



**INDUSTRY  
RESEARCH & DEVELOPMENT  
GROUP**

# The R&D Tax Credit Scheme

- A Guide for Companies -

Revised 26th March 2009

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Industry Research & Development Group  
Pembroke House  
28-32 Upper Pembroke Street  
Dublin 2

Email: [dick\\_kavanagh@irdg.ie](mailto:dick_kavanagh@irdg.ie)  
Tel: +353-1-237 4671  
Fax: +353-1-234 2596  
Website: [www.irdg.ie](http://www.irdg.ie)

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# **1. THE R&D TAX CREDIT SCHEME**

## **-A Guide for Companies-**

This document has been produced by IRDG after in-depth discussions with the Revenue Commissioners and a series of joint IRDG/ Revenue Commissioner Workshops. IRDG wishes to place on record its appreciation of the helpful assistance and guidance provided by the Revenue Commissioners in preparing this document and of the friendly manner with which they participated in meetings and workshops.

The document is targeted at senior management, finance and R&D/ technical levels in R&D performing companies. The aim is to help companies install a system and procedure to manage the R&D tax credit side of their business. The most critical point of this document is that the focus of attention must be on the individual R&D project and whether it is eligible for the credit. The R&D/ technical person in the company is critical in this process, as the one professional individual who can confirm whether or not a project is eligible for the R&D tax credit. IRDG will be up-dating this Guide on a regular basis to take account of developments.

**In 2004 the R&D Tax Credit Scheme** was introduced for the first time. The scheme is incremental with a base year of 2003 that will stay in place indefinitely. Any increase in eligible R&D expenditure between 2003 and each subsequent year from 1<sup>st</sup> January 2009 is eligible for a tax credit of 25%, to be deducted from corporation profits tax. If an R&D grant is awarded for an eligible project the balance of the expenditure is eligible for the R&D Tax Credit. The tax credits may be carried forward against future corporation profits tax. For loss-making companies the tax credit in one year can be offset against the corporation tax paid the previous year. The balance of the tax credit (if any) can be claimed directly from Revenue and will be paid in 3 annual instalments as overpayment of corporation profits tax.

**The most important and key issue is to identify the qualifying expenditure. In other words not all R&D for a company expenditure will qualify. The two issues that decide whether project expenditure is eligible is that some scientific/ technology/ engineering advancement is involved and that there is uncertainty attached to achieving it. Only the R&D/ technical individuals in the company can identify the key issues in a project and whether it is an advance or not. If it is a reasonable technical advance then the entire cost of the project is eligible.**

A company must ask itself: how complex and challenging is the key advance? What is it that prevents the project being commercialised immediately? The key technical issues need not involve rocket science and may have been done before by another company or individual and kept as in-company know-how or a trade secret but would be a significant step in science and technology for the company. The advance should be what a professional competent in the field could identify as such. If the expertise cannot be bought in to get the company to where it needs to be to complete the project and needs to do the R&D itself – then it should qualify – even if it has been done by another company but they have not disclosed the method. Both process and product R&D are eligible for the credit provided they meet the criteria. Projects do not have to be successful either commercially or technically to be eligible.

Some R&D may not be R&D within the Revenue definition and companies should be aware of this. This may involve reclassification of previous R&D expenditure on a proportionate basis into “normal R&D projects” and “breakthrough R&D projects” in the base and subsequent years. Thus marginal changes such as change of colour or minor adjustments would not qualify.

The company should examine each project for both the base year (2003) and each subsequent and future years. Once the expenditure is eligible the company must introduce procedures/systems to identify and capture the costs involved (see later for eligible costs).

Any company which has been approved for an R&D grant or has a short-term patent with a long-term patent planned or applied for should approach the Tax Credit scheme with the attitude “why shouldn’t we qualify?” – the R&D has been officially recognised. This however does not guarantee a tax credit as it may be more process than a scientific breakthrough. If the grant received subsequently is less than that awarded an adjustment can be made in later returns. Capability projects for building capability in firms could be eligible in the context of specific R&D projects in the capability grant. Companies should also examine the R&D elements of technology transfer to see if they are eligible.

Subcontract work up to 5% of the cost of a project to third level institutions and up to 10% of the cost of the project to other outside parties are eligible. Expenditure undertaken in another EU country is eligible only if there is no deduction for tax purposes in the other EU country.

Laboratory equipment and pilot plant for R&D can be claimed for the year in which the expenditure was incurred. Production machinery used for R&D purposes and the machine costs should be apportioned on a percentage basis. For employment costs the tax charge is the accountancy charge i.e. fully burdened costs.

**Buildings specifically built/refurbished** and equipped for R&D or pilot plants are eligible separately for the Tax Credit at 25% over a 4 year period. If part of the new/refurbished building is devoted solely for R&D, the cost apportioned for the R&D part is eligible. IRDG suggests that companies who have difficulties classifying the 2003 base year R&D spend into eligible activities (e.g. the relevant R&D personnel have moved on or there was not an RTI funded project in that year) could take a number of approaches.

- Base the estimate on the 2002 and 2004 expenditure figures.
- Use the number of staff in 2003 combined with backward look from 2004/2005 on what R&D projects conducted in 2003 were commercialised in later years to estimate expenditure.

Revenue has indicated that they would look at any reasonable basis.

Even if an R&D Funded proposal has been unsuccessful it may still qualify for the Tax Credit.

Some streamlining of small claims with RTI grants is expected. There is no need to be nervous of Revenue. The Tax Credit should be approached from a start position rather than looking back at any expenditure made. Revenue may use outside experts, as required, to assess projects. This is a self-assessment process and there is no need for costly reports to be prepared in advance. The company should install procedures and systems for all R&D projects that capture costs and retain records of work undertaken including any science and technology advances. The company should be prepared for an audit.

The company does not necessarily face major penalties for incorrect application. The “expression of doubt” box can be marked in the tax return regarding genuine doubtful claims. This protects the company from interest and penalties from the date of the return until any audit finds the claim was made inappropriately. The company can however appeal this through the normal procedures. There are no extra forms necessary for claiming this credit. It is facilitated in Box 12 on the corporation tax form. All the company has to do is to identify the element of R&D that qualifies and ensure that it keeps records of expenditure and details in relation to the projects that are forming part of the claim.

Usage of the expression of doubt is critical where a genuine doubt exists. The end penalty if audited is nil if the company recognise immediately that it was incorrect. Revenue has very little unilateral power. On appeal experts can be called from both sides. Outside experts called by Revenue must not have a conflict of interest – they are usually academics who have industry experience. The company has the right of appeal over the expert appointed and confidentiality agreements must be signed.

If a new company is set up after 2003, or the original company is bought out, the expenditure for the base year is taken as nil. In general terms, where there is a holding company or a group of companies, the base year expenditure and the eligible expenditure for which the R&D credit is claimed, will be calculated on a group basis. Where the group R&D is carried on by a new group company set up after 2003, the base year expenditure will still be the eligible R&D expenditure of the original group for 2003. The maximum tax credit allowed in a particular year is the lower of total corporation profits tax over 10 years or total payroll liabilities for the year in question.

## **2. THE KEY ISSUES A COMPANY SHOULD ADDRESS:**

- Categorise the annual R&D spend into normal and advanced R&D.  
This may involve re-categorising the base-year R&D spend into eligible/ineligible projects and spend. The incremental spend is the difference between the eligible R&D spend in the base year and the eligible R&D spend in each subsequent year.
- What is the project? Is it product or process or both?
- What are the critical science/ technology/ engineering hurdle and is it significant?
- How is the hurdle to be overcome?
- Has the company an R&D grant for the project?
- Has the company got a short-term patent?
- Has the company got or applied for a long-term patent?
- If the project was rejected for R&D funding – why? It may not be for technical reasons
- Has a system for project reporting and recording of expenditure been set up?
- Are the key company executives committed to the project?
- Do the key executives understand why and how the tax credit will be claimed at the year end?
- Does the company wish to talk to Revenue? (See list of useful contacts page 7).

### **Eligible Project Costs**

- Labour- fully burdened
- Materials (including materials manufactured for Phase I, II and III Clinical trial as part of product and/or process development in Ireland)
- Travel
- Laboratory equipment
- Pilot plant
- Apportionment of production machinery used for the R&D project
- Work undertaken for R&D purposes in colleges (up to 5% of total project cost)
- Work undertaken by outside contractors (up to 10% of total project cost)

### **Eligible Building Costs**

The percentage of the cost of building/ refurbishing costs allocated full-time to R&D.

### **3. ELIGIBILITY OF R&D PROJECTS FOR THE R&D TAX CREDIT**

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**Company Name:**

**Project Leader:**

**Date:**

**PROJECT TITLE:**

**PROJECT DETAILS:**

1. Non-technical overview/ broad description/ objective of the R&D project.
2. Outline the principal steps undertaken from inception to date as well as the project plan.
3. Describe the key scientific, technological or engineering advancement issue to be solved in the project.
4. Identify what fields of science, technology or engineering are involved (see pg 7-8 of Revenue guidelines [www.revenue.ie/doc/r&d.doc](http://www.revenue.ie/doc/r&d.doc)).
5. Project start and end dates.
6. Amount of the expenditure on research and development activities to be paid to a university or institute as part of the project.
7. Amount to be paid to external contractors (non-college) as part of the project.
8. Other project costs (see page 4).

# **R&D QUESTIONNAIRE**

**Answer: Yes / No**

1. The key technical issue
  - a) Is it significant for the company?
  - b) Is the solution known to you? (Could be known to others).
2. Is there an R&D component of any technology transfer projects?
3. Is scientific or technological uncertainty involved in the project?
4. Is the commercial investment by the company in this project at risk?
5. Will the project generate patents, peer reviewed papers or conference papers?
6. Will an R&D grant be received for the project?

## **Conclusion**

If the R&D project description/ documentation can be completed satisfactorily and the answers to questions 1(a), 2, 3, 4, 5 and 6 is yes, with a no for questions 1(b) the project is eligible for the R&D Tax Credit.

**Eligible** Tick 1

**Not eligible**

**Signature:** \_\_\_\_\_  
**(R&D/ Technical Manager)**

## **4. USEFUL CONTACT POINTS:**

### **IRDG:**

- Dick Kavanagh – Email: dick\_kavanagh@irdg.ie Tel: 01- 237 4671

### **REVENUE COMMISSIONERS:**

- Jim Byrne - Email: jimbyrne@revenue.ie Tel: 01-7024171
- Isolde Hampson- Email: ihampson@revenue.ie Tel: 01-6748103

### **IDA (for overseas companies):**

- Christine Kelly- Email: christine.kelly@ida.ie Tel: 01-6034076