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R&D Tax Relief

Australia & The UK

Corporation Tax: A23

There are a number of key differences between the UK and the Australian schemes although both, and indeed all the schemes, are based on a scheme originally out of Canada.

Registration Requirements

There is currently no need to register in order to claim R&D relief in the UK. The claim is made as part of the company's usual corporation tax return and must be filed within two years of the accounting period it relates to. HMRC has proposed draft legislation that, from 01 April 2023, companies will be required to notify of their intention to claim within 6 months of the period end. This notification will be made via an online form and companies that have made a claim within the preceding 3 periods will be exempt.

To claim R&D relief in Australia you must register for every year you wish to claim and you must be registered before claiming the R&D offset on the company's tax return within 10 months of the accounting period.

Differences in Definition

Australia and the UK use subtly different definitions of what qualifies as Research and Development.

The UK defines R&D activity as those actions which resolve a scientific or technological uncertainty. In order to qualify as a scientific or technological uncertainty the possibility/feasibility of solution is in doubt and it must not be readily available or deducible to a competent professional in the field.

Australia says R&D exists where "Activities whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, but can only be determined by applying a systematic progression of work that is based on the principles of established science and proceeds from hypothesis to experiment, observation and evaluation, and leads to logical conclusions."

The key difference is that Australia has a far more rigidly defined process for R&D and requires very specific hypotheses.

Spending Location

For expenditure prior to 01 April 2023*, The UK permits claims on R&D expenditure incurred anywhere in the world and does not require any R&D to be carried out in the UK. All that is required is the research be under the direction of the UK company. From 01 April 2023, subcontracted R&D must be conducted in the UK to be eligible, unless the R&D requires conditions that cannot be reasonable duplicated in the UK. Other categories of cost may still qualify if conducted overseas, depending on circumstances.

*This change is part of the proposed R&D reform and has not yet been included in a Finance Act.

In contrast Australia will usually only permit claims on R&D activity conducted in Australia. Under special circumstances overseas claims may be permitted but the requirements are strict and greatly restrict the amount claimable.

Expert Review

In Australia what activities are classed as core and supporting activities is determined by AusIndustry. The R&D claim is audited and reviewed by experts in the relevant field to ensure it is R&D.

In the UK the only review is by the tax inspector who will argue as far as their knowledge permits. The only expert advice the inspector may obtain is from HMRC's in-house IT team. The review is intended to confirm that the activities under taken are in line with the definition of R&D for tax purposes.

Minimum Spend

In order to claim the Australian R&D tax offset you must have spent at least AUD$20,000.

There is no such requirement in the UK.

Reliefs

Australian companies with a turnover of less than AUD 20 million are permitted a refundable tax offset of the company's tax rate plus 18.5%. For companies in exceeding this threshold, the non-refundable offset is determined by the R&D intensity, defined as the R&D expenditure as a portion of the total expenses. If the intensity is less than 2%, the applicable rate is the company's tax rate plus 8.5%, or, if the intensity is more than 2%, the rate is the company's tax rate plus 16.5%. This relief rate is reduced to the company's tax rate for the proportion of notional R&D deductions over AUD 150 million.

The UK permits SME entities to make additional deduction against taxable profits of 86%, 130% for expenditure incurred before 01 April 2023, of the qualifying expenditure. If the company is lossmaking it may surrender it loss and receive cash at a rate of 10%, 14.5% for expenditure incurred before 01 April 2023.

Large companies are required to claim under the Research and Development Expenditure Credit scheme which provides a taxable credit of 20% of the qualifying expenditure. Prior to 01 April 2023 the reclaimable tax credit rate was 13%.

For more details of the UK reliefs please see the UK R&D quick guide, here.

When to choose the UK?

The following are common situations where UK R&D relief is chosen over Australian relief:

- The Company is not incorporated in Australia nor does it carry on business in Australia via a permanent establishment.
- The research is not carried out in Australia and does not meet the criteria in section 28D in the Industry and Development Act 1986.
- The Company's turnover exceeds AUD$20 million.
- The Company is loss making.

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