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R&D Tax Reliefs: Consultation  
Submitted by email to:

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### **R&D Tax Reliefs Review**

This is MMP Tax's formal response to the "R&D Tax Reliefs Review – Consultation on a single scheme".

### **About MMP Tax Limited**

MMP Tax, a CTA firm, provides specialist technology-based tax consultancy for companies claiming research and development tax incentives, patent box tax relief and the creative sector tax reliefs.

For more than a decade, MMP Tax has combined specialist knowledge of technology tax reliefs with a team of professionally qualified engineers and scientists. These skills are applied in support of and in collaboration with our clients to ensure that claims are submitted on a sustainable basis respecting government policy and intent.

The directors of MMP Tax have decades of direct experience in technology tax reliefs from a technical and consulting perspective, in addition to wide-ranging experience in industry. MMP Tax currently has representation on the HMT-HMRC communication forum for R&D Tax Relief and has participated in many previous consultations with HMT-HMRC.

Further feedback from MMP is available on all aspects of this consultation response. We would be more than happy to have a discussion to clarify or add to any of the points.

Yours sincerely,

Alexis Marz, CTA  
Director  
MMP Tax Limited



### **Enclosures:**

Appendix I - Our Response to the Consultation Questions

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### ***Question 1: Do you agree a new scheme should be an above the line RDEC like credit? If not, what alternative would you propose?***

We agree that a simplified scheme would be ideal and remove some of the complexity. However, we do not believe that an Above the Line (ATL) scheme would be best for Small/Medium Enterprises (SMEs).

This is because we believe it would be too complicated and difficult for many small businesses to understand and to implement properly.

We work with many large, complex, multi-national organisations and many of them are still struggling with regards to the best way to incorporate the RDEC into the accounts. It is a complex concept, and some very bright minds struggle with it. To roll this out to all SMEs with their range of tax/finance expertise seems overly complex.

MMP believes that a straight benefit rate of say 15% that applies to all companies and then an option for SMEs to claim this benefit directly through their taxes/as a credit rather than requiring an above the line claim to be made by them would be better. The RDEC in its current form could be preserved for large companies who benefit from the visibility provided by the above the line format to stakeholders and budget holders within the business.

Having a straight benefit rate, would provide more certainty to companies about their benefit level which would be a major improvement over the existing SME scheme.

### ***Question 4: Do you agree the same treatment of subcontracting should apply to all claimants in the merged scheme?***

Yes, this will remove complexity.

### ***Question 5: If so, where R&D activity is subcontracted, do you think that the customer should claim the tax relief, as in the SME scheme, or the subcontractor, the person carrying on the R&D, as in the RDEC?***

We believe that it should be as in the SME scheme. The fundamental question here, is who are you trying to incentivise? The R&D commissioning company making the decisions about the work to be done and paying for it? If so, then it should be as in the SME scheme, they are the company paying for the R&D and the one making the decisions about what R&D is going to be carried out.

### ***Question 6: Can you see any positive or negative impacts on your business or sector from the Government adopting either approach?***

A negative of applying the RDEC treatment is that the number of R&D tax claims would likely explode as more of the subcontractors would need to make claims. This could also cause issues if a threshold level is introduced (Question 17).

Additionally, it is likely that if this treatment was introduced, then it would push down prices that the subcontractors can charge. MMP has seen this downward commercial pressure at work in the Video Games Sector, where one party commissions the other on a post-tax price basis because of the video games tax incentive.

Also, the company getting the R&D tax credit would not be the company making decisions about the R&D. This would likely lower the additionality of the R&D scheme.

***Question 8: What are your experiences of the PAYE / NICs cap?***

We regularly have to calculate these for our clients.

We believe that there should be a cap. However, gathering the financial information for the SME cap is complicated and time consuming. It can also be difficult if a connected company is not forthcoming or is unsure if they want to provide the information.

***Question 9: Are there any ways the Government could simplify the PAYE / NICs cap whilst ensuring there is protection against abuse?***

We believe a cap which is defined as the total PAYE/NICs contribution of the company would simplify the scheme. This would not need to be prorated for R&D expenditure and it would not be possible to include PAYE/NIC contributions of connected companies. This would limit the amount that companies can claim to the total amount that they pay in PAYE/NICs contributions.

This would reduce complexity and prevent abuse.

***Question 10: Which of the SME and RDEC PAYE & NICs cap should the Government implement in the new scheme?***

We believe it should be a modified RDEC PAYE/NICs cap (please see Question 9). The SME cap is too complex.

***Question 11: Should the Government change the way either cap is calculated if it is taken forwards? And if so, how?***

Please see our response to Question 9.

***Question 12: Do you consider the government should provide more generous support for different types of R&D or more R&D intensive companies relative to less R&D intensive companies?***

Yes, we believe that more generous support is an ideal mechanism for the government to incentivise and promote areas of research that it considers to be critical to the future of the UK economy. It is a lever that the government can use, and we believe it should be used.

However, introducing categories which receive more generous support would be open to abuse so would need to be carefully introduced and policed to ensure only genuine claimants are claiming. For instance, how will companies prove that they are doing research in a targeted sector? What information will need to be provided to HMRC to prove this and how will it be policed?

Also, how would the types of R&D to receive more generous support be chosen and how often would they be revisited? It seems that to be effective, the government would need to be able to change the types of R&D that are supported but this would then lead to uncertainty for companies because they would not know if they will continue to receive the more generous support in the future.

Therefore, this needs to be carefully considered and a timeframe made clear at the outset so that companies making an investment decision are clear how long they can expect support. For instance, the guidance could say these technologies will benefit from the more generous support for at least the next three years. If a technology is removed from the list, then a company can be grandfathered in as long as they had previously claimed for that technology and they are able to continue to claim for three years from the removal of the technology from the list.

We do not believe basing this support on the R&D intensity of the companies is a good idea. Some companies will have R&D intensive departments within a larger company, and they should not be punished because of this. We have spoken with R&D tax advisors in other countries, such as Israel which has R&D intensity requirements for some of their incentives and they have indicated that the R&D intensity requirements are a major problem area and restricts companies from claiming.

***Question 13: In the event this were to be done, how might this best be achieved within an overall cost envelope?***

We believe that this could be achieved by introducing a threshold (Question 17).

***Question 14: If the schemes are merged do you agree the Government should implement the merged scheme on 'accounting periods starting on or after 1 April 2024? 25?***

No. There has been a vast amount of change in the R&D tax incentives recently, it is time consuming for experts in this area to stay on top of all the recent changes. We have already seen cases of generalist accountants not understanding the changes and providing poor or inaccurate advice. It is going to be very difficult for small businesses in particular to understand all of the changes and implement them in a short time frame without specialist advice. Particularly if the scheme moves to an Above the Line format which will be extremely difficult for small businesses and local accountants to implement. We suggest delaying the introduction of this to at least 2025.

In addition, we believe that the change should be for *expenditure incurred* from 1 April 202X, rather than for accounting periods starting on or after 1 April 202X. All previous changes to the R&D schemes have been for expenditure from 1 April, so this is well understood by the industry and companies. Also, it provides one date for all companies to use.

Having it set for the accounting period means that companies will all have different starting dates which adds confusion.

We acknowledge that many companies will need to have make two different claims for the transition year but this could be avoided by introducing a transition period whereby there are several years over which the company can make the decision to start claiming under the new scheme, like that done for the transition from the Large Company super deduction scheme to RDEC.

**Question 15: How can Government ensure SMEs are supported in the transfer into a new scheme?**

Give SMEs more time to understand and implement the changes - please see the response to Question 14.

Make it from a fixed date, rather than accounting periods starting on or after, please see the response to Question 14.

If the decision is taken to implement an ATL scheme then we believe HMRC should issue simple, informative guidance which explains how it should be handled in accounts and tax computations.

We also believe a roadshow explaining the changes would be useful. In the past, these have been well attended however the quality of the presentations/presenters have varied. Therefore, we would recommend trying to harness the power of the professional bodies, trade bodies and reputable advisors to help with the presentations.

**Question 16: Does claiming for expenditure on qualifying indirect activities influence your decision to undertake R&D?**

For very R&D intensive businesses the QIAs are a fundamental consideration because they need the infrastructure to support the R&D team. For businesses of this kind, removing the QIAs will make it less interesting for businesses to locate their R&D and/or the support staff in the UK. They may make the decision to move all their R&D recruiters to Singapore for instance rather than continue to employ them in the UK.

**Question 17: Do you think a threshold should be implemented? If one was implemented what at what level should it be introduced?**

Yes, we believe a threshold should be implemented. There is a great deal of fraud and or dubious claims at the lower claim levels. Also, it is difficult to believe that genuine R&D is being carried out in businesses that are spending such low levels of money on R&D. There is the systematic approach requirement within the scheme which makes it unlikely that eligible R&D can be done at such low expenditure.

We believe that there are two types of businesses that claim very low levels of eligible R&D:

- Established businesses that do very low levels of R&D. This R&D is likely to be bringing the company up to the industry standard and as such not qualifying R&D.
- Start-ups which are R&D intensive but do not have funding. They will be minimising expenditure and the founders typically work for very low salaries. They are claiming eligible R&D and the R&D tax credit is important to them. These types of companies should continue to be supported but it could be done through a different mechanism, for example with grants.

We believe that a threshold of £25,000 would be realistic. This is close to the average of the previous thresholds, adjusting for inflation (please see table below).

Year threshold introduced	Threshold at the time	Threshold today accounting for inflation*
2000	£25,000	£43,491
2003	£10,000	£16,743

\*Utilising the <https://www.bankofengland.co.uk/monetary-policy/inflation/inflation-calculator>

We believe this is a realistic threshold when considering what a business would receive as a net benefit. At £25,000 they would receive approximately £2,800 (utilising the proposed RDEC rate and tax rates). It is difficult to see how a lower amount would significantly impact R&D investment decisions.

In addition, given the average salary cost of an engineer is £54,600 rounding up to the fully loaded cost of £62,000. The threshold would represent just over two months of R&D activity by two engineers, not including any consumables, software or subcontracting costs. It is unlikely that an R&D project that is pushing the boundaries of science and technology utilising a systematic approach could be done in less time than this. If an R&D project can be solved so quickly then it is unlikely to be genuinely eligible R&D.

An added advantage of the threshold is that it would lower the number of claims and decrease the overall cost of the scheme. HMRC officers would then have time to focus on examining the remaining higher value claims.