House of Lords inquiry on research and development draft Finance Bill measures

Large Corporate **OMB**

21 November 2022

Representatives from CIOT and ATT gave evidence to a House of Lords committee on research and development tax reliefs in October. They argued that HMRC could use risk profiling more effectively to target claims likely to be ineligible, set out concerns around the proposed new advance notification measures for research and development claims and discussed how standards could be raised amongst those giving advice in relation to research and development.

Representatives from the CIOT and ATT gave evidence to the House of Lords Finance Bill Sub-Committee's inquiry into the draft Finance Bill 2022-23 (see tinyurl.com/5abrmvce). The Finance Bill Sub-Committee is appointed annually by the Economic Affairs Committee to consider the draft Finance Bill from a tax administration, clarification and simplification point of view. This year, the sub-committee has decided to focus on the reforms to research and development (R&D) tax relief in the draft Bill.

The inquiry will produce a report containing conclusions and recommendations. Based on previous inquiries, we anticipate that this will be published in December or January.

In the oral evidence session, discussion covered areas including how effective R&D relief is in encouraging R&D, whether changes are needed to it, whether it can be simplified and how abuse of the relief can be tackled.

It was agreed that too many claims were getting through which should not, and this is tainting the system. Lack of HMRC resource to check claims was cited as a factor. It was suggested that there needs to be a more effective process of triaging claims,

building on HMRC’s risk assessment processes, looking at both taxpayers and their advisers.

Both CIOT and ATT supported HMRC’s efforts to tackle abuse. It was agreed that abuse of R&D relief puts strain on relationships between tax advisers and their clients, particularly when they see others putting in R&D relief claims that are accepted while they are being advised not to.

However, it was generally considered that the Finance Bill proposals would not help to tackle abuse in any significant way. We said that some of the measures could assist from an information perspective if the additional information can be used effectively by HMRC.

The measure that will require advance notification of an R&D claim was considered to be the most damaging, as it would affect both genuine and non-genuine claimants equally. The representatives said that it will put another hurdle in the way which will impact on all claimants. It is likely to prevent genuine claimants from accessing the relief to which they are entitled, while not necessarily leading to a significant reduction in abuse. We said that it will not be enough to put off the minority of agents who use high pressure sales techniques – they are likely to change their approach to meet pre-notification deadlines. On the other hand, smaller and newer businesses who need support in the early days from R&D relief are the most likely to lose out. Neither the CIOT nor ATT support this measure.

In terms of other things that could help, representatives said that there was scope for better guidance from HMRC, particularly around what does and does not qualify for R&D. It was also suggested that there should be more integration of R&D claims in a company’s tax account with HMRC. It was noted that currently the process is only ‘digital’ because it is submitted online; multiple forms will still need to be completed following the changes in the Finance Bill – if anything the changes are going to complicate the system.

The sub-committee also asked about awareness of R&D tax relief amongst small businesses. We said that this varied across the smaller companies. There is a lack of understanding of what is meant by R&D. It was suggested that HMRC could do more to raise awareness. If businesses understand more about what is and what is not R&D, it might make them less susceptible to unscrupulous agents.

We suggested there should be some way for regular tax advisers to report inappropriate promotional materials or dubious practices. This happens informally at present, but generally the agent/representative body that makes the report does not hear anything back from HMRC, which leads to a sense that little is being done.

A recording of the evidence session is available at tinyurl.com/2s4ja6x5 and the discussions are summarised in our blog at www.tax.org.uk/311022_rd_relief. The CIOT and ATT also provided written evidence to the sub-committee, which can be found at: www.tax.org.uk/ref1039 and www.att.org.uk/ref411.

Sacha Dalton *sdalton@ciot.org.uk*

Emma Rawson *erawson@att.org.uk*