

SCHEDULES

SCHEDULE 1

Section 2

RESEARCH AND DEVELOPMENT

PART 1

MAIN AMENDMENTS OF CTA 2009

- 1 CTA 2009 is amended as follows.
- 2 In Part 3, omit Chapter 6A (R&D expenditure credit).
- 3 In the heading of Part 13, omit “Additional relief for”.
- 4 (1) Chapter 1 of Part 13 is amended as follows.
(2) For section 1039 (overview of Part) substitute—

“1039 Overview of Part

- (1) This Part provides relief for companies that invest in research and development.
- (2) Chapter 1A makes relief available in the form of a credit in respect of expenditure on research and development, which becomes payable in certain circumstances.
- (3) Chapter 2 makes alternative relief available, in the form of—
 - (a) an additional deduction in calculating trading profits, and
 - (b) a payable credit,to small or medium-sized enterprises that invest heavily in research and development and do not make associated trading profits.
- (4) Chapter 8 limits the reliefs provided by Chapters 1A and 2.
- (5) Chapter 9 contains definitions and other supplementary provision.”
- (3) For section 1040 (relief to be available under more than one Chapter of Part 13) substitute—

“1040 No overlapping claims under Chapters 1A and 2

A company is not entitled to relief under Chapter 2 in respect of expenditure if it is entitled to, and claims, relief under Chapter 1A in respect of that expenditure.”

- (4) Omit section 1040A (which refers to the existing R&D expenditure credit).
- 5 After Chapter 1 of Part 13 insert—

“CHAPTER 1A

R&D EXPENDITURE CREDIT

Introductory

1042A Overview of Chapter

- (1) This Chapter provides an entitlement to a credit (called an “R&D expenditure credit”) in respect of certain expenditure on research and development.
- (2) Section 1042B and 1042C make the basic provision setting out what the entitlement is and how it is to be realised.
- (3) Sections 1042D to 1042F describe the expenditure by reference to which the entitlement arises.
- (4) Section 1042G sets the percentage of that expenditure that is translated into the credit.
- (5) Sections 1042H to 1042N make provision about what happens when a company obtains the credit (in particular, about how the credit is to be accounted for and applied or paid).
- (6) Section 1042O makes provision about how the expenditure credit operates in the context of a basic life assurance and general annuity business carried on by an insurance company.
- (7) This Chapter has to be read with Chapter 8, which limits the entitlement given by this Chapter in various respects.

Entitlement and claims

1042B Entitlement to credit

- (1) A company is entitled to an R&D expenditure credit for an accounting period if it meets conditions A, B and C in this section.
- (2) Condition A is that the company carries on a trade in the period.
- (3) Condition B is that the company incurs expenditure that is both—
 - (a) allowable as a deduction in calculating for corporation tax purposes the profits of the trade for the period, and
 - (b) qualifying Chapter 1A expenditure by virtue of section 1042D, 1042E or 1042F.
- (4) Condition C is that the company is not an ineligible company (see section 1142).
- (5) The amount of the credit is the relevant percentage (see section 1042G) of the expenditure that satisfies condition B.

1042C Claiming the credit

- (1) To obtain an R&D expenditure credit the company must make a claim (see Part 9A of Schedule 18 to the FA 1998).
- (2) A company may not make the claim (“the RDEC claim”) after the end of the claim notification period unless—
 - (a) the company has made an R&D claim during the period of three years ending with the last day of the claim notification period,
 - (b) the company makes a claim notification in respect of the RDEC claim within the claim notification period, or
 - (c) the accounting period in respect of which the RDEC claim is made falls within the same period of account as another accounting period in respect of which the company has made an R&D claim or a claim notification.
- (3) For the purposes of subsection (2)(a), ignore any R&D claim for an accounting period beginning before 1 April 2023 that is included in the company’s company tax return only by virtue of an amendment made on or after that date (see paragraph 83B(2) of Schedule 18 to FA 1998).

Qualifying expenditure

1042D Qualifying expenditure: in-house R&D

- (1) Expenditure of a company is qualifying Chapter 1A expenditure if it meets each of conditions A to D in this section.
- (2) Condition A is that the expenditure is attributable to relevant research and development undertaken by the company itself.
- (3) Condition B is that the expenditure is—
 - (a) incurred on staffing costs (see section 1123),
 - (b) incurred on software, data licences, cloud computing services or consumable items (see section 1125),
 - (c) qualifying expenditure on externally provided workers (see section 1127), or
 - (d) incurred on relevant payments to the subjects of a clinical trial (see section 1140).
- (4) Condition C is that the research and development is not contracted out to the company (see section 1133).
- (5) Condition D is that the expenditure is not attributable to an exempt foreign permanent establishment (see section 1138B).
- (6) See sections 1124, 1126 to 1126B and 1132 for provision about when expenditure within subsection (3)(a), (b) or (c) is attributable to relevant research and development.

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1042E Qualifying expenditure: payments for contracted out R&D

- (1) Expenditure of a company is qualifying Chapter 1A expenditure if it meets each of conditions A to D in this section.
- (2) Condition A is that the expenditure is attributable to relevant research and development contracted out by the company (see section 1133).
- (3) Condition B is that the research and development is not also contracted out to the company (see section 1133).
- (4) Condition C is that the expenditure is incurred in making the qualifying element of a contractor payment (see sections 1133 to 1136).
- (5) Condition D is that the expenditure is not attributable to an exempt foreign permanent establishment (see section 1138B).
- (6) See sections 1124, 1126 to 1126B and 1132 for provision about when particular kinds of expenditure are attributable to relevant research and development.

1042F Qualifying expenditure: activity as contractor for irrelievable client

- (1) Expenditure of a company is qualifying Chapter 1A expenditure if it meets conditions A, B and C in this section.
- (2) Condition A is that the expenditure is attributable to relevant research and development contracted out to the company (see section 1133).
- (3) Condition B is that subsection (4) is satisfied by each person by whom the research and development is contracted out to the company.
- (4) A person satisfies this subsection if—
 - (a) the person is an ineligible company (see section 1142), or
 - (b) the person is not, in relation to the contracting out of the research and development by that person, acting in the course of a trade, profession or vocation within the charge to tax.
- (5) Condition C is that the expenditure would, but for the fact that the research and development is contracted out to the company, be qualifying Chapter 1A expenditure by virtue of section 1042D or 1042E.

*Rate of credit***1042G Percentage of qualifying expenditure translated into credit**

- (1) The relevant percentage for the purposes of section 1042B(5) is—
 - (a) 49%, in the case of a ring fence trade within the meaning given by section 277 of CTA 2010, or
 - (b) 20%, in any other case.
- (2) The Treasury may by regulations replace the percentage for the time being specified in subsection (1)(a) or (b) with a different percentage.

Treatment of credit: main provisions

1042H Expenditure credit to count as taxable receipt

If a company is entitled to, and claims, an R&D expenditure credit for an accounting period, it must bring the amount of the credit into account as a receipt in calculating for corporation tax purposes the profits for the period of the trade concerned.

1042I Redemption of value of expenditure credit

If a company is entitled to, and claims, an R&D expenditure credit for an accounting period, the credit is to be dealt with as follows.

Step 1

The amount of the credit is to be applied in discharging any liability of the company to pay corporation tax for the accounting period.

Step 2

If there is a notional tax deduction (see section 1042K), it is to be applied to any amount remaining after step 1.

Step 3

If the amount remaining after step 2 exceeds the cap by reference to the company's PAYE and NIC liabilities for the accounting period (see section 1112B), the excess is to be deducted.

Step 4

Any amount remaining after step 3 is to be applied in discharging any liability of the company to pay corporation tax for any other accounting period.

Step 5

If the company is a member of a group, it may surrender the whole or part of any amount remaining after step 4 to any other member of the group (as to which see section 1042N).

Step 6

Any amount remaining after step 5 is to be applied in discharging any other liability of the company to pay a sum to the Commissioners for His Majesty's Revenue and Customs—

- (a) under or by virtue of an enactment, or
- (b) under an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment.

Step 7

Any amount remaining after step 6 is (subject to sections 1112F and 1112H) to be paid to the company by an officer of Revenue and Customs.

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1042J Treatment of deduction to comply with PAYE and NIC limit

- (1) This section applies if an amount is deducted under step 3 in section 1042I.
- (2) The amount is to be added to the amount of R&D expenditure credit to which the company is entitled for its next accounting period (including where that amount would otherwise be nil).

Notional tax deduction

1042K Amount of notional tax deduction

- (1) This section determines the amount of the notional tax deduction for the purposes of step 2 in section 1042I.
- (2) The amount of the deduction is the amount (if any) by which the amount remaining after step 1 in section 1042I exceeds the amount produced by deducting the notional tax charge from the initial amount of the expenditure credit (that is, its amount before the application of that step).
- (3) Subsections (4) and (5) apply if the trade concerned is not a ring fence trade.
- (4) The notional tax charge is the amount of corporation tax that would be chargeable on the initial amount of the expenditure credit if it were an amount of profits for the accounting period on which corporation tax was chargeable at the applicable rate.
- (5) The applicable rate is—
 - (a) the main rate, if the company has profits for the accounting period that—
 - (i) are chargeable to corporation tax at the main rate, and
 - (ii) would be so even if they did not include any amount brought into account under section 1042H;
 - (b) in any other case, the standard small profits rate.
- (6) Subsections (7) and (8) apply if the trade concerned is a ring fence trade.
- (7) The notional tax charge is the sum of—
 - (a) the amount of corporation tax that would be chargeable on the initial amount of the expenditure credit if it were an amount of ring fence profits for the accounting period on which corporation tax was chargeable at the applicable rate, and
 - (b) the amount of the supplementary charge that would be chargeable on the initial amount of the expenditure credit if it were an amount of adjusted ring fence profits for the accounting period (see Chapters 6 to 9 of Part 8 of CTA 2010).
- (8) The applicable rate is—
 - (a) the main ring fence profits rate, if the company has profits for the accounting period that—
 - (i) are chargeable to corporation tax at the main ring fence profits rate, and

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- (ii) would be so even if they did not include any amount brought into account under section 1042H;
 - (b) in any other case, the small ring fence profits rate.
- (9) For the purposes of this section, the initial amount of an expenditure credit is to be treated as excluding any amount added under section 1042J.
- (10) In this section—
 - “adjusted ring fence profits” has the meaning given by section 330(2) of CTA 2010;
 - “main rate” means the rate referred to in section 3(1) of CTA 2010;
 - “main ring fence profits rate” means the rate referred to in section 279A(1) of CTA 2010;
 - “ring fence profits” has the meaning given by section 276 of CTA 2010;
 - “ring fence trade” has the meaning given by section 277 of CTA 2010;
 - “small ring fence profits rate” means the rate referred to in section 279A(3) of CTA 2010;
 - “standard small profits rate” means the rate referred to in section 18A(1) of CTA 2010.

1042L Treatment of notional tax deduction

- (1) This section applies if an amount is deducted under step 2 in section 1042I.
- (2) If the company is a member of a group, it may, in respect of the accounting period in which the expenditure credit arises, surrender the whole or part of the deducted amount to any other member of the group (as to which see section 1042N).
- (3) To the extent that the deducted amount is not surrendered under subsection (2), it is to be applied in discharging any liability of the company to pay corporation tax for any subsequent accounting period.

1042M Priority of discharge

- (1) An amount within subsection (2) is to be applied as described in that subsection before any amount within subsection (3) is applied as described in that subsection.
- (2) An amount is within this subsection if it is to be applied under—
 - (a) section 1042L(3), or
 - (b) section 1042N(3) as it applies in relation to an amount surrendered under section 1042L(2),in discharging the liability of a company to pay corporation tax for an accounting period.
- (3) An amount is within this subsection if it is to be (or would but for subsection (1) be) applied under—
 - (a) step 4 in section 1042I, or

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- (b) section 1042N(3) as it applies in relation to an amount surrendered under step 5 in section 1042I, in discharging the same liability as an amount within subsection (2).

Intra-group surrenders

1042N Amounts surrendered to other group companies

- (1) Subsection (3) applies if an amount of expenditure credit is surrendered by the qualifying company to another member of its group under step 5 in section 1042I or under section 1042L(2).
- (2) For the purposes of that subsection—
- (a) the accounting period in respect of which the surrender is made is “the surrender AP”;
 - (b) an accounting period of the other group member is an “overlapping AP” if it overlaps with the surrender AP to any extent.
- (3) The surrendered amount is to be dealt with as follows.

Step 1

Select an overlapping AP.

Step 2

Calculate the proportion of the overlapping AP that overlaps with the surrender AP, and apply that proportion to the amount of corporation tax payable by the other group member for that overlapping AP.

Step 3

Calculate the proportion of the surrender AP that overlaps with the overlapping AP, and apply that proportion to the surrendered amount.

Step 4

The amount given by step 3 is to be applied in discharging the liability of the other group member to pay the corporation tax mentioned in step 2, up to the amount given by that step.

Step 5

Select another overlapping AP, if there is one, and repeat steps 2 to 4.

Step 6

If any of the surrendered amount remains after steps 2 to 4 have been taken in relation to each overlapping AP, the remainder is to be treated for the purposes of section 1042I or (as the case may be) section 1042L(2) as if it had not been surrendered as mentioned in subsection (1).

- (4) A surrender to which subsection (3) applies is not to be—
- (a) taken into account in determining, for corporation tax purposes, the profits or losses of the qualifying company or the other group member, or
 - (b) regarded for corporation tax purposes as the making of a distribution.

Basic life assurance and general annuity businesses

1042O Adaptation of entitlement for certain insurance businesses

- (1) This section applies if—
 - (a) for an accounting period, an insurance company is charged to tax in respect of its basic life assurance and general annuity business in accordance with the I-E rules, and
 - (b) the calculation of the company’s charge to tax for the period in respect of that business does not involve the calculation of any BLAGAB trade profit or loss of the company.
- (2) The reference in section 1042B(3)(a) to expenditure that is allowable as a deduction in calculating the profits of the trade for an accounting period is to be read as a reference to expenditure that would be so allowable if the company were to calculate its BLAGAB trade profit or loss for the period.
- (3) The reference in section 1042H to calculating the profits of the trade is to be read as a reference to calculating the I-E profit of the basic life assurance and general annuity business carried on by the company.
- (4) Any receipt to be brought into account by virtue of this section is to be treated for the purposes of section 92 of FA 2012 (certain BLAGAB trading receipts to count as deemed I-E receipts) as if it had been taken into account in calculating the company’s BLAGAB trade profit or loss for the period.
- (5) In this section, “BLAGAB trade profit” and “BLAGAB trade loss” have the meanings given by section 136 of FA 2012.”

- 6
- (1) Chapter 2 of Part 13 (relief for SMEs on the cost of R&D) is amended as follows.
 - (2) For the heading substitute “Relief for loss-making, R&D-intensive SMEs”.
 - (3) For section 1043 (overview of Chapter) substitute—

“1043 Overview of Chapter

- (1) This Chapter provides relief for companies that are small or medium-sized enterprises, invest heavily in research and development, and do not make associated trading profits.
- (2) Section 1044 provides relief in the form of an additional deduction where the investment is made in the course of a loss-making trade.
- (3) Section 1045 provides relief in the form of a deemed trading loss where the investment is made the course of activities that do not yet amount to the carrying on of a trade.
- (4) Section 1045ZA specifies the intensity of spending on research and development needed for a company to qualify for relief under section 1044 or 1045.
- (5) Sections 1047 and 1048 make provision about the procedure for claiming, and the effect of, relief under section 1045.

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- (6) Section 1049 restricts consortium relief where relief under section 1044 or 1045 is claimed.
 - (7) Sections 1051 to 1053 describe the expenditure by reference to which the entitlement to relief under section 1044 or 1045 arises.
 - (8) Sections 1054 to 1062 provide further relief in the form of a payable credit (called an “R&D tax credit”) in respect of trading losses increased or generated by relief under section 1044 or 1045.
 - (9) Section 1062A excludes certain insurance companies.
 - (10) This Chapter has to be read with Chapter 8, which limits the entitlements given by this Chapter in various respects.”
- (4) In section 1044 (additional deduction for trading companies)—
- (a) in subsection (1), for “D” substitute “F”;
 - (b) after subsection (2) insert—
 - “(2A) Condition B is that the company—
 - (a) meets the R&D intensity condition in the period, or
 - (b) obtained relief under this Chapter for its most recent prior accounting period of 12 months’ duration, having met the R&D intensity condition in that period.”;
 - (c) after subsection (5) insert—
 - “(5A) Condition E is that the company makes a loss in the trade in the period.
 - (5B) Condition F is that the company is not an ineligible company (see section 1142).”;
 - (d) in subsection (6)—
 - (i) at the end of the first sentence insert “(see Part 9A of Schedule 18 to the FA 1998, and also sections 1045A and 1112F)”;
 - (ii) omit the second sentence;
 - (e) in subsection (7), at the end insert—
 - “The deduction is, in particular, additional to any given under section 87.”;
 - (f) omit subsection (9).
- (5) In section 1045 (deemed trading loss for non-trading companies)—
- (a) in subsection (1), for “conditions A and C” substitute “each of conditions A to D”.
 - (b) after subsection (2) insert—
 - “(2A) Condition B is that the company—
 - (a) meets the R&D intensity condition in the period, or
 - (b) obtained relief under this Chapter for its most recent prior accounting period of 12 months’ duration, having met the R&D intensity condition in that period.”;
 - (c) after subsection (4) insert—

“(4A) Condition D is that the company is not an ineligible company (see section 1142).”;

- (d) in subsection (5)—
 - (i) at the end of the first sentence insert “(see section 1047, and also section 1112F)”;
 - (ii) omit the second sentence;
- (e) omit subsection (9).

(6) After section 1045 insert—

“1045ZA R&D intensity condition

- (1) This section determines whether a company meets the R&D intensity condition in an accounting period for the purposes of sections 1044 and 1045.
- (2) If the company is not connected with another company, the company meets the condition if its relevant R&D expenditure for the period amounts to at least 30% of its total relevant expenditure for the period.
- (3) If the company is connected with at least one other company, the company meets the condition if the connected companies’ relevant R&D expenditure for the period amounts to at least 30% of the connected companies’ total relevant expenditure for the period.
- (4) In subsection (3), “the connected companies” refers to the company to which this section is being applied and each company with which it is connected; and the references to their expenditure are to the aggregate of each of their expenditures.
- (5) Expenditure forms part of a company’s total relevant expenditure for an accounting period if—
 - (a) in accordance with generally accepted accounting practice, it is brought into account in calculating the profits for the period of any trade carried on by the company,
 - (b) it is expenditure in respect of which the company is, for the period, entitled to relief under section 1045, or
 - (c) in reliance on section 1308(2) (expenditure brought into account in determining value of intangible asset allowable as a deduction), it is brought into account in calculating the company’s profits for the period for corporation tax purposes.
- (6) But—
 - (a) expenditure of a company is to be ignored for the purposes of subsection (5) if it consists of a payment, or other transfer of value, to another company with which the company is connected, and
 - (b) where expenditure forms part of a company's total relevant expenditure by virtue of subsection (5)(c), a deduction brought into account as mentioned in subsection (5)(a) is to be ignored for the purposes of that provision to the extent that a corresponding deduction for corporation tax purposes is prevented by section 1308(5).

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- (7) Expenditure forms part of a company’s relevant R&D expenditure for an accounting period if—
- (a) it forms part of the company’s total relevant expenditure for the period, or would do but for subsection (6)(a), and
 - (b) it is expenditure in respect of which the company would, assuming that it met the R&D intensity condition, be entitled to relief under this Chapter for the period.
- (8) For the purposes of this section in its application to an accounting period, a company is to be treated as connected with another company if it is connected with that company on any day within the period.”
- (7) Omit section 1046 (relief only available to going concerns).
- (8) In section 1051 (meaning of “qualifying Chapter 2 expenditure”), for the words from “means” to the end substitute “is such of its expenditure as is qualifying Chapter 2 expenditure by virtue of section 1052, 1053 or 1053A.”
- (9) For sections 1052 and 1053 (categories of qualifying Chapter 2 expenditure) substitute—

“1052 Qualifying expenditure: in-house R&D

- (1) Expenditure of a company is qualifying Chapter 2 expenditure if it meets each of conditions A to D in this section.
- (2) Condition A is that the expenditure is attributable to relevant research and development undertaken by the company itself.
- (3) Condition B is that the expenditure is—
 - (a) incurred on staffing costs (see section 1123),
 - (b) incurred on software, data licences, cloud computing services or consumable items (see section 1125),
 - (c) qualifying expenditure on externally provided workers (see section 1127), or
 - (d) incurred on relevant payments to the subjects of a clinical trial (see section 1140).
- (4) Condition C is that the research and development is not contracted out to the company (see section 1133).
- (5) Condition D is that the expenditure is not attributable to an exempt foreign permanent establishment (see section 1138B).
- (6) See sections 1124, 1126 to 1126B and 1132 for provision about when expenditure within subsection (3)(a), (b) or (c) is attributable to relevant research and development.

1053 Qualifying expenditure: payments for contracted out R&D

- (1) Expenditure of a company is qualifying Chapter 2 expenditure if it meets each of conditions A to D in this section.

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- (2) Condition A is that the expenditure is attributable to relevant research and development contracted out by the company (see section 1133).
- (3) Condition B is that the research and development is not also contracted out to the company (see section 1133).
- (4) Condition C is that the expenditure is incurred in making the qualifying element of a contractor payment (see sections 1133 to 1136).
- (5) Condition D is that the expenditure is not attributable to an exempt foreign permanent establishment (see section 1138B).
- (6) See sections 1124, 1126 to 1126B and 1132 for provision about when particular kinds of expenditure are attributable to relevant research and development.

1053A Qualifying expenditure: activity as contractor for irrelievable client

- (1) Expenditure of a company is qualifying Chapter 2 expenditure if it meets conditions A, B and C in this section.
 - (2) Condition A is that the expenditure is attributable to relevant research and development contracted out to the company (see section 1133).
 - (3) Condition B is that subsection (4) is satisfied by each person by whom the research and development is contracted out to the company.
 - (4) A person satisfies this subsection if—
 - (a) the person is an ineligible company (see section 1142), or
 - (b) the person is not, in relation to the contracting out of the research and development by that person, acting in the course of a trade, profession or vocation within the charge to tax.
 - (5) Condition C is that the expenditure would, but for the fact that the research and development is contracted out to the company, be qualifying Chapter 2 expenditure by virtue of section 1052 or 1053.”
- (10) In section 1054 (entitlement to R&D tax credit)—
- (a) in subsection (2)—
 - (i) at the end of the first sentence insert “(see Part 9A of Schedule 18 to the FA 1998, and also sections 1054A and 1112F)”;
 - (ii) omit the second sentence;
 - (b) in subsection (4), for “1060” substitute “1112H”;
 - (c) omit subsection (5).
- (11) Omit section 1057 (R&D tax credit only available to going concerns).
- (12) In section 1058 (amount of R&D tax credit)—
- (a) in subsection (1)—
 - (i) in paragraph (a), for “10%” substitute “14.5%”;
 - (ii) for paragraph (aa) substitute—
 - “(aa) the amount of the cap by reference to the company’s PAYE and NIC liabilities for the accounting period (see section 1112B).”;

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- (b) omit subsections (1A) to (1C);
 - (c) in subsection (2), omit paragraphs (b) and (c);
 - (d) omit subsection (3).
- (13) Omit sections 1058A to 1058D (provision in relation to PAYE and NIC liabilities).
- (14) In section 1060 (payment of R&D tax credit)—
- (a) for the heading substitute “Use of credit to pay corporation tax”;
 - (b) omit subsections (4) to (7).
- (15) After section 1062 insert—

“1062A Insurance company to be treated as large company

An insurance company that carries on life assurance business in an accounting period is not to be treated for the purposes of this Chapter as a small or medium-sized enterprise in relation to that period.”

- 7 Omit Chapter 6 of Part 13 (further provision about Chapters 2 to 5).
- 8 For Chapter 8 of Part 13 (cap on aid for R&D) substitute—

“CHAPTER 8

RESTRICTIONS ON RELIEF UNDER THIS PART

Introductory

1112A Overview of Chapter

- (1) This Chapter limits the entitlements given by Chapters 1A and 2.
- (2) Sections 1112B to 1112E provide for the amount of R&D expenditure credit or R&D tax credit payable to a company to be capped by reference to certain liabilities of the company in connection with PAYE and national insurance, except in certain cases.
- (3) Sections 1112F and 1112G provide that payment of an R&D expenditure credit, and relief under Chapter 2, are available only to companies that are going concerns.
- (4) Section 1112H provides that an R&D expenditure credit or R&D tax credit does not have to be paid if a tax enquiry into the company is open or the company has outstanding PAYE or national insurance liabilities.
- (5) Section 1112I provides for transactions aimed at obtaining or increasing an entitlement under Chapter 1A or 2 not to succeed in doing so.
- (6) Section 1112J allows the Treasury to place additional limits on the amount of relief available under Chapter 2.

PAYE and NIC liabilities

1112B Cap by reference to PAYE and NIC liabilities

- (1) This section determines, for the purposes of sections 1042I and 1058(1), the amount of the cap by reference to a company's PAYE and NIC liabilities for an accounting period.
But see section 1112E (which provides for there to be no cap in certain cases).
- (2) The amount of the cap is the sum of—
 - (a) £20,000, and
 - (b) the amount produced by multiplying by three (“the multiplier”) the amount of the company's relevant PAYE and NIC liabilities for payment periods ending in the accounting period (see section 1112C).
- (3) If the accounting period is less than 12 months, the amount specified in subsection (2)(a) is to be proportionately reduced.
- (4) If the company claims relief under both Chapters 1A and 2 for the period, the amount of the cap for the purposes of section 1042I is to be reduced by the amount of any R&D tax credit obtained by the company under Chapter 2.
- (5) The Treasury may by regulations—
 - (a) replace the amount for the time being specified in subsection (2)(a) with a different amount;
 - (b) replace the multiplier for the time being specified in subsection (2)(b) with a different multiplier.

1112C Calculation of relevant PAYE and NIC liabilities

- (1) This section determines the amount of a company's relevant PAYE and NIC liabilities for a payment period for the purposes of section 1112B.
- (2) The amount is to be calculated as follows.
 - Step 1*
Take the total amount of the company's PAYE and NIC liabilities for the payment period (see section 1112D).
 - Step 2*
Add any amount produced by the application of subsection (4) or (6) to the company as company A.
 - Step 3*
Deduct any amount produced by the application of subsection (4) or (6) to the company as company B.
- (3) An amount is produced by subsection (4) where—
 - (a) two companies (“company A” and “company B”) are connected,
 - (b) company A incurs expenditure in the payment period on externally provided workers (see sections 1127 and 1128), and

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- (c) company B incurs staffing costs in the payment period in providing any of those workers for company A.
- (4) The amount produced is the sum of the amounts given, in relation to each worker in respect of whom subsection (3)(c) is satisfied, by—

$$X \times \frac{Y}{Z}$$

where—

X is the amount of expenditure that—

- (a) has been incurred on staffing costs by company B in providing the worker for company A, and
- (b) forms part of the total amount of company B’s PAYE and NIC liabilities for the payment period (see section 1112D),

Y is the amount of company A’s expenditure on the externally provided worker that has been taken into account in calculating the amount of company A’s qualifying expenditure for the payment period, and

Z is the total amount of company A’s qualifying expenditure on the externally provided worker (see section 1127) for the payment period.

- (5) Subsection (6) produces an amount where—
- (a) two companies (“company A” and “company B”) are connected,
- (b) company A incurs qualifying contractor expenditure in the payment period, and
- (c) company B incurs staffing costs in the payment period in undertaking on behalf of company A any of the research and development to which that expenditure is attributable.
- (6) That amount is such amount of those staffing costs as forms part of the total amount of company B’s PAYE and NIC liabilities for the payment period (see section 1112D).
- (7) In this section as it applies for the purposes of section 1042I—
- “qualifying expenditure” (except in the expression “qualifying expenditure on the externally provided worker”) means expenditure that is qualifying Chapter 1A expenditure by virtue of section 1042D, 1042E or 1042F;
- “qualifying contractor expenditure” means expenditure that is qualifying Chapter 1A expenditure by virtue of—
- (a) section 1042E, or
- (b) section 1042F as it applies by reference to section 1042E.
- (8) In this section as it applies for the purposes of section 1058(1)—
- “qualifying expenditure” (except in the expression “qualifying expenditure on the externally provided worker”) means qualifying Chapter 2 expenditure (see section 1051);
- “qualifying contractor expenditure” means qualifying expenditure that is qualifying Chapter 2 expenditure by virtue of—
- (a) section 1053, or

(b) section 1053A as it applies by reference to section 1053.

1112D Total PAYE and NIC liabilities

- (1) For the purposes of section 1112C, the total amount of a company's PAYE and NIC liabilities for a payment period is the sum of amount A and amount B.
- (2) Amount A is the total amount of income tax for which the company is required to account to an officer of Revenue and Customs under PAYE regulations for the period.
- (3) In calculating amount A, any deduction the company is authorised to make in respect of child tax credit or working tax credit is to be disregarded.
- (4) Amount B is the total amount of Class 1 national insurance contributions for which the company is required to account to an officer of Revenue and Customs for the accounting period.
- (5) In calculating amount B, any deduction the company is authorised to make in respect of any of the following is to be disregarded—
 - (a) statutory maternity pay,
 - (b) statutory adoption pay,
 - (c) statutory paternity pay,
 - (d) statutory shared parental pay,
 - (e) statutory parental bereavement pay;
 - (f) child tax credit, or
 - (g) working tax credit.
- (6) Subsection (7) applies if—
 - (a) in determining under section 1112C the amount of a company's relevant PAYE and NIC liabilities for a payment period, it is necessary to determine the total amount of another company's PAYE and NIC liabilities for that period, and
 - (b) that period falls within, but is shorter than, a payment period of that other company.
- (7) The amount produced by subsection (1) in its application to that other company is to be proportionately reduced.

1112E Exception for companies creating or managing intellectual property

- (1) There is no cap by reference to a company's PAYE and NIC liabilities for an accounting period if the company meets conditions A and B.
- (2) A company meets condition A for an accounting period if, during the period, the company is engaged in—
 - (a) taking, or preparing to take, steps in order that relevant intellectual property will be created by it,
 - (b) creating relevant intellectual property, or
 - (c) performing a significant amount of management activity in relation to relevant intellectual property it holds.

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

- (3) For the purposes of subsection (2)—
- (a) a company is only engaged in an activity mentioned in paragraph (a), (b) or (c) of subsection (2) if the activity is wholly or mainly undertaken by employees of the company;
 - (b) intellectual property is “relevant” intellectual property in relation to a company if the whole or the greater part (in terms of value) of it is created by the company;
 - (c) intellectual property is created by a company if it is created in circumstances in which the right to exploit it vests in the company (whether alone or jointly with others).
- (4) For the purposes of this section—
- “intellectual property” means—
- (a) any patent, trade mark, registered design, copyright, design right or plant breeder’s right,
 - (b) any rights under the law of a country or territory outside the United Kingdom which correspond or are similar to those falling within paragraph (a), or
 - (c) any information or technique not protected by a right within paragraph (a) or (b) but having industrial, commercial or other economic value;
- “management activity”, in relation to intellectual property, means formulating plans and making decisions in relation to the development or exploitation of the intellectual property.
- (5) A company meets condition B for an accounting period if the amount (if any) given by subsection (6) does not exceed 15% of the company’s qualifying expenditure for the period.
- (6) The amount given by this subsection is the sum of the following incurred by the company in the period—
- (a) qualifying expenditure on externally provided workers (see section 1127), where the company, the staff provider and (if different) the staff controller (or staff controllers)—
 - (i) are all connected, or
 - (ii) have jointly elected (under section 1130) that section 1129 is to apply to them as if they were all connected;
 - (b) qualifying contractor expenditure, where the company and the contractor—
 - (i) are connected, or
 - (ii) have jointly elected (under section 1135) that section 1134 is to apply to them as if they were connected.
- (7) In subsection (6)(b), “qualifying contractor expenditure” has whichever of the meanings given by 1112C(7) corresponds to the purpose for which this section is being applied.
- (8) The Treasury may by regulations replace the percentage for the time being specified in subsection (5) with a different percentage.

Going concerns

1112F Restriction of credit and relief to companies that are going concerns

- (1) Subsection (2) applies if a company makes a claim under section 1042C (claims for R&D expenditure credit) at a time when it is not a going concern.
- (2) No amount is to be paid to the company at step 7 in section 1042I as a result of the claim.
- (3) Subsection (2) ceases to apply (and the company accordingly becomes entitled to be paid) if the company becomes a going concern on or before the last day on which it would be entitled to amend the claim in accordance with paragraph 83E of Schedule 18 to FA 1998.
- (4) A company may not make—
 - (a) a claim under section 1044 (R&D relief by way of additional deduction),
 - (b) an election under section 1045 (R&D relief by way of deemed trading loss), or
 - (c) a claim under section 1054 (R&D tax credit),at a time when it is not a going concern.
- (5) 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).
- (6) Subsection (5) 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.

1112G Meaning of “going concern”

- (1) For the purposes of section 1112F, 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 prepared on that basis only because of an entitlement or expected entitlement to a credit or relief under this Part.
- (2) But a company is not a going concern if it is in administration or liquidation.
- (3) 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.
- (4) 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

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

- (b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.
- (5) If—
- (a) a company transfers its trade and research and development to another company that is a member of the same group, and
 - (b) only by reason of that transfer, the company’s accounts for the period of account in which the transfer took place are not prepared on a going concern basis,
- the accounts are to be treated for the purposes of this section as if they were prepared on a going concern basis.
- (6) Section 436(2) of the Companies Act 2006 (meaning of “publication” of documents) has effect for the purposes of this section.

Outstanding tax matters

1112H No credit payable if certain tax matters outstanding

- (1) This section applies in relation to an amount that a company would, but for this section, be entitled to be paid—
 - (a) at step 7 in section 1042I (payment of R&D expenditure credit not applied for other purposes), or
 - (b) under section 1054 (payment of R&D tax credit).
- (2) If the company’s tax return for the accounting period in question is enquired into by an officer of Revenue or Customs—
 - (a) the amount does not have to be paid to the company, but
 - (b) an officer of Revenue and Customs may make a payment on a provisional basis of such amount as the officer thinks fit.
- (3) If the company has outstanding PAYE or NIC liabilities for the accounting period in question, the amount does not have to be paid to the company.
- (4) For the purposes of subsection (3), a company has outstanding PAYE or NIC liabilities for an accounting period if it has not paid to an officer of Revenue and Customs any amount that it is required to pay—
 - (a) under PAYE regulations, or
 - (b) in respect of Class 1 national insurance contributions,
 for payment periods ending in the accounting period.

Artificially inflated claims

1112I Transactions aimed at obtaining credit or relief to be disregarded

- (1) To the extent that a transaction is attributable to arrangements entered into for a disqualifying purpose, it is to be disregarded in ascertaining a company’s entitlement to relief under this Part.
- (2) Arrangements are entered into for a disqualifying purpose if their main purpose, or one of their main purposes, is to enable a company to obtain relief under this Part—

- (a) to which it would not otherwise be entitled, or
- (b) of greater amount than that to which it would otherwise be entitled.

Additional limits

1112J Power to further limit Chapter 2 relief

The Treasury may, by regulations, limit the availability of relief under Chapter 2 in respect of—

- (a) companies (or groups of companies) of a prescribed description,
- (b) research and development projects of a prescribed description, or
- (c) expenditure of a prescribed description.”

- 9 (1) Chapter 9 of Part 13 (supplementary provision) is amended as follows.
- (2) In section 1126B (regulations about consumable items and research and development), omit subsection (3).
- (3) In section 1128 (meaning of “externally provided worker”), in subsection (9), for “1131” substitute “1132A”.
- (4) In section 1129 (qualifying expenditure on externally provided workers: connected persons)—
- (a) in subsection (3) omit the “and” at the end of paragraph (b);
 - (b) in that subsection, at the end of paragraph (c) insert “, and
“(d) is attributable to qualifying earnings of externally provided workers.”
- (5) In section 1131 (qualifying expenditure on externally provided workers: other cases) —
- (a) in subsection (2), for “65% of the staff provision payment” substitute “65% of so much of the staff provision payment as is attributable to qualifying earnings of externally provided workers”;
 - (b) after subsection (3) insert—
“(4) Any apportionment of expenditure of the company necessary for the purposes of this section is to be made on a just and reasonable basis.”
- (6) After section 1132 insert—

“1132A “Qualifying earnings”

- (1) This section determines what are “qualifying earnings” in relation to an externally provided worker for the purposes of this Part.
- (2) The worker’s earnings are qualifying earnings if either—
 - (a) the staff controller, or
 - (b) the company in relation to which the worker is an externally provided worker,

is, in respect of any part of those earnings, required to account to an officer of Revenue and Customs both for income tax under PAYE regulations and for Class 1 national insurance contributions.

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(3) If subsection (2) does not apply, the worker’s earnings are qualifying earnings if and to the extent that they are attributable to relevant research and development that is undertaken outside the United Kingdom and to which section 1138A applies.

(4) In this section, “the worker’s earnings” means the worker’s earnings under the contract mentioned in section 1128(7).”

(7) For section 1133 and the italic heading preceding it substitute—

“Contracting out

1133 Contracted out research and development

(1) This section applies for the purposes of this Part.

(2) A person “contracts out” research and development if—

- (a) the person enters into a contract under which activities are to be undertaken for it (whether by another party to the contract or by a sub-contractor),
- (b) the activities undertaken in order to meet the obligations owed to the person under the contract include research and development, and
- (c) it is reasonable to assume, having regard to the terms of the contract and any surrounding circumstances, that the person intended or contemplated when entering into the contract that research and development of that sort would be undertaken in order to meet those obligations.

(3) The research and development that is “contracted out” is the research and development referred to in subsection (2)(b), to the extent that subsection (2)(c) is satisfied in relation to it.

(4) Research and development contracted out by a person is contracted out “to”—

- (a) the party to the contract who undertakes the obligations referred to in subsection (2)(b), and
- (b) any sub-contractor who undertakes contractual responsibility for the activities needed to meet those obligations.

(5) References to a sub-contractor include any sub-contractor at one or more removes from the contract referred to in subsection (2).

(6) A “contractor payment” is a payment made in respect of contracted out research and development to a person to whom it is contracted out.

(7) A payment that relates only partly to contracted out research and development is to be apportioned on a just and reasonable basis for the purposes of subsection (6).

(8) Sections 1134 to 1136 determine the “qualifying element” of a contractor payment.”

(8) In section 1134 (qualifying element of sub-contractor payment made between connected persons)—

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

- (a) in the heading, for “sub-contractor” substitute “contractor”;
 - (b) in subsection (1), for paragraphs (a) and (b) (not including the following “and”) substitute—
 - “(a) a company (“A”) makes a contractor payment to another person (“B”),
 - (b) A and B are connected.”;
 - (c) in subsection (1)(c)—
 - (i) omit “sub-contractor”;
 - (ii) for “the sub-contractor’s”, in both places it appears, substitute “B’s”;
 - (d) in subsection (2)—
 - (i) in the words before paragraph (a), omit “sub-contractor”;
 - (ii) in paragraph (b), for “the sub-contractor’s” substitute “B’s”;
 - (e) in subsection (3)—
 - (i) in the words before paragraph (a), for “the sub-contractor” substitute “B”;
 - (ii) in paragraph (a), for “the sub-contractor”, in the first place it appears, substitute “B”;
 - (iii) also in paragraph (a), omit “sub-contractor” in the second place it appears;
 - (iv) for paragraph (d) substitute—
 - “(e) is incurred in respect of—
 - (i) research and development that is undertaken in the United Kingdom, or
 - (ii) research and development that is undertaken outside the United Kingdom and to which section 1138A applies.”;
 - (f) in subsection (4)—
 - (i) in paragraph (a), for “the sub-contractor” substitute “B”;
 - (ii) in paragraph (b), for “the company’s”, in both places it appears, substitute “A’s”;
 - (iii) also in paragraph (b), for “sub-contractor” substitute “contractor”;
 - (g) for subsection (5) substitute—
 - “(5) In section 1123 (staffing costs) and sections 1127 to 1131 (qualifying expenditure on externally provided workers) as they apply for the purposes of subsection (3)(c), references to a company are to be read as references to B.”;
 - (h) in subsection (6), for “the company or the sub-contractor” substitute “A or B”.
- (9) In section 1135 (election to be treated as connected for purpose of determining qualifying element)—
- (a) in subsection (1), for “A company and a sub-contractor who are not connected” substitute “Where a company makes a contractor payment to a person with whom it is not connected, the company and that person”;
 - (b) in subsection (2)—
 - (i) for “sub-contractor” substitute “contractor”;
 - (ii) omit “other arrangement”;
 - (c) in subsection (4), omit “or other arrangement”.

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

(10) For section 1136 substitute—

“1136 Qualifying element of contractor payment: other cases

- (1) This section applies to a contractor payment to which section 1134 does not apply.
- (2) The qualifying element of the payment is 65% of the relevant portion of the payment.
- (3) The relevant portion is the portion that is incurred in respect of—
 - (a) research and development that is undertaken in the United Kingdom, or
 - (b) research and development that is undertaken outside the United Kingdom and to which section 1138A applies.
- (4) An apportionment of expenditure necessary for the purposes of this section is to be made on a just and reasonable basis.”

(11) Omit section 1138 (meaning of “subsidised expenditure”).

(12) In place of the omitted section 1138 insert—

“1138A Externally provided workers and contractors: R&D undertaken abroad

- (1) This section applies to research and development undertaken outside the United Kingdom if—
 - (a) the research and development is undertaken in the circumstances described in subsection (2), or
 - (b) regulations made by the Treasury provide for this section to apply.
- (2) The circumstances are that there are conditions necessary for the purposes of the research and development—
 - (a) that are not present in the United Kingdom,
 - (b) that are present in the location in which the research and development is undertaken, and
 - (c) that it would be wholly unreasonable for the company to replicate in the United Kingdom.
- (3) In subsection (2) “conditions”—
 - (a) includes—
 - (i) geographical, environmental or social conditions;
 - (ii) legal or regulatory requirements as a result of which the research and development may not be undertaken in the United Kingdom, but
 - (b) does not include conditions so far as relating to—
 - (i) the cost of the research and development;
 - (ii) the availability of workers to carry out the research and development.
- (4) The Treasury may by regulations make provision specifying things that are not conditions for the purposes of subsection (2).

1138B Exempt foreign permanent establishments

For the purposes of this Part in its application to an accounting period, a company's expenditure is "attributable to an exempt foreign permanent establishment" if—

- (a) an election by the company under section 18A applies to the period, and
- (b) the expenditure is brought into account in calculating a relevant profits amount or a relevant losses amount for the purposes of that section as it applies in relation to the period."

(13) After section 1140 insert—

"1140A Groups

For the purposes of this Part, a company is in the same group as another company if those companies are in the same group for the purposes of Part 5 of CTA 2010."

(14) In section 1142 (meaning of "qualifying body")—

- (a) for the heading substitute "Ineligible companies";
- (b) in subsection (1), in the words before paragraph (a), for "'qualifying body' means" substitute "a company is an "ineligible company" if it is";
- (c) after subsection (4) insert—

"(5) Two companies that are in the same group may make a joint election the effect of which is that—

- (a) in respect of any research and development contracted out by one of those companies to the other, the company contracting it out is to be treated for the purposes of this Part as an ineligible company, and
- (b) in determining whether activity is research and development for the purposes of this Part, anything done by one of those companies further to a contract with the other is to be treated as if done by the other company, in any case where that results in activity that would not otherwise be research and development being regarded as such.

(6) Such an election—

- (a) must be made by notice in writing to an officer of Revenue and Customs, and
- (b) has effect until—
 - (i) it is revoked by either company by further such notice, or
 - (ii) the companies are no longer in the same group."

(15) In section 1142B (meaning of "R&D claim"), in paragraph (a), for "104A" substitute "1042C".

(16) After section 1142B insert—

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

“1142C Right to payment of credit inalienable

- (1) The right of a company to be paid an amount of R&D expenditure credit or R&D tax credit may not be assigned.
 - (2) Accordingly, a purported assignment of such a right, or an agreement to assign such a right, is void.
 - (3) References to assignment in this section are to be read in Scotland as references to assignment.”
- (17) After section 1142C (inserted by sub-paragraph (16)) insert—

“1142D General rule against payments of credit to nominees

- (1) Where an amount of R&D expenditure credit or R&D tax credit is owed to a company, an officer of Revenue and Customs may not pay the amount to a person other than the company (even on the instruction or at the request of the company).
 - (2) Subsection (1) does not apply if—
 - (a) the company requests that payment be made to a person connected with the company, or
 - (b) the officer is satisfied that exceptional circumstances make payment to the company impracticable or inconvenient.”
- (18) After section 1142D (inserted by sub-paragraph (17)) insert—

“1142E Orders and regulations: ancillary provision

- Any order or regulations under this Part may—
- (a) contain incidental, supplemental, consequential and transitional provision and savings;
 - (b) make different provision for different purposes or areas.”

PART 2

CONSEQUENTIAL AMENDMENTS

FA 1998

- 10 (1) Schedule 18 to FA 1998 (company tax returns) is amended as follows.
- (2) In paragraph 52(2A)(b) (application of provisions about discovery assessments to amounts paid by way of R&D expenditure credit), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”.
 - (3) In paragraph 83A (application of Part 9A of the Schedule to claims for R&D relief), for the words from “to” to the end substitute “to claims for relief under Part 13 of the Corporation Tax Act 2009 (relief for research and development).”
 - (4) In paragraph 83E (deadlines for claiming R&D relief)—
 - (a) in sub-paragraph (2)(a), after “under” insert “Chapter 2 of”;

- (b) in sub-paragraph (3), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”.

EA 2007

- 11 In Schedule 24 to FA 2007 (penalties for errors), in paragraph 28(fa)(ia) (“corporation tax credit” includes R&D expenditure credit), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”.

CTA 2009

- 12 (1) CTA 2009 is amended as follows.
- (2) In Part 14A (inserted by paragraph 1 of Schedule 2)—
 - (a) in section 1179DT (expenditure attracting R&D relief not eligible for audiovisual expenditure credit), omit paragraph (a);
 - (b) in section 1179FL (expenditure attracting R&D relief not eligible for video game expenditure credit), omit paragraph (a).
- (3) In section 1195(3A) (expenditure attracting R&D relief or television relief not eligible for film tax relief)—
 - (a) in paragraph (a), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”;
 - (b) in paragraph (b), for “Part 13 (additional relief for expenditure on research and development)” substitute “Chapter 2 of Part 13 (relief for loss-making, R&D-intensive SMEs)”.
- (4) In section 1216C(4) (expenditure attracting R&D relief not eligible for television relief)—
 - (a) in paragraph (a), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”;
 - (b) in paragraph (b), for “Part 13 (additional relief for expenditure on research and development)” substitute “Chapter 2 of Part 13 (relief for loss-making, R&D-intensive SMEs)”.
- (5) In section 1217C(4) (expenditure attracting R&D relief not eligible for video game relief)—
 - (a) in paragraph (a), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”;
 - (b) in paragraph (b), for “Part 13 (additional relief for expenditure on research and development)” substitute “Chapter 2 of Part 13 (relief for loss-making, R&D-intensive SMEs)”.
- (6) In section 1217JA(2) (expenditure attracting R&D relief not eligible for theatre relief)—
 - (a) omit paragraph (a);
 - (b) in paragraph (b), omit “additional”.
- (7) In section 1217RF(2) (expenditure attracting R&D relief or other creative sector relief not eligible for orchestra relief), omit paragraph (za) (inserted by paragraph 8 of Schedule 4).

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- (8) In section 1218ZCG(2) (expenditure attracting R&D relief or other creative sector relief not eligible for museum and gallery exhibition relief)—
- (a) omit paragraph (a);
 - (b) in paragraph (b), omit “additional”.
- (9) In section 1310(4) (orders and regulations subject to affirmative procedure)—
- (a) omit paragraph (zzza);
 - (b) after paragraph (zb) insert—
“(zc) section 1142(1)(e) (companies ineligible for R&D relief),”.
- (10) In Schedule 4 (index of defined expressions)—
- (a) omit the following entries—
 - “capped R&D expenditure (in Chapter 6A of Part 3)”;
 - “large company (in Chapter 6A of Part 3)”;
 - “payment period (in Chapter 6A of Part 3)”;
 - “qualifying body (in Chapter 6A of Part 3)”;
 - “qualifying body (in Part 13)”;
 - “qualifying expenditure on sub-contracted R&D (in Chapter 6A of Part 3)”;
 - “qualifying R&D expenditure (in Chapter 6A of Part 3)”;
 - “relevant payment to the subject of a clinical trial (in Chapter 6A of Part 3)”;
 - “relevant research and development (in Chapter 6A of Part 3)”;
 - “research and development (in Chapter 6A of Part 3)”;
 - “software, data licences, cloud computing services or consumable items (in Chapter 6A of Part 3)”;
 - “staffing costs (in Chapter 6A of Part 3)”;
 - “sub-contractor payment (and sub-contractor) (in Part 13)”;
 - “subsidised expenditure (in Part 13)”;
 - “subsidised qualifying expenditure (in Chapter 6A of Part 3)”;
 - (b) at the appropriate places insert—

“contracted out (and related section 1133”;
expressions) (in Part 13)

“contractor payment (in Part 13) section 1133”;

“group (in Part 13) section 1140A”;

“ineligible company (in Part 13) section 1142”.

CTA 2010

- 13 (1) CTA 2010 is amended as follows.
- (2) In section 269DA(2) (meaning of banking company’s “surcharge profits”), in the definition of “RDEC”, for “Chapter 6A of Part 3 of CTA 2009 (trade profits:

R&D expenditure credits)” substitute “Chapter 1A of Part 13 of CTA 2009 (R&D expenditure credit)”.

- (3) In Part 8A (profits from exploiting patents etc)—
- (a) in section 357BJB(3) (R&D expenditure not to be routine deduction in calculating IP profits), in paragraph (a)(ii), for “Chapter 6A of Part 3 of CTA 2009” substitute “Chapter 1A of that Part”;
 - (b) in section 357BLB(7)(e) (application of sections 1127 to 1131 of CTA 2009 for purpose of determining in-house R&D expenditure under Part 8A), at the end insert “as those provisions had effect before the amendments made by paragraph 9 of Schedule 1 to FA 2024,”;
 - (c) in section 357CG(4)(a) (R&D expenditure credit to be deducted in calculating IP profits), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”.
- (4) In Chapter 9 of Part 8B (treatment of R&D credits and relief for purposes of Northern Ireland rate)—
- (a) in section 357P(1) (overview of Chapter), for paragraphs (a) and (b) substitute—
 - “(a) Chapter 1A of Part 13 (R&D expenditure credit), and
 - (b) Chapter 2 of that Part (relief for loss-making, R&D-intensive SMEs).”;
 - (b) in the italic heading before section 357PA, for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”;
 - (c) in section 357PA (R&D expenditure credit to form part of mainstream profits or losses)—
 - (i) in the heading, omit “under Chapter 6A of Part 3 of CTA 2009”;
 - (ii) in subsection (1)(a), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”;
 - (d) in section 357PD (amount of R&D tax credit for Northern Ireland company)—
 - (i) in subsections (2)(b), (3)(b) and (4)(b), for “given by section 1058(1A) of CTA 2009” substitute “of the cap by reference to the company’s PAYE and NIC liabilities for the accounting period”;
 - (ii) omit subsections (2A), (3A) and (4A);
 - (iii) after subsection (5) insert—
 - “(6) Sections 1112B to 1112E of CTA 2009 (determination of cap by reference to PAYE and NIC liabilities) apply for the purposes of subsections (2)(b), (3)(b) and (4)(b) as they apply for the purposes of section 1058(1) of CTA 2009.”

TIOPA 2010

- 14 In the following provisions of TIOPA 2010, for “within the meaning of section 104A” substitute “under Chapter 1A of Part 13”—
- (a) section 407(3)(a) (R&D expenditure credit not to be taken into account in determining tax-EBITDA);
 - (b) section 416(2A) (R&D expenditure credit not to be taken into account in determining worldwide group’s profit before tax).

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FA 2013

- 15 In Schedule 43C to FA 2013 (penalties in connection with the general anti-abuse rule), in paragraph 11(e)(ii) (“corporation tax credit” includes R&D expenditure credit), for “Chapter 6A of Part 3” substitute “Chapter 1A of Part 13”.

PART 3

COMMENCEMENT AND TRANSITIONAL AND TRANSITORY PROVISION

General commencement of Parts 1 and 2

- 16 (1) The amendments made by this Schedule, except those made by sub-paragraphs (16) to (18) of paragraph 9, have effect in relation to accounting periods beginning on or after the appointed day.
- (2) In this Part, the “appointed day” is a day appointed by the Treasury in regulations.

Assignments and nominations

- 17 (1) The amendment made by paragraph 9(16) does not have effect in relation to—
- (a) an assignment made before 22 November 2023,
 - (b) an agreement made before that date, or
 - (c) an assignment made on or after that date to carry out an agreement made before that date.
- (2) The amendment made by paragraph 9(17) has effect only in relation to claims made on or after 1 April 2024.

Avoidance of overlaps and gaps in entitlement during transition

- 18 (1) Sub-paragraphs (2) and (3) apply if, but for those sub-paragraphs—
- (a) one company (“company A”) would be entitled to old R&D relief, and
 - (b) another company (“company B”) would be entitled to new R&D relief, in respect of expenditure attributable to the same research and development.
- (2) If company B would have been entitled to old R&D relief in respect of its expenditure had the Part 1 amendments not been made, only company B is entitled to the relief.
- (3) In any other case, only company A is entitled to the relief.
- (4) Sub-paragraph (5) applies if—
- (a) a company incurs pre-commencement expenditure,
 - (b) the company is not entitled to old R&D relief in respect of the expenditure, and
 - (c) had the expenditure been post-commencement expenditure, it would have been—
 - (i) qualifying Chapter 1A expenditure by virtue of section 1042E of CTA 2009 or section 1042F of that Act as it refers to section 1042E, or

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- (ii) qualifying Chapter 2 expenditure by virtue of section 1053 of CTA 2009 (as it has effect after the [Part 1](#) amendments) or section [1053A](#) of that Act as it refers to section 1053.
- (5) The company is to be treated as satisfying sections [1042F\(4\)](#) and [1053A\(4\)](#) of CTA 2009 for the purposes of ascertaining the entitlement of another company to new R&D relief in respect of expenditure attributable to the same research and development as the expenditure mentioned in sub-paragraph (4).
- (6) Sub-paragraph (7) applies if—
 - (a) in respect of pre-commencement expenditure attributable to research and development, one company (“company C”)—
 - (i) is not entitled to old R&D relief, but
 - (ii) would be so entitled if none of sections 104C(2), 104G(5), 104H(6), 104J(4), 104K(5), 104L(4), 1052(5) and 1053(4) of CTA 2009 (as they have effect before the [Part 1](#) amendments) applied, and
 - (b) in respect of post-commencement expenditure attributable to the same research and development, another company (“company D”) would, had the expenditure been pre-commencement expenditure, have been entitled to old R&D relief by virtue of section 1053 of CTA 2009 (as it has effect before the [Part 1](#) amendments).
- (7) For the purpose of ascertaining the entitlement of company D to new R&D relief, the research and development is to be treated as contracted out by company D within the meaning of section [1133](#) of CTA 2009 (as it has effect after the [Part 1](#) amendments).
- (8) In this paragraph—
 - “the new R&D provisions” means Part 13 of CTA 2009 as it has effect after the [Part 1](#) amendments;
 - “new R&D relief” means relief under the new R&D provisions;
 - “the old R&D provisions” means Chapter 6A of Part 3 or Part 13 of CTA 2009 as that Chapter or Part has effect before the [Part 1](#) amendments;
 - “old R&D relief” means relief under the old R&D provisions;
 - “the Part 1 amendments” means the amendments made by [Part 1](#) of this Schedule;
 - “post-commencement expenditure” means expenditure incurred in an accounting period beginning on or after the appointed day;
 - “pre-commencement expenditure” means expenditure incurred in an accounting period beginning before the appointed day.

Transitional provision relating to claim notifications

- 19 The reference in section 1142B of CTA 2009 (as amended by paragraph [9\(15\)](#)) to claims under section [1042C](#) of that Act is to be read as including claims under section 104A of that Act before its repeal by paragraph [2](#).

Transitional provision relating to the R&D intensity condition

- 20 The references in sections [1044\(2A\)\(b\)](#) and [1045\(2A\)\(b\)](#) of CTA 2009 (inserted by paragraph [6\(4\)](#) and [\(5\)](#)) to having met the R&D intensity condition in an accounting period—

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- (a) include having met the R&D intensity condition for the purposes of paragraph 21 in an accounting period to which that paragraph applies, but
- (b) are not applicable to any other accounting period beginning before the appointed day.

Higher rate of payable credit for R&D-intensive SMEs from 1 April 2023

- 21 (1) Sub-paragraph (2) applies if, in an accounting period beginning before the appointed day but ending on or after 1 April 2023, a company—
- (a) has a Chapter 2 surrenderable loss, and
 - (b) meets the R&D intensity condition.
- (2) The amount of R&D tax credit to which the company is entitled for the period is to be determined as if the amendment made by section 4(3)(d) of FA 2023 (reduction in rate of credit from 14.5% to 10%) had not been made.
- (3) Subsections (2) to (7) of section 1045ZA of CTA 2009, as inserted by paragraph 6(6), determine whether a company meets the R&D intensity condition in an accounting period for the purposes of sub-paragraph (1)(b).
- (4) But subsections (2) and (3) of that section are to be read for the purposes of sub-paragraph (3) as if “40%” appeared instead of “30%”.
- (5) In this paragraph, “Chapter 2 surrenderable loss” and “R&D tax credit” have the same meanings as in Chapter 2 of Part 13 of CTA 2009 (see sections 1054 and 1055 of that Act).