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Research & Development Tax Credit

Is your company

- developing a new product / process
- improving an existing product / process
- developing a new technique for production, testing, etc

If so your company may be eligible for a R&D tax credit of up to 25% of your qualifying expenditure.

A change in the manner in which the tax credit can be used now makes this tax credit more attractive than ever. It is now possible for companies to claim a tax refund from Revenue of up to 25% of the qualifying expenditure incurred subject to certain restrictions.

The following is a summary of how the tax credit is calculated, how it can be used and the other main rules and restrictions;

- The tax credit is broadly available to all companies, within the charge to Irish tax, who undertake Research & Development (R&D) activities in Ireland or anywhere within the European Economic Area.

- Expenses such as staff and overhead costs can be apportioned and the credit will be available for the portion expended in the carrying out of the R&D activities.

- It is possible in certain circumstances for the R&D activities to be subcontracted and still qualify for the R&D credit.

- The tax credit was calculated at 20% of the qualifying expenditure for accounting periods commencing on or before 31 December 2008.

- The rate has been increased to 25% of qualifying expenditure in relation to accounting periods commencing on or after 1 January 2009.

- The tax credit is available in addition to the normal trading deduction for the expenditure. Assuming the company pays corporation tax at the 12.5% rate, this means an effective tax deduction of 32.5%/37.5%.

- The qualifying expenditure is incremental expenditure over R&D expenditure incurred by the company in the base year. The base year is 2003 for all periods up to 2013.

- The time limit for making any claims for the tax credit is now 12 months from the end of the accounting period. A claim for the year ended 31 December 2008 must therefore be made on or before 31 December 2009.

- A change in the manner in which the tax credit can be used now makes this tax credit more attractive than ever, especially for companies in a start up situation or a company that has corporation tax losses.

- In the past it was possible to offset the tax credit against corporation tax liabilities of the company in the year the R&D expenditure was incurred. If the tax credit could not be used in that year, it could be carried forward indefinitely against future corporation tax liabilities of the company.

- For claims made on or after 1 January 2009, the tax credit can also be carried back to the previous accounting period or where the tax credit cannot be offset against corporation tax payable, the company can make a claim to have the excess tax credit

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paid to the company by the Revenue Commissioners in 3 instalments over a 33 month period.

- The amount of tax credits payable to a company by Revenue is restricted to the greater of
  a) The corporation tax payable for the ten years prior to the accounting period in which the R&D expenditure was incurred, or
  b) The amount of PAYE, PRSI and levies which the company was required to remit for the accounting period in which the R&D expenditure was incurred.
  The company can get back a refund up to the amount of the income taxes, PRSI and levies it deducted from employees' salaries and the employer's PRSI it paid for the year the R&D expenditure was incurred.

- Special rules apply in relation to companies that are part of a group for tax purposes.

- A claim for the tax credit can be made when filing the Corporation Tax Return for the company, once it is filed within 12 months of the end of the accounting period in which the expenditure was incurred.

- Revenue will not (as a rule) seek to have a claim in respect of smaller projects examined where an Enterprise Ireland RTI Grant has been approved in respect of the project.

Special rules apply in relation to expenditure incurred on buildings or structures used for R&D activities.

- A tax credit is available in respect of new expenditure on the construction including refurbishment of a qualifying building/structure.

- The building must qualify for the industrial buildings allowance. The tax credit is available in addition to capital allowances.

- To qualify the R&D activities carried on in the building/structure over a period of 4 years must represent at least 35% of all the activities carried on.

- Whilst in the past the tax credit on relevant expenditure was claimed over four years, the full amount of the credit can now be claimed in the year the relevant expenditure was incurred.

- The tax credit is calculated based on the portion of the building used for R&D activities.

- The tax credit was 20% of the total qualifying expenditure – there is no reference to incremental expenditure or base years. It has been increased to 25% for accounting periods commencing on or after 1 January 2009.