Draft Finance Bill legislation: additional tax relief for R&D intensive SMEs and potential merged R&D scheme

Large Corporate **OMB**



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Both the CIOT and ATT submitted comments on the draft Finance Bill legislation for a single scheme for research and development (R&D) and additional tax relief for R&D intensive SMEs (tinyurl.com/33peasmb). Both responses said that the suggested commencement date of April 2024 for the new single scheme is too soon and that the additional support for 'R&D intensive' SMEs should be incorporated into any future single scheme, and not operated as a standalone scheme as is currently proposed.

On 'L-day' in July, the government published policy papers and draft legislation for technical consultation on a single scheme for R&D and additional tax relief for R&D intensive SMEs. These were published in order to keep open the option of

implementing a merged scheme from April 2024, although a final decision on whether or not to merge the R&D schemes will be made a future fiscal event.

In their responses, both the CIOT and ATT said that the proposed implementation date of April 2024 is over ambitious. It will present practical difficulties for HMRC and taxpayers, and will result in unintended consequences. The CIOT said that the current uncertainty and rushed implementation is undermining the policy intention of supporting and encouraging R&D in the UK. The ATT said that more time should be taken for consultation to ensure that the new scheme can be delivered successfully.

Saying that there has been insufficient opportunity to consider and consult on many important aspects of the new merged scheme, both responses discussed the complications around the rules for subcontracted R&D. The CIOT noted that this area was still under consideration by the government, with meetings held over the summer, and the position was not settled in the draft legislation that had been published. Both the CIOT and ATT said that further clarity in the legislation was required in this difficult area, while welcoming the overall policy approach that the focus of relief should be on the company which decides whether to undertake R&D or not.

Both responses also commented on the fact that an important opportunity to simplify the UK tax system is being missed because the time is not being taken to incorporate the additional relief for R&D intensive SMEs into the new scheme. As the new rules are proposed, the UK will continue to have two R&D schemes, and not a single scheme as had been envisaged and previously consulted on.

The CIOT and ATT both said that the additional support for ‘R&D intensive’ SMEs should be incorporated into any future single scheme, and not operated as a standalone scheme as is currently proposed. The CIOT noted that the current proposals fly in the face of overall policy objectives to embed tax simplification within the tax policy making process and the tax system.

Incorporating the additional relief into a single scheme would minimise the complications that would otherwise arise as a result of SMEs moving from one scheme to another from year to year. The proposed definition of R&D intensive SME means that whether a SME is an R&D intensive SME will depend on its activities, expenditure and/or profitability within any particular accounting period. The ATT

cited concerns around boundary pushing that may arise as a result of the proposed definition. The CIOT noted that it is likely that the status of a large number of SMEs in this regard may change on a period by period basis. The ATT suggested that the rules around additional support for R&D intensive SMEs should be amended such that two consecutive years of failing to meet the R&D intensive test are required before companies cease to qualify.

The ATT's response also included some specific comments on the draft legislation.

The full responses can be read at:

ATT response: www.att.org.uk/ref433

CIOT response: www.tax.org.uk/ref1187

Sacha Dalton *sdlaton@ciot.org.uk*
Emma Rawson *erawson@att.org.uk*