

## Getting the most out of your R&D tax credit claim



Whether you're already claiming the R&D tax credit or just considering your eligibility, it's essential to remember that R&D doesn't just happen in the laboratory – quite often it's the work a company would consider to be a day-to-day activity: developing a new product; devising or making improvements to a production process; trying out a new material to reduce costs. The list is extensive, and with a potential saving of up to 25% of qualifying expenditure, it's worth checking if your activities meet the criteria.

### Overview of the R&D tax credit

The R&D tax credit was first introduced in 2004 and since then has been amended and generally enhanced with each subsequent Finance Act.

The tax credit operates on a group basis and is available to companies, within the charge to Irish tax, that undertake R&D activities in the European Economic Area (EEA). In the case of an Irish tax resident company, the credit is available only if the expenditure on the R&D is not otherwise available for a tax benefit elsewhere.

You could be entitled to a **cash refund** from Revenue worth **25%** of your qualifying R&D spend

### 10 key facts

1. The R&D tax credit is worth up to 25% of qualifying expenditure.
2. The credit is claimed on **incremental qualifying expenditure** over the amount spent on R&D activities in **the base year** (i.e. an accounting period ending in 2003).
3. For periods commencing on or after 01/01/2012, companies can avail of a **volume-based regime** (i.e. a 25% R&D tax credit for every euro incurred), on the **first €100,000** of qualifying expenditure.
4. This credit is available **in addition to the trading deduction** available for R&D spend. For a 12.5% taxpayer, this can result in a net subsidy of 37.5% (i.e. 12.5% corporation tax deduction + 25% R&D tax credit).
5. Expenditure met by **grant assistance** received from the State, the EU, or EEA does not qualify for the credit.
6. **Eligible expenditure** can include expenses (e.g. salaries, overheads, materials consumed, etc.) that are deductible for the purposes of computing corporation tax.
7. Expenditure incurred on **plant and machinery** (P&M) can be classed as qualifying R&D spend. In order to qualify, P&M must be eligible for wear and tear capital allowances and must be used for the purposes of undertaking R&D activities.
8. Expenditure incurred on R&D activities **outsourced** to a third-party or third level institution can be included in an R&D tax credit claim, subject to restrictions (see below for key points).
9. For periods commencing on or after 01/01/2012, key employees who have been actively involved in R&D activities can benefit from an **employee reward mechanism**, effectively allowing them to receive part of their remuneration tax free (see below for key points).
10. Companies have **12 months** from the end of the relevant accounting period in which to make a claim.

All of the above are subject to certain conditions, which companies should investigate thoroughly with a tax advisor prior to submitting an R&D tax credit claim.

## Use of the credit

- In the first instance, the R&D tax credit can be used to reduce a company's (or group's) current year corporation tax liability.
- Where a company does not have sufficient corporation tax liability in the current accounting period, it can choose to carry the credit back for offset against the corporation tax liability in the preceding period. Any remaining excess can be carried forward indefinitely against future corporation tax liabilities.
- Instead of carrying the credit forward, a company may elect to have any remaining excess credit paid as a cash refund by Revenue over three years (complex rules apply). The amount of money that a company can claim under the above cash back mechanism is limited to the greater of:
  - i. The corporation tax paid by the company during the period of 10 years prior to the previous accounting period, or
  - ii. The sum of the payroll tax liabilities for the period in which the expenditure on R&D was incurred and the period prior, subject to conditions.

## Outsourcing R&D

Expenditure incurred on R&D activities outsourced to a third party or third level institution can be included in an R&D tax credit claim to the extent that:

- Payment to the third party is limited to 10% of the company's overall R&D spend (5% for a third level institution).
- The third party to whom the R&D is outsourced does not claim an R&D tax credit for the work it has been contracted to carry out. The company must notify the third party provider in writing that it cannot also claim the R&D tax credit for the relevant R&D.
- For periods ending on or after 01/01/2012, companies can claim the greater of the current percentage based limits (10% or 5% of the company's in-house spend) or €100,000. The total amount claimed must not exceed the qualifying expenditure incurred by the company itself in the period.

## 'Key Employee' reward mechanism

For periods commencing on or after 01/01/2012, key employees who have been involved in R&D activities can benefit from a new employee reward mechanism, which effectively allows them to receive part of their remuneration tax free. This is subject to complicated rules and should be investigated thoroughly; some of the key points to note are:

- The employee cannot be a director of, or have a material interest in, the company or be connected to such a person.
- The employee must perform at least 75% of their activities in the conception or creation of new knowledge, products, processes, methods, or systems and at least 75% of their emoluments must qualify for the credit.
- The amount of credit that can be surrendered to key employees is capped at the amount of corporation tax due by the company before taking the R&D tax credit into account, i.e. the company must be taxpaying.
- The employee's effective rate of tax cannot be reduced below 23%.

## Buildings and structures

- Companies who build or refurbish buildings or structures for both R&D and other activities may claim an R&D tax credit in respect of the portion (as appears to the Revenue to be just and reasonable) of the construction/refurbishment costs that relate to R&D activities.
- A minimum of 35% of the building must be used for conducting R&D activities for a 4 year period.
- The building must be used for R&D for a period of 10 years.
- An R&D tax credit of 25% of relevant expenditure can be claimed in full in the year in which the expenditure was incurred.

## What is R&D?

While there are many activities carried out by companies that could be considered R&D, identifying and quantifying eligible expenditure for the purposes of the R&D tax credit can often be quite complex. Revenue guidelines state that qualifying R&D activities must:

- i. Be systematic, investigative or experimental in nature,
- ii. Be carried out within a Revenue approved field of science and technology,
- iii. Involve basic research, applied research or experimental development,
- iv. Seek to achieve scientific or technological advancement, and
- v. Involve the resolution of scientific or technological uncertainty.

## What fields of science or technology qualify for the credit?

Allowable fields of science and technology include:

- **Natural sciences** – e.g. food science, software development, chemical sciences, biological sciences.
- **Engineering and technology** – e.g. mechanical, material, electronic, electrical, and communication engineering, food and drink production.
- **Medical sciences** – e.g. basic medicine, clinical medicine, health sciences.
- **Agricultural sciences** – e.g. forestry, fisheries, veterinary medicine.



## Examples of activities that could qualify for the R&D tax credit

Sector	Company	Qualifying Activities	Benefit
Software and Electronics	Software Co., an Irish subsidiary of a US multinational in the software sector.	Software Co. developed new techniques to automate the identification of spam e-mail to a very high degree of confidence whilst ensuring that legitimate e-mail is not incorrectly classified as spam.	Software Co. has received a cash refund from Revenue of circa €300,000.
Financial Services	Bank Co., an Irish subsidiary of a US multinational in the fund administration sector.	Bank Co. planned to implement a new accounting application for its fund administration business. A third party off-the-shelf application was acquired for this purpose and Bank Co. undertook significant development work to integrate the application with the in-house legacy back-end systems.	Bank Co. has received a tax credit of circa €350,000.
Food and Drink	Drink Co., an Irish company in the drinks sector.	Drink Co. developed a low cost version of an existing carbonated fruit juice drink. Their aim was to reduce the formulation cost of the drink by replacing the higher cost ingredients with lower cost replacements, while maintaining the product characteristics of the previous version, including taste, colour, sweetness, etc .	Drink Co. has received a cash refund from Revenue of circa €150,000.
Biotechnology, Pharmaceuticals and Medical Devices	Pharma Co., an Irish subsidiary of a US multinational in the pharma sector.	Pharma Co. was attempting to develop a new drug with an Active Pharmaceutical Ingredient ("API") which would be effective against a specific strain of a virus.	Pharma Co. has received a tax credit of circa €1m.
Engineering, Energy and Natural Resources	Wind Co., an Irish company in the renewables sector	Wind Co. designed enhanced rotor blades for their wind turbines in order to achieve a streamlined lightweight blade design; this would maximise energy output and efficiency whilst remaining strong enough to handle frequent changes in torque caused by changes in wind speed.	Wind Co. has received a cash refund from Revenue of €120,000.

### Common errors

- Eligible activities have been overlooked and your claim may be undervalued.
- Your entitlement to claim has not been established properly; this is a complex tax technical area which interacts with other tax legislation.
- R&D activities have not been properly identified and/or documented in accordance with relevant tax legislation and Revenue guidelines.
- Insufficient supporting documentation in place to justify your claim.
- Incorrect inclusion and/or treatment of certain types of expenditure.
- The claim has been filed with Revenue in an incorrect manner.

### Implications of an incorrect claim

- **Under-claiming** – You may not have claimed the full cash value that you are entitled to and are missing out on a valuable refund.
- **Over-claiming and/or filing an unsupported claim** – If your claim is audited by Revenue, you may be leaving yourself open to repayment of the credit in addition to interest, penalties and, in extreme cases, publication on the list of tax defaulters.
- Revenue is taking an increasingly hard line with respect to issues arising from R&D tax credit claims. It is therefore very important that all claims should be prepared strictly in accordance with the legislation, tax briefings, e-briefs, Revenue Guidance, practice and precedents.

### How can KPMG help you?

We can help you to address any issues relating to your R&D tax credit claim, such as:

- What R&D activities are you undertaking at present and would they qualify for the R&D tax credit?
- How do you identify expenditure incurred on the qualifying activities, both internally and outsourced?
- What supporting documentation is required and how to best capture qualifying activities?
- Are you maximising your ability to qualify for the credit?
- How do you defend your claim if audited by Revenue?
- Are you utilising available reliefs appropriately within the company or group?
- Might your future R&D activities qualify?

To make sure you're **making the most of your R&D tax credit claim** and are fully prepared for a Revenue audit, **contact our team for a free health check**

## KPMG's R&D Incentives Practice

An eligible claim requires a well structured, detailed, and pragmatic review of all activities and costs. The claim should be prepared by a multidisciplinary professional team who have a thorough understanding of the technological activities being conducted and the tax legislation. KPMG's dedicated, multidisciplinary R&D Incentives Practice can help you to identify eligible projects and maximise your credit claim.

### KPMG's services

#### Claim Preparation

- Identify the full range of eligible R&D activities (technical review).
- Calculate the associated expenditure (financial review).
- Review all projects to ensure optimisation.
- Prepare the required technical reports to support the claim.
- Collate the detailed supporting documentation to substantiate the claim.

#### Post-Claim

- Provide Revenue audit support.
- Determine a step-by-step plan.
- Attend site visits.

#### Future Projects

- Educate you on the scheme to help ensure your projects are planned with the credit in mind from the outset.
- Advise you on how to maintain your documentation and records for future claims.

#### Health Check

- Determine any necessary steps that need to be taken to help ensure previously filed claims adhere to the guidelines.

### Our practice

- The KPMG R&D Incentives Practice has been in operation since the credit was first introduced in 2004.
- We are Ireland's largest and most experienced R&D tax credits practice and are part of Ireland's leading tax practice.
- We have dedicated SME and large company teams within the practice to help ensure that our service is tailored to our clients' needs.

### Our experience

- We work with businesses of every size and scale – from dynamic, family and privately owned businesses to leading international companies – and have considerable experience in filing and settling R&D tax credit claims.
- We have many years' experience supporting clients through Revenue audits of R&D tax credit claims.
- We have Revenue audit experience in all sectors and, due to the volume of claims we've worked on, our clients can be confident that our experience allows us to determine best practice in each situation.

### Our expertise

- We are the only Big 4 firm in Ireland to have a truly integrated team of full-time tax professionals and full-time technologists, of any material size, working solely on R&D tax credit claims.
- Internationally, our R&D incentive technologists have 18 PhDs, 17 Masters Degrees, and 64 Bachelor Degrees in fields of science, engineering and technology.
- We make sure all our claims are Revenue audit-ready, working with clients to take appropriate tax and technological positions that satisfy Revenue's guidelines.
- Our clients can be confident that the service they are getting is based on the direct experience of our professionals and technologists, and that they can benefit from the efficiencies that continuity of service brings.

### Our global network

- We are a key part of KPMG's Global R&D Incentives Practice, an international network of specialist R&D practices, and we lead the European, Middle East and Africa R&D Incentives Practice.
- Internationally, we have over 300 professionals working full-time on R&D tax incentive claims.

Our claim methodology has been tried and tested under a significant number of Revenue audits – contact us to see how we can help you.

**For more information on the R&D tax credit regime, please contact:**



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Is your company eligible to claim the R&D tax credit?  
Find out with KPMG's Assessor [www.kpmg.ie/assessor](http://www.kpmg.ie/assessor)