expenditure on research and development: consumable items**

- (1) CTA 2009 is amended as follows.
- (2) In Part 13 (additional relief for expenditure on research and development), in section 1126 (software or consumable items: attributable expenditure), after subsection (6) insert—

“(7) This section is subject to sections 1126A and 1126B.”

- (3) After section 1126 insert—

#### **“1126A Attributable expenditure: special rules**

- (1) Expenditure on consumable items is not to be treated as attributable to relevant research and development if—
  - (a) the relevant research and development relates to an item that is produced in the course of the research and development,
  - (b) the consumable items form part of the item produced,
  - (c) the item produced is transferred by a relevant person for consideration in money or money’s worth, and
  - (d) the transfer is made in the ordinary course of the relevant person’s business.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Expenditure on consumable items is not to be treated as attributable to relevant research and development if—
- (a) the relevant research and development relates to a process of producing an item,
  - (b) the consumable items form part of an item produced in the course of that research and development,
  - (c) the item produced is transferred by a relevant person for consideration in money or money's worth, and
  - (d) the transfer is made in the ordinary course of the relevant person's business.
- (3) If—
- (a) the item produced as described in subsection (1) or (2) may be divided, and
  - (b) only a proportion ("the appropriate proportion") of that item is transferred by a relevant person as described in subsection (1)(c) and (d) or (2)(c) and (d),
- the appropriate proportion of the expenditure on the consumable items is not to be treated as attributable to the relevant research and development.
- (4) If—
- (a) a number of items are produced in the course of the relevant research and development described in subsection (2), and
  - (b) only a proportion ("the appropriate proportion") of those items is transferred by a relevant person as described in subsection (2)(c) and (d),
- the appropriate proportion of the expenditure on the consumable items is not to be treated as attributable to the relevant research and development.
- (5) A reference in this section to producing an item includes a reference to preparing an item for transfer.
- (6) For the purposes of this section a consumable item forms part of an item produced if—
- (a) it is incorporated into the item produced, or
  - (b) it is turned into, or it and other materials are turned into, the item produced or a part of the item produced.
- (7) A reference in this section to the transfer of an item is a reference to—
- (a) the transfer of ownership of an item to another person (whether by sale or otherwise), or
  - (b) the transfer of possession of an item to another person (whether by letting on hire or otherwise),
- and a reference to the transfer of an item includes, where the item is incorporated into another item, the transfer of that other item.
- (8) For the purposes of this section the provision of information obtained in testing an item is not to be regarded as consideration for the transfer of that item.

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- (9) For the purposes of this section a transfer of an item produced in the course of research and development is not to be regarded as a transfer in the ordinary course of business if the item being transferred is waste.
- (10) In this section—
- “item” includes any substance;
  - “relevant person”, in relation to relevant research and development, means—
    - (a) the company that incurs the cost of the research and development, whether it is undertaken by itself or contracted out,
    - (b) the company to which the research and development is contracted out, whether it is undertaken by itself or contracted out,
    - (c) the person (other than a company) who contracts out the research and development to a company and incurs the cost of the research and development,
    - (d) the person (other than a company) to whom the research and development is contracted out, or
    - (e) a person who is connected to a company or person described in paragraph (a), (b), (c) or (d).

#### **1126B Attributable expenditure: further provision**

- (1) The Treasury may by regulations make provision for the purpose of identifying when expenditure on consumable items is attributable to relevant research and development, including provision modifying the effect of section 1126 or 1126A.
- (2) Regulations under this section may include provision about—
- (a) the circumstances in which expenditure on consumable items employed directly in relevant research and development is, or is not, to be treated as attributable to that relevant research and development;
  - (b) the circumstances in which consumable items are, or are not, to be treated as employed directly in relevant research and development.
- (3) Regulations under this section may—
- (a) make different provision for different purposes;
  - (b) make incidental, consequential, supplementary or transitional provision or savings.
- (4) Regulations under this section may amend—
- (a) section 1126;
  - (b) section 1126A;
  - (c) any other provision of this Act, if that is appropriate in consequence of provision made under paragraph (a) or (b).
- (5) Regulations under this section may make provision that has effect in relation to expenditure incurred before the making of the regulations, provided that it does not increase any person’s liability to tax.”
- (4) In each of the following, after “1126” insert “to 1126B”—

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- (a) section 104D(5);
  - (b) section 104E(5);
  - (c) section 104G(6);
  - (d) section 104H(7);
  - (e) section 104J(6);
  - (f) section 104K(7);
  - (g) section 1052(7);
  - (h) section 1053(6);
  - (i) section 1066(5);
  - (j) section 1067(5);
  - (k) section 1071(7);
  - (l) section 1072(8);
  - (m) section 1077(6);
  - (n) section 1078(7);
  - (o) section 1101(7);
  - (p) section 1102(6).
- (5) In section 104Y(2), for “and 1126” substitute “to 1126B”.
- (6) In section 1310(4) (orders and regulations subject to affirmative procedure), after paragraph (za) insert—
- “(zb) section 1126B (provision about when expenditure on consumable items is attributable to relevant research and development),”.
- (7) The amendments made by this section have effect in relation to expenditure incurred on or after 1 April 2015.