# R&D Tax Relief Report: CIOT and ATT responses

**Large Corporate** **OMB**

22 February 2022

The CIOT and ATT have submitted comments on the Treasury's R&D Tax Relief Report, which sets out several proposed changes to the R&D relief regimes.

In November 2021, HM Treasury published a report on R&D tax reliefs ( tinyurl.com/2brcv9hz). This contained further details of changes to the small and medium enterprise (SME) and R&D expenditure credit (RDEC) schemes announced at the Autumn Budget.

The report covers several policy decisions under the following main themes:

- data and cloud computing costs;
- refocusing the reliefs towards innovation in the UK;
- abuse and compliance; and
- addressing anomalies and unforeseen consequences in the R&D tax relief legislation.

All of the changes proposed are scheduled to come into effect in April 2023, with draft legislation published this summer for consultation and the final version legislated in Finance Bill 2022-23. Although not formally a consultation, the report invited written comments.

## CIOT comments

The CIOT welcomed the confirmation that the government will legislate to expand qualifying expenditure for both R&D reliefs to include data and cloud computing costs. Our response also said that we understand the policy aims of seeking to ensure that the R&D activities that are supported by the UK's tax relief schemes are conducted in the UK. We agreed that the proposed measures to refocus the reliefs

towards innovation in the UK will mean that the broader benefits that arise for society because of R&D activity are more focused and encouraged within the UK. However, we said that some further clarity is required around how the rules will work, and we suggested that some de minimis exceptions should be included.

The CIOT welcomed efforts to target the error and fraud across both R&D tax relief schemes. However, we said that some of the measures proposed in relation to tackling abuse and boundary pushing are not clear in terms of the overall policy aims of tackling error and fraud, nor are we convinced that they are necessary and/or will be effective.

In particular, we said that the CIOT does not support the proposed measure that companies will need to inform HMRC, in advance, that they plan to make a claim. This measure is poorly targeted because, although it will prevent some dubious claims, it will also mean that many genuine claims will also fall out of time. There will be significant collateral damage from the measure and taxpayers that already have tax advisers will be at an advantage to those that do not. The proposal will exacerbate an unfairness that can arise between taxpayer companies that undertake R&D activities, based on whether or not they have an awareness of the tax relief rules at the appropriate time. We said that it is difficult to see how making it harder to claim R&D tax relief will help to deliver the government's overall policy of encouraging R&D, and delivering the overall additionality benefits of the schemes.

With regard to the other measures proposed in the report to tackle abuse and fraud, we said that we agree that it is reasonable to require all claims to the R&D reliefs to be made digitally. Also, we support the change that will require claims to include more detail in the future (but would welcome further consultation as to what detail will be required). Conversely, it is difficult to see what HMRC is gaining from the proposal that each claim for R&D tax relief will need to be endorsed by a named senior officer.

The CIOT's full response can be read here: www.tax.org.uk/ref897

## ATT comments

The ATT comments focus on those proposals that seek to target abuse and improve compliance.

The ATT shares the government’s concern over abuse of the R&D relief schemes and strongly supports efforts to crack down on such abuse and improve compliance. However, we are concerned that the proposed requirement for companies to notify HMRC in advance that they plan to make a claim may affect the ability of companies undertaking genuine R&D (in particular, smaller and newer companies) to access the relief to which they are entitled.

The ATT response sets out more detail on these concerns, and recommends that the government reconsider the need for advance notification of intention to claim R&D reliefs. If the proposal were to proceed, in order to limit the impact on genuine claimants, ATT strongly urged that companies not be required to notify their intention to claim any earlier than before the end of the accounting period in question, and that notification should be relatively simple without requiring details of expected spend, project aims, etc.

The ATT’s full response can be read here: www.att.org.uk/ref391.