Research and Development Credit

Part 29-02-04

This document should be read in conjunction with TDMs in Part 29

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1. Introduction

Sections 766 and 766A provides for a tax credit for research and development (R&D) activities and for expenditure on buildings used for R&D.

For accounting periods commencing on or before 31/12/2008 the rate is 20% and the credit is first used to reduce the liability to Corporation Tax for that period. Any excess may be carried forward indefinitely or offset to another company within the group, if any.

Finance (No 2) Act 2008 introduced the following changes to both section 766 and section 766A which are effective for accounting periods commencing on or after 1/1/2009.

- The rate increased from 20% to 25% of qualifying expenditure.
- Sections 766(4A) and 766A(4A) allow for any excess in a period to be set back against Corporation Tax of the previous accounting period. Where a company has offset the credit against the liability of the previous period or if there is no liability in the previous period, any excess that remains to be claimed by the company can be paid to it by Revenue under subsection (4B) of sections 766 and 766A.

2. Rules for payment of excess R&D for S.766 and S.766A

The payments will be paid in 3 instalments over 33 months from the end of the accounting periods in which the expenditure occurred and new Section 766B imposes a limit to the amounts that will be paid.

The first payment of the excess shall not be paid earlier than the date on which the return for the period is due to be filed, and shall not be greater than 33% of the excess.

Any remaining excess is then carried forward to reduce the CT liability of the following period and if there is any further excess remaining, the company can claim for this to be paid back to them. This second instalment will not be paid earlier than 12 months after the date on which the return for the period is due to be filed and will be 50% of the remaining amount.

Where any excess remains, it will be carried forward again to reduce the liability of the next period. If an excess still remains, Revenue will pay a third instalment equal to the remaining amount. The third payment will not be paid earlier than 24 months after the date on which the return for the period is due to be filed.

All payments of excess R&D credit are subject to the provisions of Section 1006A; payments will be withheld if there are outstanding returns for any taxes and will be offset against any outstanding liability.

3. Time limit for all R&D claims

Finance (No 2) Act introduced a time limit for all claims for R&D. With effect from 1/1/2009, all claims must be made within 12 months from the end of the accounting period in which the expenditure occurred.

Expenditure on buildings to be used for R&D (S766A) is not subject to the same 12 month period (see Chapter 5 of the Research and Development Credit Guidelines).

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