

R&D Consultative Committee

13 July 2015

Unofficial Notes

NOTE: These are my notes from the meeting. They have not been reviewed by any of the other attendees and do not represent an authorised record of the meeting.

The meeting was chaired by Alex Galloway, she has replaced Carol Lunney as AD CTISA.

1. Recent changes

Alex gave a brief explanation of the change, announced in the Summer Budget, to the RDEC scheme to prevent Universities and Charities claiming the relief. It had never been intended that such organisations should be within the R&D relief scheme and this change put that beyond doubt.

2. SME Consultation

Simone Woodrow talked the meeting through the responses to the recent consultation on R&D for SMEs.

The key take away from the consultation for HMRC was the need for SMEs to have access to better guidance. The survey indicated that many felt the current guidance in the CIRDS Manual was too technical and focused at use by HMRC and practitioners, rather than companies.

Companies in the survey were more positive about the proposed Advance Assurance scheme than advisers.

3. Advance Assurance (AA)

Simone Woodrow updated the meeting on the latest position with regard to these proposals.

The objective is to raise awareness of the relief amongst small companies, increase their knowledge of R&D for tax purposes and make better use of HMRC's resources.

The 2011 pilot was considered a success, although there has been no formal monitoring of the participants since that time.

At present there is no agreed launch date for the AA scheme.

The details are currently being worked on by the project team.

The scheme will be for first time claimants.

Companies will need to have fewer than 50 employees and turnover under £2m.

Companies can be represented by an agent or not.

Companies using a DOTAS scheme, and corporate Deliberate Defaulters, will not be able to apply.

It will provide assurance for the period of their first three years of claims

There will be an online application form. Following submission of that form, an individual from one of the Incentives & Reliefs teams will contact the company to discuss their R&D.

Companies can be autonomous or part of a group. The size limits will apply to the group as a whole and the application must come from the group.

At the end of the process, the company will receive an Advance Assurance letter confirming the outcome of the process.

The “assurance” applies only to the R&D activities and the qualifying cost categories, not to the quantum of those costs.

There will be flexibility for changes during the three-year period.

HMRC will still expect companies within the AA scheme to supply supporting information when submitting their R&D claims.

4. Capital v Revenue

Steve Williams provided an update on this issue. He did this by way of a written statement, which is reproduced below.

Capital / revenue written statement for the RDCC on 13 July 2015

HMRC has been asked to comment on potential claims to R&D relief based on expenditure for software projects and in particular whether such expenditure might necessarily have a capital, or revenue character.

HMRC's view on the eligibility of software projects for R&D relief is covered at CIR 81960, and has not changed. Where the development of software is the goal of the R&D project, whether or not the project is to develop a platform, website, application or suite of products for use by the claimant company, or grouped, associated or otherwise linked companies alone, the eligibility of any claim to R&D relief will be considered on the particular facts. Consideration will be given as to the potential capital nature of expenditure on software in the normal course of review by HMRC. However, neither the fact that R&D relief is claimed on a software project, nor the fact that the particular software project may be 'in-house', will be an overriding factor in this consideration.

This issue has been separated from the review of claims by Insurance Companies.

It might be the case that capital/revenue is looked at on a given claim but this will not be the primary line of enquiry. The first thing that will always be considered is whether the project meets the definition of R&D.

5. Improving the quality of R&D reports

Steve Williams explained that he is leading a project to consider this question. He was at pains to stress that HMRC does not want to impose rigid style/format requirements for claims. However, he is keen to consider whether it would be possible to encourage reports that are better suited to HMRC's needs (and, by implication, better for the claimant).

Steve explained that, in HMRC's opinion, extensive/detailed reports are not always good. HMRC would almost always prefer a more focused approach.

It was far less important to discuss project achievements than to explain the advances sought and the technological challenges and uncertainties faced.

For HMRC, it would also be helpful to have an understanding of the proportion of the overall commercial project that is being claimed as R&D.

For each project being described, HRMC would find it helpful to understand the proportion it represented of the overall claim value.

Steve proposed that a working group be convened to discuss possible approaches. In the first instance, he will contact interested individuals by email.

6. The future of the RDCC

Jenny Tragner of Alma Consulting had prepared a note – in response to a general request from Simone Woodrow for comments – and she summarised this for the meeting.

The key points discussed were:

- Six monthly meetings were ok but there needed to be flexibility to convene “interim” meetings if an issue warranted it. The example mentioned was the technical discussion around reimbursed expenses, which had spanned several meetings.
- Agendas needed to be prepared and circulated in plenty of time for people to consider whether they needed to attend.
- Minutes must be published in a much more timely fashion.

Alex assured the meeting that these matters would be taken forward.

7. Restructuring the R&D units

Gemma Cross explained the recent restructuring.

In 2006 (when the R&D units were established) HMRC received approximately 6,000 claims. The units were based in seven locations and claims were primarily received in paper form.

In 2015 HMRC estimates it will receive 30,000 claims in mainly electronic format. These claims will be dealt with by teams in five locations.

Note: these figures are for claims outside the LBD.

HMRC is getting additional resource to deal with the increased workload (which will include the AA scheme discussed above). The need is for an additional 17-20 people but there will be a need to train them up to the required level.

Operationally, those extra people will be part of the Incentives & Reliefs teams.

The precise details are currently being finalised but it is likely that:

- Communications will be centralised. This will include a phone system.
- The new resources will be used to look at claims as they come in and process credit claims. They can then be passed to more experienced Inspectors as appropriate.

8. Experiences of R&D enquiries

There was an open discussion around issues that arise in enquiries and the way enquiries are handled.

a) Concern was expressed that some Inspectors are asking for clarification of certain points and then, when that has been provided, asking detailed questions on other aspects of the claim. It was suggested that it almost felt as if the Inspector was just trying to keep an enquiry going.

In response to a specific question from the meeting, HMRC confirmed that there are no targets around yield/no-yield enquiries.

The issue was then raised as to how to escalate a situation like this. One participant mentioned a situation where they had escalated the matter to the policy team at HMRC and then received a complaint from the Inspector for having done so. HMRC advised that the unit head should be the first point of contact if it was felt an enquiry was not being properly handled.

b) The HMRC team was asked about the use by Inspectors of internal software/IT experts in reviewing claims. HMRC confirmed that staff within their Digital Services team have been given training on the BIS Guidelines and are assisting with the review of software claims. It was stressed that they were simply advising the Inspectors, rather than actually making decisions on the claims themselves.

HMRC is also using other internal industry experts in a similar way.

9. Reimbursed expenses

Simone Woodrow confirmed that HMRC has received legal advice in regard to its position on reimbursed expenses and they are confident that advice is sound.

The intention now is to update the CIRD manual to reflect HMRC's position. This will be circulated to the RDCC for comment first.

It was suggested that it might be helpful to include examples of the types of reimbursed expenses that would still be eligible.

10. AOB

Reference was made to the pricing guidelines published by the SSRO and the impact this would have on claims for R&D relief by those contractors. The HMRC team were not aware of these guidelines and requested further information.

David O'Keeffe
14 July 2015