

Procedure for dealing with companies which restricted their research and development relief claims as a result of guidance issued in a note to the Research and Development Consultative Committee on 8 October 2014. This procedure only applies to accounting periods which ended between 9 October 2014 and 31 January 2016.

Purpose of this procedure

This procedure explains how companies can amend their claims for Research and Development Credits where their original claims were restricted as a result of the company relying on a note issued by HMRC on 8 October 2014.

The procedure only applies where;

- The aforementioned restriction in the qualifying amounts claimed would not have been undertaken if the company had been relying on the guidance which was published on 27 October 2016 and is found in page 83200 of the Corporate Intangible Research and Development Manual (CIRD).

And

- The accounting period in which the claim was restricted ended between 9 October 2012 and 31 January 2016, and the original claim for that period was made on or after 9 October 2014.

Background

- a) On 27 October 2016 revised guidance was issued on reimbursed expenses;

<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird83200>

- b) That guidance differed from the guidance contained in a note which was issued on 8 October 2014;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/399354/Reimbursed_expenses_clarification.pdf

- c) The revised guidance issued on 27 October 2016 was discussed with interested parties, and during those discussions HMRC noted that the differences between the revised guidance and the note which had been issued on 8 October 2014 was not a change in the law but a change in HMRC's interpretation of the law. HMRC advised that retrospective claims could, in some circumstances, be made where companies had restricted claims for research and development Tax Relief and/or Research and Development Expenditure Credit as a result of the 8 October note. This procedure provides details of the circumstances where such claims will be considered and how those claims should be made.

Claims not affected by this procedure

The procedure will not apply to claims which are made within the time allowed by Paragraph 83E (1) Schedule 18 Finance Act 1998 (the first anniversary of the filing date for the accounting period for which the claim is made). It is also not envisaged that this procedure will apply to any accounting period where the time in which to make an amended in-date claim had already passed when the Research and Development Consultative Committee met on 8 October 2014. If it is considered that a company with an earlier accounting period was disadvantaged by relying on the 8 October 2014 note please contact the Business, Assets and International Research and Development team in room 3/63, 100 Parliament Street.

Making a claim

Companies and their advisors will be aware that CIRD 81800 "R&D tax reliefs: conditions to be satisfied: claims and time limits" states at "Late Claims" that where there is a late claim it should be dealt with in accordance with the guidance at Statement of Practice SP 05/01. While this does not specifically refer to R&D payable tax credits, the approach is a general one that HMRC adopt. Would each applicant therefore confirm that the claim in point is late due to reliance on the note issued by HMRC on 8 October 2014.

HMRC will consider admitting amended claims using the discretionary powers which are provided by Paragraph 83E (2) Schedule 18 of Finance Act 1998 when all the following points apply;

- The accounting period in which the claim is made ends between 9 October 2012 and 31 January 2016, and the original claim for that period was made on or after 9 October 2014.
- The time limit at Paragraph 83E (1) Schedule 18 of Finance Act 1998 has passed at the time the claim made under this procedure is made.
- The claim to be considered under this procedure is received by HMRC by 31 January 2018.
- The company had already made a claim for Research and Development Relief for the accounting period to which the claim made under this procedure applies.
- This procedure will only apply to claims which are limited to one category of qualifying expenditure, that found in S1123 (3) CTA 2009.
- This procedure also only applies to that expenditure which was excluded by a company relying on the statement issued by HMRC on 8 October 2014, but which would have been included if at that time the company had been in a position to rely on the guidance which was issued by HMRC on 27 October 2016.
- The claim is submitted with a revised corporation tax computation and, where appropriate, supporting explanations. It would aid processing and therefore expedite payment if an amended completed corporation tax self assessment was also provided.

Note that as the above claims are being made outside a return they are covered by the rules which can be found in Schedule 1A Taxes Management Act 1970. Therefore, it would be appropriate for claimants to include the information mentioned in Paragraph 2 Schedule 1A, namely;

- a declaration to the effect that all the particulars given in the form are correctly stated to the best of the information and belief of the person making the claim.
- a statement of the amount of additional expenditure which is now also to be treated as qualifying expenditure under s1123(3) Corporation Tax Act 2009 to give effect to the claim.
- all relevant documents and accounts.

Where and when to send the claim

- a) Claims should be sent either by post to Compliance S0717, R&D Procedure/2017 - Reimbursed Expenditure, PO Box 3900, Glasgow, G70 6AA or by email to randd.reimbursedexpenses@hmrc.gsi.gov.uk. As indicated in the above address, the letter or email subject line should be marked 'R&D Procedure/2017 - Reimbursed Expenditure'.
- b) To be considered under this procedure a claim must have been received by HMRC by 31 January 2018.
- c) HMRC will aim to make appropriate payment or raise queries in regards to 95% of the claims within 30 days of receiving them.