CONTENTS

What is the Research & Development Tax Credit? .......................................................... 2

R&D activities can also result in Cash Refunds................................................................. 3

How can Your Company Qualify for R&D tax credits/refund? ...................................... 3
  1. What is the Base period? ......................................................................................... 3
  2. What expenditure qualifies? ..................................................................................... 3
  3. Technical Criteria that must be satisfied................................................................. 4
  4. The following are examples of activities which qualify for R&D tax credits: ....... 5
  5. The following categories of activities do not qualify as R&D activities............... 5
  6. What documentation is required for activities to qualify? ....................................... 6

Practical Features of the R&D tax credit regime................................................................. 7
  7. How is a claim made? ............................................................................................ 7
  8. Revenue audit ......................................................................................................... 7
  9. Grants .................................................................................................................... 7
 10. Start Up Companies ............................................................................................... 7
 11. Accounting Treatment .......................................................................................... 8
 12. Use of the credit to reward R&D employees ......................................................... 8

APPENDIX 1 R&D illustration ..........................................................................................  

APPENDIX 2 Claiming R&D Tax Credits ........................................................................  

Research and Development

Tax Credit

Ireland has had an R&D Tax Credit scheme since 2004. Qualifying R&D expenditure will generate a 25% tax credit for offset against corporate taxes in addition to a tax deduction at 12.5%. Its purpose is to encourage both foreign and indigenous companies to undertake new and/or additional R&D activity in Ireland.

What is the Research & Development Tax Credit?

The Research and Development ("R&D") tax credit, administered by the Revenue Commissioners, is open to all companies in Ireland that are undertaking qualifying research and development activities in Ireland or within the European Economic Area.

A 25% rate of credit applies to incremental expenditure on R&D incurred by Irish tax resident companies that are trading or are members of a trading group. The tax credit is primarily available for offset against the current year or immediate prior year corporation tax liability and is in addition to the corporate tax deduction that is otherwise available for the expenditure.

Effectively, the R&D tax credit reduces the real cost of R&D by up to 37.5%.

This means that companies undertaking qualifying R&D can claim a refund from the Revenue of €37.50 for every €100 worth of R&D expenditure.

Claims for R&D tax credits must be made within twelve months from the end of the accounting period in which the R&D expenditure was undertaken.
R&D activities can also result in Cash Refunds

If a company does not have a tax liability in the current or immediate prior period it can claim a repayment in cash of R&D tax credits in 3 equal instalments over a 3 year cycle. Alternatively the tax credit will be offset against future tax liabilities.

The refund is limited to the greater of the corporation tax payable by the company in the preceding ten years or the payroll liabilities (PAYE/PRSI/Levies) for the period in which the relevant R&D expenditure is undertaken.

If you have not applied and are currently engaged in R&D activities (or have recently completed an R&D project) you may be eligible to claim this credit/cash refund.

How can your Company qualify for R&D tax credits/refund?

1. What is the Base period?

The R&D tax credit system is based on incremental expenditure on R&D over a calendar year (i.e. January to December). The base year has remained at 2003 for the R&D tax credit system, and the R&D tax credit is based on the incremental R&D expenditure for the current tax year as compared to R&D expenditure in 2003. For all relevant periods commencing at any time after 31 December 2003 the base period is one year ending on a date within the year that corresponds with the end of the relevant period. (See Example No. 1).

2. What expenditure qualifies?

In order to qualify for the R&D tax credit, a company must undertake qualifying R&D expenditure in the European Economic Area.

EXAMPLE No. 1

A group of companies had an aggregate R&D expenditure of €500,000 in the 12 months ended 30/9/2010, and an aggregate R&D expenditure of €30,000 in the 12 months ended 30/9/2003.

The incremental amount for the 12 months ended 30/9/2010 is therefore (500,000 – 30,000) €470,000.

The members of the group who have incurred the R&D expenditure may allocate the tax credit of (470,000 @ 25%) €117,500 to group members, in a manner decided by them.

The expenditure must be tax deductible in Ireland and not in any other country. For expenditure incurred from 1st January 2012, the first €200,000 R&D spend is eligible for credit.

Examples of R&D Costs that may be eligible include:

- Labour – fully-burdened staff costs specifically relating to the R&D activities, this includes on a proportionate basis costs where staff are employed to carry out R&D activities and non R&D activities;
- Materials (incl. materials manufactured for Phase I, II and III Clinical Trials);
- Travel;
- Laboratory Equipment;
- Pilot Plant;
- Patent search;
- R&D staff training;
- Apportionment of Production machinery used for an R&D project;
- R&D work outsourced to colleges (up to maximum of 5% of project costs or €100,000 whichever is greater);
- R&D work outsourced to external contractors (up to a maximum of 10% of project costs or €100,000 whichever is greater);

A 25% tax credit can be claimed for the cost of construction/ refurbishment of buildings in the year that the expenditure was incurred.

- The building must have at least a 35% utilisation for R&D over a four year period. There is no base year reference.

3. Technical Criteria that must be satisfied

The expenditure must be undertaken on systematic, investigative or experimental activities in an approved field of science or technology. The R&D must be one of the following:

- Basic research to acquire new scientific or technical knowledge without a specific practical application in mind
- Applied research to acquire scientific or technical knowledge and directed towards a specific practical application
- Experimental development which draws on scientific or technical knowledge or practical experience for the purpose of achieving technological advancement.

While this may instil images of white coats and microscopes many activities from a broad range of industries qualify for the relief. The majority of eligible R&D activity in Irish companies will be categorised as experimental development.

Companies need to demonstrate that they are seeking to achieve scientific or technological advancement.

Companies need to demonstrate that they are seeking to resolve scientific or technological uncertainty.

Claimant companies are themselves best placed to evaluate whether their activities fall under the definition of R&D.
An appropriate company employee with technical knowledge of the activities undertaken should be consulted to consider activities that may be eligible for the tax credit. A more detailed definition is set out in the “Revenue Guidelines for the R&D Tax Credit” available at www.revenue.ie.

4. The following are examples of activities which qualify for R&D tax credits:

Costs relating to the set up of R&D facilities or activities will be included as qualifying activities only if the costs are treated as tax deductible for the company’s corporation tax return. Such costs may include expenditure relating to salaries of relevant employees, any pre-trading expenditure arising on materials and third party services which leads to the set up of the activities or facilities.

- Development of new and improved products and processes;
- Improvements in the efficiency, capacity, performance, cost of the manufacturing process of existing products to increase yield as well as reduce waste, by products, or environmental impact;
- The development of sophisticated financial modelling and valuation techniques;
- Integration involving significant development work of software systems to produce new applications;
- Integration of existing pieces of equipment to improve capability, efficiency, cost;
- Setting up a new factory or production line where new technology is employed or new manufacturing techniques are used and where technological advancement and uncertainty can be demonstrated;
- Design and development of production processes for new products;
- Manufacture of experimental qualification lots and clinical trial lots;
- Manufacturing process scale-up design and development efforts;
- Experimental production runs, including related labour and materials;
- Design and development of innovative integrated hardware and software systems;
- The mathematical modelling for the development of new financial products.

Interest incurred on financing the set up, or legal & other professional service fees relating to the set up of the activities may not qualify. However, the R&D claim should be considered on a case by case basis in this regard.

5. The following categories of activities do not qualify as R&D activities.

- Research in the social sciences (including economics, business management, and behavioural sciences), arts, or humanities;
- Routine testing and analysis for purposes of quality or quantity control;
- Alterations of a cosmetic or stylistic nature to existing products, services or processes whether or not these alterations represent some improvement;
- Operational research such as management studies or efficiency surveys which are not wholly and exclusively undertaken for the purposes of a research and development activity;
- Corrective action in connection with breakdowns during commercial production of a product;
- Legal and administrative work in connection with patent applications, records and litigation and the sale or licensing of patents.

6. What documentation is required for activities to qualify?

The R&D tax credit scheme is a self-declaration system.

The company needs to maintain documentation and real-time records on a project by project basis that can be readily retrieved if and when required to support a claim that has been submitted.

To avail of the R&D tax credit the company must be in a position to demonstrate that its claim can satisfy two essential tests. Contemporaneous records must be kept to satisfy both tests. This requirement applies equally to the base period as it does to the relevant period. In the event of a claim being selected for examination by Revenue records for the base period (2003) must be available for inspection.

1. The Science Test - that the activities under review are consistent with the statutory definition of research and development activities.

2. The Accounting Test - that the expenditure claimed as being on qualifying research and development activities is correctly so claimed.

Revenue has issued guidelines on what documentation they require to be maintained in order for activities to qualify. Examples of documentation which should be maintained include:

- Start and end dates of each Project;
- Project Title and description;
- Purpose of the project;
- Technologically feasible plan or methodology adopted;
- Status/progress reports;
- Problems encountered in the course of the project that identified areas of technological uncertainty and experimental development;
- Personnel involved in the project;
- Notebooks, laboratory reports, patents, patent application, publications, design revisions, CAD, 3-D models;
- Photographs, videos, code iterations, BOM’s, trial manufacture run records,
- Timesheets, minutes of meetings, emails;
- Expenditure analysis, including third party expenses and royalty payments;
- Where spend allocated to R&D is by apportionment, detail the basis and method used?

If a company has concerns about a particular aspect of their claim, Revenue is prepared to give an advance opinion on eligibility of expenditures.

The two requirements for R&D tax credit:

1. Science Test - Scientific or Rudimentary advance
2. Accounting Test – Proper Records Kept
Practical features of the R&D tax credit regime

7. How is a claim made?

A company makes a claim for R&D tax credits as part of its annual corporation tax return. No backup documentation regarding the R&D tax credit calculation is required to be submitted with the corporation tax return. However, the company making the claim is responsible for maintaining records (as detailed above) which provide sufficient evidence that a project entails research & development activities and such activities qualify for the tax credit.

In practice, a company claiming the tax credit should prepare a detailed report as supporting evidence in calculating the tax credit.

8. Revenue audit

Revenue may also examine any aspect of the return within 4 years of the end of the accounting period in which the company has made the return. Companies must therefore ensure that they maintain sufficient contemporaneous records regarding the R&D project activities and expenditures being claimed.

Revenue may request further information by requesting the company to answer a list of questions or they may undertake a full, field audit to include a relevant scientific expert to seek an opinion as to whether the activities presented meet the definition of R&D.

Revenue audits may result in a reduction of the claim and the consequent re-payment of part or all of the credit with the possibility of interest and penalties.

9. Grants

A company can claim R&D tax credits along with other State agency and EU / EEA grants (the R&D tax credits initiative excludes equity investments) on the same qualifying activity. If applicable for tax credit; the credit is based on net of the grant basis. However, as these are two very different systems with two different definitions, the revenue requirements must be followed for all Tax Credit qualifications.

10. Start Up Companies

If a company is undertaking eligible R&D activities and is not generating a profit they will be entitled to carry the value of the credit forward to be used at a time when they are earning a profit or claim a cash refund against payroll expenses.

For start-up companies the base year expenses will always be ‘zero’.
11. Accounting Treatment

Companies now have the ability to account for the tax credit “above the line” in the Profit and Loss account. Effectively this means that the company claiming the R&D tax credit should account for the tax credit in either of the following two methods:

1. Include the tax credit as an element of income in the profit and loss account (similar to the treatment of a grant);
2. Include it in the R&D expenditure line in the profit and loss account.

Previously companies were not entitled to account for the tax credit in the profit and loss account.

Revenue has confirmed that where a company takes this accounting approach the tax credit will not be regarded as taxable income of that company.

12. Use of the credit to reward R&D employees

From 2012 onwards, companies in receipt of the R&D credit will have the option to use a portion of the credit to reward key employees who have been involved in the development of R&D. This change will be monitored closely.

Cash refund of the R&D tax credit amount of €50,000 is paid over a 3 year period. Effectively 33.33% of €50,000 is claimed each year (i.e. €16,665).

Further information is available on the Revenue website: http://www.revenue.ie/en/tax/ct/research-development.html or talk to your tax advisor.
**APPENDIX 1**

**Enterprise Ireland - R&D Illustration**

<table>
<thead>
<tr>
<th>Company Perspective</th>
<th>€ (‘000)</th>
<th>Irish Support</th>
<th>€(‘000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R&amp;D Spend</td>
<td>100.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grant Aid (25%)</td>
<td>-25.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Grant Cost</td>
<td>75.00</td>
<td>Corporate Tax (75 @ 12.5%)</td>
<td>9.38</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R&amp;D Tax Credit (75 @ 25%)</td>
<td>18.75</td>
</tr>
<tr>
<td><strong>Total net cost</strong></td>
<td><strong>46.87</strong></td>
<td>Plus Grant Aid</td>
<td>25.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Total Support</strong></td>
<td><strong>53.13</strong></td>
</tr>
</tbody>
</table>

**Revenue - EXAMPLE**

QE Ltd had expenditure on R&D of €150,000 in the 12 months ended 31/12/09. This figure includes plant and machinery at cost of €100,000 to be used for R&D activities and production processing. QE Ltd have analysed the plant and machinery usage on a “machine hour basis”. They found that in a typical week it is used 25 hours for R&D and 30 hours for production processing. Therefore they should apportion the cost of the plant and machinery as follows:

Cost €100,000
Cost relevant to R&D €100,000 X 25/55 = €45,455
Tax credit due in 2009 €45,455 @ 25% = €11,364

www.enterprise-ireland.com
# APPENDIX 2 - Claiming R&D Tax Credits

The following is a step-by-step guide to making a claim for an R&D Tax Credit. If yours is a company, or part of a group, which is Irish tax resident and you undertake R&D you can avail of Corporation Tax Relief at 12.5% and a Tax Credit at 25% against R&D expenditure. In other words, for every €100 spent on R&D, you may be entitled to a tax rebate of €37.50. The company may claim against the entirety of the first €100,000 spent on R&D in any year and above that against any amount of R&D spend which exceeds the amount you spent on R&D in 2003.

## Step 1: Establish that you have carried out R&D.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
</table>
| | Baseline Research | Was the solution already known to a competent professional in the field or readily available from external sources?  
Did you carry out research into the current state-of-the-art? Can you demonstrate this through records such as internet and patent searches, supplier queries, technical articles, industry benchmarking? |
| | Did you undertake a **structured programme of scientific or technological investigation** to develop a new or improved, product, process or service? | Normally, there should have been some statements of the objectives, there should have been a reasonable level of planning of what resources (people, materials and finance) would be required, there should have been tests to establish if progress towards the objective is being made with a process to establish whether to change the approach, stop the project or to proceed. All costs associated with the project, be they people time, materials consumed, capital assets acquired, bought-in services etc. should have been rigorously **recorded and vouched**. |
| | Did the investigative programme make some **advancement in the knowledge or capability of some area of science or technology**? | Did you check to be certain that:  
- That you know something about some aspect of **science or technology** which you could not have previously known,  
- that there is an improvement on the existing state-of-the-art  
- what you were seeking had not already been done by others, |
| | Was there some **scientific or technological uncertainty** as to whether the development could be made to work? | **What was scientifically or technically uncertain?** If a process step has been made to work in a commercial environment previously, what could make it uncertain here? What combination of conditions could make the outcome scientifically or technologically uncertain? |

## Step 2: Analyse the records of project costs

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sum the costs of time inputs, of materials consumed, of capital assets reduced, of services bought-in, travel necessary to implement the project.</td>
<td>You could include the costs of licensing-in intellectual property required during the project(s), of certification and trials required to validate the project outcomes. Make allowance for income associated with project outputs (e.g. scrap value of materials) and any residual value from materials and assets used in the project(s).</td>
</tr>
</tbody>
</table>

## Step 3: Calculate the allowance

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
</table>
| | Characterise the expenditure:  
- Up to €100,000?  
- More than R&D expenditure in 2003? | If the costs were less than €100,000, then you may be eligible to claim against the full cost.  
If the costs exceeded €100,000 you may include the first €100,000 to start.  
If the expenditure was greater than in 2003 by €X, you may add €X - €100,000 to the eligible expenditure. |

## Step 4: Register the claim

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Record R&amp;D Expenditure on your tax filing.</td>
<td>This may be undertaken by whosoever prepares your tax returns. A wide choice of organisations and consultancy on claiming R&amp;D Tax Credits. You may also receive information and advice from the Revenue Commissioners.</td>
</tr>
</tbody>
</table>
**Disclaimer:**

This pamphlet has been produced by Enterprise Ireland and IRDG Innovation Network for information only. No responsibility is accepted for any inaccuracies. Always seek further advice on matters on which you are not certain.