

**EXPLANATORY NOTE**

**CLAUSE 34 SCHEDULE 14 : ‘ABOVE THE LINE’ (ATL) CREDIT FOR RESEARCH AND DEVELOPMENT (R&D)**

**AMENDMENTS 23-38**

**SUMMARY**

1. Clause 34 and Schedule 14 introduce an ‘Above the Line’ credit for research and development expenditure incurred on or after 1 April 2013. The ATL credit is introduced alongside the existing additional relief for R&D under Part 13 of CTA 2009 but will replace the additional relief from 1 April 2016. The proposed amendments will ensure that the net benefit of the credit to a company is consistent irrespective of any corporation tax liability.

**DETAILS OF THE AMENDMENT**

2. Paragraph 1 of Schedule 14 introduces a new section 104N CTA 2009, which provides for an outline of how the payment of the credit is calculated and how the various set-offs and restrictions should be applied.
3. Amendment 23 replaces the step 2 of new section 104N(2) under the current wording of the Bill to reflect that an amount is to be deducted under this new step 2 and that the treatment of that amount is set out in new section 104NA.
4. Amendments 24 to 33 are consequential amendments following the introduction of the new step 2.
5. Amendment 34 inserts new section 104N(2A) for ascertaining the net value of the set-off amount at step 2 of subsection 104N(2).
6. Amendment 35 inserts new section 104NA which provides for the treatment of the amount to be deducted under the new step 2 of new section 104N(2).
7. Amendments 36 to 38 are consequential amendments following on from the above.

**BACKGROUND**

8. Clause 34 introduces a payable credit for research and development expenditure.
9. The net benefit of the credit to a company is intended to be consistent irrespective of any corporation tax liability.
10. These Government amendments are in response to representations that under the current wording of the Bill the net benefit to a company of the credit could be different depending on whether the credit were used to discharge a corporation tax liability or was a payable amount.
11. These Government amendments make changes to the steps taken to calculate the new credit to ensure that the legislation fully achieves the intended policy objective.

**Thursday 16 May 2013**  
**PUBLIC BILL COMMITTEE**

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- Mr David Gauke 23
- Schedule 14, page 246, line 41, at end insert—  
‘If the amount remaining after step 1 is greater than the net value of the set-off amount (see subsection (2A)), that amount is to be reduced to the net value of the set-off amount.  
For provision about the treatment of the amount deducted under this step from the amount remaining after step 1, see section 104NA.  
*Step 3*’.
- Mr David Gauke 24
- Schedule 14, page 247, line 1, leave out ‘step 1’ and insert ‘step 2’.
- Mr David Gauke 25
- Schedule 14, page 247, line 6, leave out from ‘(b)’ to ‘is’ in line 7 and insert ‘the amount deducted under paragraph (a) from the amount remaining after step 2’.
- Mr David Gauke 26
- Schedule 14, page 247, line 11, leave out ‘step 3’ and insert ‘step 4’.
- Mr David Gauke 27
- Schedule 14, page 247, line 12, leave out ‘*Step 3*’ and insert ‘*Step 4*’.
- Mr David Gauke 28
- Schedule 14, page 247, line 13, leave out ‘step 2’ and insert ‘step 3’.
- Mr David Gauke 29
- Schedule 14, page 247, line 16, leave out ‘step 4’ and insert ‘step 5’.
- Mr David Gauke 30
- Schedule 14, page 247, line 17, leave out ‘*Step 4*’ and insert ‘*Step 5*’.
- Mr David Gauke 31
- Schedule 14, page 247, line 19, leave out ‘step 3’ and insert ‘step 4’.
- Mr David Gauke 32
- Schedule 14, page 247, line 22, leave out ‘step 5’ and insert ‘step 6’.

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- Schedule 14, page 247, leave out lines 23 to 36.

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- Schedule 14, page 247, line 46, at end insert—
  - ‘(2A) To determine the net value of the set-off amount for the purposes of step 2 in subsection (2), deduct from the set-off amount amount A and, in the case of a ring fence trade, amount B.  
*Amount A* is the amount equal to the corporation tax that would be chargeable on the set-off amount if—
    - (a) it did not include any amount treated as an amount of R&D expenditure credit for the accounting period by virtue of step 3 in subsection (2), and
    - (b) it was an amount of profits (or in the case of a ring fence trade, ring fence profits) of the company for the accounting period and corporation tax on such profits was chargeable at the main rate.  
*Amount B* is the amount equal to the supplementary charge that would be chargeable on the set-off amount if—
      - (a) it did not include any amount treated as an amount of R&D expenditure credit for the accounting period by virtue of step 3 in subsection (2), and
      - (b) it was an amount of adjusted ring fence profits for the accounting period.’

Mr David Gauke

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- Schedule 14, page 248, line 12, at end insert—

**‘104NA Amounts deducted by way of tax adjustment**

- (1) This section applies if—
  - (a) a company is entitled to an R&D expenditure credit for an accounting period under this Chapter, and
  - (b) the amount of the set-off amount remaining after step 1 in section 104N(2) is greater than the net value of the set-off amount.
- (2) An amount equal to the difference between—
  - (a) the amount remaining after step 1 in section 104N(2), and
  - (b) the net value of the set-off amount,  
 (“the step 2 amount”) is to be applied in discharging any liability of the company to pay corporation tax for any subsequent accounting period.  
This is subject to subsection (3).
- (3) If the company is a member of a group, it may surrender the whole or any part of the step 2 amount to any other member of the group (the “relevant group member”).  
In such a case, section 104Q(3) applies to the amount surrendered as it applies to an amount of R&D expenditure credit surrendered under step 5 in section 104N(2).
- (4) If any of the amount surrendered under subsection (3) is remaining after the operation of step 3 in section 104Q(3), it is to be treated for the purposes of this section as if it had not been surrendered to the relevant group member.
- (5) Any amounts to be applied under subsection (2) or (3) in discharging any liability of a company to pay corporation tax for an accounting period are to be so applied before any amounts that may be so applied under step 1, 4 or 5 in section 104N(2).

- (6) The surrender by a company of the whole or any part of the step 2 amount to another company under this section—
- (a) is not to be taken into account in determining the profits or losses of either company for corporation tax purposes, and
- (b) for corporation tax purposes is not to be regarded as the making of a distribution.
- (7) Any reference in this section to the set-off amount, or the net value of the set-off amount, is to be read in accordance with section 104N.’.

Mr David Gauke

- Schedule 14, page 249, line 42, leave out ‘step 4’ and insert ‘step 5’. **36**

Mr David Gauke

- Schedule 14, page 250, line 21, leave out ‘step 4’ and insert ‘step 5’. **37**

Mr David Gauke

- Schedule 14, page 250, line 27, leave out from beginning to end of line 10 on page 251. **38**