
1 R&D tax relief and expenditure credit

Schedule 1 makes provision about R&D tax relief and expenditure credit amending—

- (a) Schedule 18 to FA 1998 (company tax returns, assessments and related matters),
- (b) Chapter 6A of Part 3 of CTA 2009 (trade profits: R&D expenditure credits),
- (c) Part 13 of CTA 2009 (additional relief for expenditure on R&D), and
- (d) related provisions.

R&D TAX RELIEF AND EXPENDITURE CREDIT

PART 1

EXPENDITURE ON RESEARCH AND DEVELOPMENT

R&D expenditure: activities in the UK etc

- 1 (1) Chapter 6A of Part 3 of CTA 2009 (trade profits: R&D expenditure credits) is amended as follows.
 - (2) In section 104E (expenditure on sub-contracted R&D not undertaken in house) –
 - (a) in subsection (1) for “A, B and C” substitute “A to D”;
 - (b) after subsection (4) insert –

“(4A) Condition D is that the expenditure is UK or qualifying overseas expenditure within the meaning of Part 13 (see section 1138A (“UK or qualifying overseas expenditure”).”
 - (3) In section 104K (qualifying expenditure on contracted out R&D) –
 - (a) in subsection (1), for “D” substitute “E”;
 - (b) after subsection (6) insert –

“(6A) Condition E is that the expenditure is UK or qualifying overseas expenditure within the meaning of Part 13 (see section 1138A (“UK or qualifying overseas expenditure”).”
 - (4) In section 104L (qualifying expenditure on contributions to independent R&D) –
 - (a) in subsection (1), for “E” substitute “F”;
 - (b) after subsection (6) insert –

“(7) Condition F is that the expenditure is UK or qualifying overseas expenditure within the meaning of Part 13 (see section 1138A (“UK or qualifying overseas expenditure”).”
- 2 (1) Chapter 2 of Part 13 of CTA 2009 (relief for SMEs on the cost of R&D) is amended as follows.
 - (2) In section 1134 (qualifying element of sub-contractor payment: connected persons) in subsection (3) –
 - (a) omit the “and” at the end of paragraph (c), and
 - (b) at the end of paragraph (d) insert “, and
 - (e) is UK or qualifying overseas expenditure.”
 - (3) In section 1136 (qualifying element of sub-contractor payment: other cases) –
 - (a) in subsection (2), for “65% of the sub-contractor payment” substitute “65% of so much of the sub-contractor payment as comprises UK or qualifying overseas expenditure”, and
 - (b) after subsection (2) insert –

“(3) Any apportionment of expenditure of the company necessary for the purposes of this section is to be made on a just and reasonable basis.”

(4) After section 1138 insert –

“1138A “UK or qualifying overseas expenditure”

- (1) For the purposes of this Part, expenditure is –
 - (a) UK expenditure, if it is attributable to relevant research and development undertaken in the United Kingdom, and
 - (b) qualifying overseas expenditure, if it is attributable to relevant research and development undertaken outside the United Kingdom in circumstances mentioned in subsection (2).
- (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).”

R&D expenditure: UK workers etc

- 3 (1) Chapter 2 of Part 13 of CTA 2009 (relief for SMEs on the cost of R&D) is amended as follows.
- (2) In section 1129 (qualifying expenditure on externally provided workers: connected persons) –
 - (a) in subsection (3) omit the “and” at the end of paragraph (b), and
 - (b) in that subsection, at the end of paragraph (c) insert “, and
 - (d) is incurred in respect of qualifying earnings of externally provided workers.”
- (3) 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 incurred in respect of qualifying earnings of externally provided workers”, and

(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.”

(4) After section 1132 insert –

“1132A “Qualifying earnings”

- (1) For the purposes of this Part, “qualifying earnings”, in relation to an externally provided worker, means any amount of the worker’s earnings under the contract mentioned in section 1128(7) that is within subsection (2) or (3).
 - (2) An amount is within this subsection if it is an amount in respect of which the staff controller or the company is required to account to an officer of Revenue and Customs for income tax under PAYE regulations, Class 1 national insurance contributions and the health and social care levy.
 - (3) An amount is within this subsection if it is an amount that is attributable to relevant research and development undertaken outside the United Kingdom in circumstances within section 1138A(2).”
- (5) In section 1127 (“qualifying expenditure on externally provided workers”), in subsection (3), for “1131” substitute “1132A”.
- (6) In section 1128 (“externally provided worker”), in subsection (9), for “1131” substitute “1132A”.

Exclusion of overseas expenditure rules from patent box regime

- 4 In CTA 2010, in Chapter 2A of Part 8A, in section 357BLB (qualifying expenditure on relevant R&D undertaken in-house), in subsection (7)(e), at the end insert “as those provisions had effect on 31 March 2023”.

PART 2

AMENDMENTS RELATING TO THE HEALTH AND SOCIAL CARE LEVY

Trade profits: calculation of R&D expenditure credits etc

- 5 CTA 2009 is amended in accordance with paragraphs 6 to 14.
- 6 In section 104P (total expenditure on workers) –
- (a) in subsection (2), in paragraph (b), for “and NIC” substitute “, NIC and HSCL”;
 - (b) in subsection (3), in paragraph (c) of Step 1, for “and NIC” substitute “, NIC and HSCL”.
- 7 (1) Section 104Q (total amount of company’s PAYE and NIC liabilities) is amended as follows.
- (2) In the heading, for “and NIC” substitute “, NIC and HSCL”.
 - (3) In subsection (1) –

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- (a) in the words before paragraph (a), for “and NIC” substitute “, NIC and HSCL”;
 - (b) omit the “and” at the end of paragraph (a);
 - (c) at the end of paragraph (b) insert “, and
(c) amount C.”
- (4) After subsection (4) insert –
- “(4A) Amount C is the total amount of health and social care levy chargeable in respect of relevant earnings for which the company is required to account to an officer of Revenue and Customs for the accounting period.
- (4B) In subsection (4A), “relevant earnings” means earnings in respect of which Class 1 national insurance contributions that are included in amount B are payable.”
- (5) In subsection (5) –
- (a) after “amount B” insert “and amount C”;
 - (b) for the words from “payments of” to the end substitute “any sum within section 4(1)(a) of the Social Security Contributions and Benefits Act 1992 or section 4(1)(a) of the Social Security Contributions and Benefits Act 1992, as those provisions have effect from time to time.”
- (6) In subsection (6) –
- (a) for “or Class 1 national insurance contributions” substitute “, Class 1 national insurance contributions or health and social care levy”;
 - (b) for “and NIC” substitute “, NIC and HSCL”.
- 8 In section 104S (restrictions on payment of R&D expenditure credit) –
- (a) in subsection (5), for “and NIC” substitute “, NIC and HSCL”;
 - (b) in subsection (6) –
 - (i) in the words before paragraph (a), for “and NIC” substitute “, NIC and HSCL”;
 - (ii) omit the “or” at the end of paragraph (a);
 - (iii) at the end of paragraph (b) insert “, or
(c) in respect of health and social care levy chargeable in respect of relevant earnings within the meaning given by section 104Q(4B),”.

Relief for SMEs: calculation of R&D tax credit etc

- 9 In section 1058A (relevant expenditure on workers) –
- (a) in subsection (1)(a), in both places it appears, for “and NIC” substitute “, NIC and HSCL”;
 - (b) in subsection (2), in paragraph (c) of Step 1, for “and NIC” substitute “, NIC and HSCL”;
 - (c) in subsection (3), in paragraph (c), for “and NIC” substitute “, NIC and HSCL”;
 - (d) in subsection (4), for “and NIC” substitute “, NIC and HSCL”.
- 10 (1) Section 1058B (total amount of company’s PAYE and NIC liabilities) is amended as follows.

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- (2) In the heading, for “and NIC” substitute “, NIC and HSCL”.
- (3) In subsection (1) –
- (a) in the words before paragraph (a), for “and NIC” substitute “, NIC and HSCL”;
 - (b) omit the “and” at the end of paragraph (a);
 - (c) at the end of paragraph (b) insert “, and
(c) amount C.”
- (4) After subsection (4) insert –
- “(4A) Amount C is the total amount of health and social care levy chargeable in respect of relevant earnings for which the company is required to account to an officer of Revenue and Customs for the accounting period.
- (4B) In subsection (4A), “relevant earnings” means earnings in respect of which Class 1 national insurance contributions that are included in amount B are payable.”
- (5) In subsection (5) –
- (a) in the words before paragraph (a), after “amount B” insert “and amount C”;
 - (b) for paragraphs (a) to (g) (and the “–” before them) substitute “any sum within section 4(1)(a) of the Social Security Contributions and Benefits Act 1992 or section 4(1)(a) of the Social Security Contributions and Benefits Act 1992, as those provisions have effect from time to time.”
- 11 In section 1058C (avoiding double counting of PAYE and NIC liabilities) –
- (a) in the heading, for “and NIC” substitute “, NIC and HSCL”;
 - (b) in the words before paragraph (a), for “and NIC” substitute “, NIC and HSCL”.
- 12 In section 1060 (payment of tax credit) –
- (a) in subsection (6), for “and NIC” substitute “, NIC and HSCL”;
 - (b) in subsection (7) –
 - (i) in the words before paragraph (a), for “and NIC” substitute “, NIC and HSCL”;
 - (ii) omit the “or” at the end of paragraph (a);
 - (iii) at the end of paragraph (b) insert “, or
(c) in respect of health and social care levy chargeable in respect of relevant earnings within the meaning given by section 104Q(4B).”
- 13 In section 1123 (“staffing costs”), in subsection (4), after “contributions” insert “and amounts in respect of the health and social care levy”.
- 14 In section 1131A (“sections 1129 and 1131: secondary Class 1 NICS paid by the company”) –
- (a) in the heading, for “NICS” substitute “NIC and HSCL”;
 - (b) in subsection (1), in paragraph (c), for “secondary Class 1 national insurance” insert “specified social security”;
 - (c) in subsection (5), for “earning” substitute “earnings”;

(d) at the end insert –

- “(6) A “specified social security contribution” means, in relation to a payment of deemed direct earnings, an amount payable by the company in respect of –
- (a) secondary Class 1 national insurance contributions;
 - (b) the health and social care levy.”

PART 3

CLAIM NOTIFICATIONS

Requirement to make claim notifications in relation to certain R&D claims

15 (1) Chapter 6A of Part 3 of CTA 2009 (trade profits: R&D expenditure credits) is amended as follows.

(2) In section 104A (R&D expenditure credits), after subsection (5) insert –

“(5A) This section is subject to section 104AA.”

(3) After that section insert –

“104AA Requirement to make a claim notification

(1) This section applies where –

- (a) a company has not made an R&D claim or a claim notification in relation to any accounting period before the period mentioned in section 104A(1) (the “claim period”), or
- (b) a company has made an R&D claim or a claim notification in relation to accounting period before the claim period but has not made such a claim or notification for any of the three accounting periods immediately preceding the claim period.

(2) The company is not entitled to an R&D expenditure credit under section 104A in relation to the claim period unless it has made a claim notification within the period of six months beginning with the last day of the claim period.”

(4) In section 104Y (interpretation), in subsection (1), before the entry for “large company” insert –

““claim notification” (see section 1142A);”.

16 (1) Part 13 of CTA 2009 (additional relief for expenditure on R&D) is amended as follows.

(2) In section 1044 (additional deduction in calculating profits of trade), in subsection (9), after “subject to” insert “–

- (a) section 1045A (requirement to make a claim notification);
- (b) ”.

(3) Before section 1046 (relief only available where company is going concern) but after the preceding italic heading insert –

“1045A Requirement to make a claim notification

(1) This section applies where –

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- (a) a company has not made an R&D claim or a claim notification in relation to any accounting period before the period mentioned in section 1044(1) (the “claim period”), or
 - (b) a company has made an R&D claim or a claim notification in relation to an accounting period before the claim period but has not made such a claim or notification for any of the three accounting periods immediately preceding the claim period.
 - (2) The company is not entitled to relief under section 1044 in relation to the claim period unless it has made a claim notification within the period of six months beginning with the last day of the claim period.”
 - (4) In section 1054 (entitlement to and payment of tax credit), in subsection (5), after “subject to” insert “–
 - (a) section 1054A (requirement to make a claim notification);
 - (b) ”.
 - (5) After that section insert –

“1054A Requirement to make a claim notification

- (1) This section applies where –
 - (a) a company has not made an R&D claim or a claim notification in relation to any of the three accounting periods immediately preceding the period mentioned in section 1054(1) (the “claim period”), or
 - (b) a company has made an R&D claim or a claim notification in relation to an accounting period before the claim period but has not made such a claim or notification for any of the three accounting periods immediately preceding the claim period.
- (2) The company is not entitled to an R&D tax credit under section 1054 in relation to the claim period unless it has made a claim notification within the period of six months beginning with the last day of the claim period.”
- (6) After section 1142 (“qualifying body”) insert –

“1142A “Claim notification”

- (1) For the purposes of this Part a “claim notification” means, in relation to an R&D claim, a notification made by the company to an officer of Her Majesty’s Revenue and Customs in accordance with regulations under subsection (2).
- (2) The Commissioners for Her Majesty’s Revenue and Customs may by regulations specify, in relation to a claim notification –
 - (a) information to be provided with the notification;
 - (b) the form and manner in which the notification is to be made.

1142B “R&D claim”

For the purposes of this Part an “R&D claim” means a claim under –

- (a) section 104A (R&D expenditure credits),
- (b) section 1044 (relief for SMEs: additional deduction), or
- (c) section 1054 (entitlement to R&D tax credit).”

PART 4

R&D EXPENDITURE ON DATA AND CLOUD COMPUTING

Relief for R&D expenditure on data and cloud computing

17 (1) Chapter 9 of Part 13 of CTA 2009 (additional relief for expenditure on R&D: supplementary) is amended as follows.

(2) In the italic heading before section 1125 (“software or consumable items”), after “Software” insert “, data licences, cloud computing services”.

(3) In that section –

(a) in the heading, after “Software” insert “, data licences, cloud computing services”;

(b) in subsection (1) –

(i) in the words before paragraph (a), after “software” insert “, data licences, cloud computing services”;

(ii) for “expenditure on” substitute “an amount paid by the company in respect of”;

(iii) omit the “or” at the end of that paragraph;

(iv) after that paragraph insert –

“(aa) data licences,

(ab) cloud computing services, or”;

(c) after subsection (1) insert –

“(1A) For the purposes of subsection (1)(aa) a data licence is a licence to access and use a collection of digital data.

(1B) For the purposes of subsection (1)(ab) cloud computing services include the provision of access to, and maintenance of, remote –

(a) data storage;

(b) operating systems;

(c) software platforms;

(d) hardware facilities.”

(4) In section 1126 (software or consumable items: attributable expenditure) –

(a) in the heading, after “Software” insert “, data licences, cloud computing services”;

(b) in subsections (1), (2), (3), (4), (5) and (6), in each place it appears, after “software” insert “, data licences, cloud computing services”.

(5) After section 1126 insert –

“1126ZA Attributable expenditure: special rules for data and cloud computing

(1) Expenditure on data licences or cloud computing services is not to be treated as attributable to relevant research and development if, in connection with the grant of a licence or the provision of a service, a relevant person obtains –

(a) a right to sell data in respect of which the licence is granted or the service is provided (as the case may be);

-
- (b) a right to publish, share or otherwise communicate data in respect of which the licence is granted or the service is provided (as the case may be) to a third party, other than for the purposes of communications reasonably necessary for, or incidental to, the purposes of the relevant research and development.
- (2) Expenditure on data licences or cloud computing services is not to be treated as attributable to relevant research and development so far as it is attributable to a qualifying indirect activity.
- (3) In this section –
“qualifying indirect activity” means an activity mentioned in paragraph 31 of the Guidelines on the Meaning of Research and Development for Tax Purposes (BIS/10/1393) issued on 5 March 2004 and as amended from time to time;
“relevant person” has the meaning given in section 1126A(10).”
- (6) In section 1126A (attributable expenditure: special rules), in the heading, after “special rules” insert “for consumable items”.
- (7) In section 1126B (attributable expenditure: further provision) –
(a) in subsection (1) –
(i) after “expenditure on” insert “data licences, cloud computing services or”;
(ii) after “1126” insert “, 1126ZA”;
(b) in subsection (2) –
(i) in paragraph (a), after “expenditure on” insert “data licences, cloud computing services or”;
(ii) in paragraph (b), after “in which” insert “data licences, cloud computing services or”;
(c) in subsection (4), after paragraph (a) insert –
“(aa) section 1126ZA;”.

Relief for R&D expenditure on data and cloud computing: consequential amendments

- 18 CTA 2009 is amended in accordance with paragraphs 19 to 22.
- 19 In Chapter 6A of Part 3 (trade profits: R&D expenditure credits) –
(a) in section 104D (expenditure on sub-contracted R&D undertaken in-house), in subsection (3)(b), after “software” insert “, data licences, cloud computing services”;
(b) in section 104G (subsidised qualifying expenditure on in-house direct R&D), in subsection (3)(b), after “software” insert “, data licences, cloud computing services”;
(c) in section 104J (qualifying expenditure on in-house direct R&D), in subsection (2)(b), after “software” insert “, data licences, cloud computing services”;
(d) in section 104Y (interpretation), in subsection (2), in the description of sections 1125 to 1126B, after “software” insert “, data licences, cloud computing services”.
- 20 In Part 13 (additional relief for expenditure on R&D) –
(a) in Chapter 2 (relief for SMEs: cost of R&D incurred by SME), in section 1052 (qualifying expenditure on in-house direct R&D), in

-
- subsection (2)(b), after “software” insert “, data licences, cloud computing services”;
- (b) in Chapter 9 (supplementary), in section 1134 (qualifying element of sub-contractor payment: connected persons), in subsection (3)(c), after “software” insert “, data licences, cloud computing services”.
- 21 In Schedule 2 (transitionals and savings), in Part 15 (research and development) –
- (a) in the italic heading before paragraph 122, after “software” insert “, data licences, cloud computing services”;
- (b) in paragraph 122(2), after “software” insert “, data licences, cloud computing services”.
- 22 In Schedule 4 (index of defined expressions), in both places it occurs, after “software” insert “, data licences, cloud computing services”.
- 23 In section 357BLB of CTA 2010 (qualifying expenditure on relevant R&D undertaken in-house) –
- (a) in subsection (2), in paragraph (b), after “software” insert “, data licences, cloud computing services”;
- (b) in subsection (7), in paragraph (d), after “software” insert “, data licences, cloud computing services”.

PART 5

AMENDMENTS TO SCHEDULE 18 TO FA 1998

- 24 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended in accordance with paragraphs 25 to 28.

Power of HMRC to collect overpaid R&D tax relief or expenditure credit

- 25 In paragraph 52 (recovery of excessive repayments etc) –
- (a) in sub-paragraph (2) omit paragraphs (bza) and (ba);
- (b) for sub-paragraph (2A) substitute –
- “(2A) The provisions of paragraphs 41 and 45 to 48 relating to discovery assessments apply to an amount paid to a company by way of –
- (a) first-year tax credit under Schedule A1 to the Capital Allowances Act;
- (b) R&D expenditure credit under Chapter 6A of Part 3 of the Corporation Tax Act 2009;
- (c) R&D tax credit under Chapter 2 or 7 of Part 13 of that Act,
- but only to the extent that the company was not, or is no longer, entitled to the credit.”

Time limits for R&D claims

- 26 For paragraph 83E (time limit for claims) substitute –
- “83E(1) Except where sub-paragraph (3) applies, a claim to which this Part of this Schedule applies may be made, amended or withdrawn at any time up to the last day of the period of –

-
- (a) two years beginning with the last day of the period of account, in a case where the period of account to which the claim relates is not longer than 18 months, or
 - (b) 42 months beginning with the first day of the period of account, in any other case.
- (2) Sub-paragraph (3) applies where –
- (a) a company makes a claim for R&D tax relief under Part 13 of the Corporation Tax Act 2009,
 - (b) the company is not entitled to the relief, and
 - (c) an officer of Revenue and Customs exercises the power under paragraph 34(2)(b) or (2A) to make an amendment by removing the claim from the company tax return in which it is made.
- (3) The company may make, amend or withdraw a claim for R&D expenditure credit under Chapter 6A of Part 3 of the Corporation Tax Act 2009 in respect of eligible expenditure at any time up to whichever is the last of the following dates –
- (a) 30 days after notice of the amendment mentioned in sub-paragraph (2)(c) is issued;
 - (b) if an appeal is brought against that amendment, 30 days after the date on which the appeal is finally determined.
- (4) In this paragraph “eligible expenditure” means expenditure –
- (a) to which the claim mentioned in sub-paragraph (2)(a) relates, and
 - (b) in respect of which the company is entitled to R&D expenditure credit.
- (5) A claim to which this Part of this Schedule applies may be made, amended or withdrawn after the end of the period mentioned in sub-paragraph (1) or (3) (as the case may be) if an officer of Revenue and Customs allows it.”

Requirement to provide additional information in relation to R&D claims

27 In Part 15A (company tax returns etc: claims for R&D expenditure credits or R&D tax relief), after paragraph 83E (substituted by paragraph 26) insert –

“Additional information to be provided in relation to claim

- 83EA(1) A claim to which this Part of this Schedule applies is invalid unless the claimant company has provided information to an officer of Revenue and Customs in accordance with regulations under sub-paragraph (2) within the period mentioned in paragraph 83E.
- (2) The Commissioners for Revenue and Customs may by regulations specify, in relation to a claim to which this Part of this Schedule applies –
- (a) information to be provided by the claimant company;
 - (b) the form and manner in which the information is to be provided.”

Power of HMRC to remove R&D claims made in error from return

- 28 In Part 9A (claims for R&D expenditure credits or R&D tax relief), after paragraph 83EA (inserted by paragraph 27) insert –

“Removal from return of claims made in error

83EB(1) This paragraph applies, in relation to a claim to which this Part of this Schedule applies (the “original claim”) where an officer of Revenue and Customs –

- (a) reasonably believes that a claimant company has failed to comply with a requirement relating to the making of the claim (and accordingly that the claim has been made in error), and
 - (b) exercises the power under paragraph 16(1) to make a correction by removing the claim from the company tax return in which it is made.
- (2) Sub-paragraphs (4) and (5) of paragraph 16 do not apply in relation to the correction (and accordingly the claimant company may not reject the correction).
- (3) Nothing in sub-paragraph (2) prevents the claimant company from amending its company tax return to make a new claim to which this Part of this Schedule would apply in respect of the expenditure to which the original claim related (but see sub-paragraph (4)).
- (4) Where, in relation to the original claim –
- (a) a claim notification (within the meaning of section 1142A of the Corporation Tax Act 2009) was required to be made, and
 - (b) no claim notification was made,
- the company may not make a new claim to which this Part of this Schedule would apply in respect of the expenditure to which the original claim related.”

PART 6

MISCELLANEOUS AMENDMENTS

R&D tax relief: circumstances in which enterprises are treated as SMEs

29 CTA 2009 is amended as follows.

- 30 (1) In section 1119 –
- (a) in subsection (1), at the end insert “(and see sections 1120A and 1120B)”;
 - (b) in subsection (2), for “section 1120” substitute “sections 1120 to 1120B”.
- (2) In section 1120 (qualifications to section 1119) –
- (a) after subsection (6) insert –
“(6A) This section is subject to sections 1120A and 1120B.”;

-
- (b) in subsection (7), in the words before paragraph (a), after “section” insert “and sections 1120A and 1120B”.

(3) After that section insert—

“1120A Enterprise treated as an SME where related enterprise becomes large

- (1) This section applies, in relation to an accounting period, where the following conditions are met.
- (2) The first condition is that, for the duration of the accounting period, an enterprise (“E”) is related to a partner enterprise or linked enterprise (“F”).
- (3) The second condition is that, at the start of the accounting period, both E and F are small or medium-sized enterprises.
- (4) The third condition is that, at the end of the accounting period, E is not a small or medium-sized enterprise by reason only that F has, during the accounting period, exceeded the employee limit or either of the financial limits.
- (5) Both E and F are to be treated as if they were small or medium-sized enterprises for the accounting period.

1120B Enterprise treated as an SME where acquired by an SME

- (1) This section applies, in relation to an accounting period, where the following conditions are met.
- (2) The first condition is that, at the start of the accounting period, an enterprise (“E”) was not a small or medium-sized enterprise by reason only that a partner enterprise or linked enterprise to which E was related exceeded the employee limit or either of the financial limits.
- (3) The second condition is that, during the accounting period, control of E was acquired by a company that, at the time of the acquisition, was a small or medium-sized enterprise.
- (4) E is to be treated as if it were a small or medium-sized enterprise for the accounting period.
- (5) In subsection (3) “control” has the same meaning as in section 1124 of CTA 2010.”

Accounts treated as prepared on going concern basis

31 (1) In section 104T (R&D expenditure credits: “going concern”), after subsection (1) insert—

- “(1A) For the purpose of subsection (1)(a), where a company is a member of a group and the company’s latest published accounts were not prepared on a going concern basis by reason only of a relevant group transfer, the accounts are to be treated as if they were prepared on a going concern basis.
- (1B) A “relevant group transfer” is a transfer within the accounting period to which the latest published accounts relate by the company of its

trade and research and development to another member of a group of which the company is a member.”

(2) In section 1046 (R&D relief for SMEs: relief only available where company is going concern), after subsection (2) insert –

“(2ZA) For the purpose of subsection (2)(a), where a company is a member of a group and the company’s latest published accounts were not prepared on a going concern basis by reason only of a relevant group transfer, the accounts are to be treated as if they were prepared on a going concern basis.

(2ZB) A “relevant group transfer” is a transfer, within the accounting period to which the latest published accounts relate, by the company of its trade and research and development to another member of a group of which the company is a member.”

(3) In section 1057 (R&D relief for SMEs: tax credit only available where company is going concern), after subsection (4) insert –

“(4ZA) For the purpose of subsection (4)(a), where a company is a member of a group and the company’s latest published accounts were not prepared on a going concern basis by reason only of a relevant group transfer, the accounts are to be treated as if they were prepared on a going concern basis.

(4ZB) A “relevant group transfer” is a transfer, within the accounting period to which the latest published accounts relate, by the company of its trade and research and development to another member of a group of which the company is a member.”

Meaning of expenditure incurred on payments

32 (1) In section 104Y (R&D expenditure credits: interpretation), at the end insert –

“(4) References in this Chapter to expenditure incurred on payments (however expressed) are references to expenditure incurred on payments made before the making of a claim under this Chapter in relation to that expenditure.”

(2) Before section 1140 insert –

“1139A Expenditure incurred on payments

(1) References in this Part to expenditure incurred on payments (however expressed) are references to expenditure incurred on payments made before the making of a claim under this Part in relation to that expenditure.”

PART 7

COMMENCEMENT

33 The amendments made by this Schedule have effect in relation to claims made in respect of accounting periods beginning on or after 1 April 2023.