

# Consultation response

Research & Development Tax Credit

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## Introduction

Invent is not an R&D claimant, but nonetheless supports the identification and quantification of qualifying expenditure on behalf of clients in multiple jurisdictions worldwide. In addition to this, the business's strategic consulting arm is frequently commissioned to evaluate the relative attractiveness of potential investment destinations and conduct feasibility studies into the desirability of specific locations worldwide, leaving our consultants particularly well placed to pass comment on the factors that executives consider when constructing a business case for the location of R&D activity.



# Response

## What are the key considerations to be taken into account when deciding whether to base your R&D activity in Ireland?

In our experience, these considerations can be internal (in reference to their existing operations) or external (in reference to the overall business environment of a given country) but as every business has unique internal circumstances, in this response we focus on external factors alone. Inevitably there are a myriad of external factors, such as the pool of high-skilled labour and the presence of complementary supply chain partners, but the tax efficiency of a given location ranks among the most critical.

Whilst our customers prioritise headline rates of relief, the overall return on investment – calculated by the benefit accruing to the claimant versus the effort taken to file the claim – is arguably more important. The effort to successfully file a claim is determined by the complexity of the process and the degree of ambiguity in the guidelines. Simply put, if there are clear rules and a straightforward process to claim the R&D tax credit, a claim will take less time and result in greater net benefit to the claimant. Although Ireland's low corporate tax rates offset some of the burden of this complexity, there is an opportunity to enhance global competitiveness by simplifying the claims process and removing ambiguity.

Another factor is the predictability of success and the time horizon between making a claim and receiving the funds. Like most businesses, our clients value certainty as it helps with resource allocation and forward planning, which is why the

frequency and duration of claims assessment is so important. If a business thinks it is highly likely for a claim to be audited and they have no indication of how long this could take, this is a major downside relative to more predictable jurisdictions. Moving towards a faster and more reliable claims process would make Ireland a more internationally competitive destination for R&D activity.

Lastly, the period during which the R&D tax credit is repaid is paramount, not least because businesses investing heavily in R&D are often at a critical juncture in their growth, in which they urgently require working capital. This is particularly apparent from the growth of lenders that offer advance financing for successful claims in territories that offer R&D tax incentives. While many businesses chose to avail of this financing, there is an obvious downside in terms of the interest payable and encumbrance of higher debt ratios.

In summary, the most desirable R&D tax incentives are generous, simple and predictable with prompt payments for successful applicants. By embracing these characteristics, Ireland has an opportunity to cement its reputation as a business-friendly destination and a global leader in innovation.

## When did you first claim, and what prompted you to do so? What do you value about the design of the R&D tax credit?

In Ireland, Invennt first supported a client to submit an R&D tax credit claim in 2019 but the business has provided R&D tax credit claims in the UK since 2015 and in Canada since 2018.

Invennt's mission is to create value through construction by helping firms in the built environment ecosystem deliver superior outcomes for their clients and society while enhancing their own financial sustainability and return on investment. As a capital-intensive sector operating in risky and unpredictable production environments, construction companies regularly need to overcome complex challenges by developing innovative solutions. However, tight margins often leave minimal capital available for R&D. This has led the industry to lag the wider economy in productivity growth and technological advancements.

By helping businesses avail of tax incentives to promote innovation, we hope to enable them to reinvest and grow, improving returns for business and the outcomes for society.

**How do you think the Irish R&D tax credit can remain competitive in the evolving international tax landscape? (In answering this question, please have regard to EU State aid considerations and to both multi-lateral and jurisdictional changes in the international tax landscape)**

Firstly, the Revenue Commissioners should confirm the availability of the R&D tax credit to professionals such as architects, consulting engineers and quantity surveyors.

Secondly, increasing the generosity of the scheme by bringing the rate of relief in line with other OECD economies would be advantageous. Ireland's low rates of corporate tax make it a desirable place to do business, but targeted relief can direct investment into areas that will produce superior outcomes for the Irish economy. To use an international example, in 2016, the UK Chancellor announced a 3% cut to the rate of

corporation tax, funded by eliminating areas of investment that qualified for capital allowances (a deduction made against capital investment). The result was a decrease in the rate of investment in industrial buildings, plant and machinery, which is widely cited as a contributory factor to Britain's weak productivity growth.

The Revenue Commissioners should reduce the number of years during which the R&D tax credit is refunded from 3 years to 1 year. As alluded to in question 1, this would give growth businesses access to funding when they need it and reduce reliance on alternative lines of credit.

Lastly, similar schemes often allow businesses to make retrospective claims for up to two accounting periods. This benefits first time claimants but it also helps companies (particularly those dealing with lengthy projects such as the construction sector) whose R&D investment may not be quantifiable in a single accounting period. This would make the scheme consistent with international peers such as the UK and Canada.

**In the absence of the R&D tax credit, can you say what proportion of your R&D would take place in Ireland?**

As a consultant supporting claims on behalf of other businesses this is difficult to say with certainty, but anecdotal evidence suggests that businesses – particularly those professions that are outright excluded from the Irish scheme – choose to undertake complex projects overseas in order to book costs in more favourable jurisdictions.

**One of the main policy rationales of the R&D tax credit is to promote high quality jobs and investment in the Irish economy. In your**

**experience, has your decision to conduct R&D in Ireland resulted in you recruiting additional staff, interns or apprentices?**

Yes, we have evidence where the process of collating the claim has transformed the culture of a company to one that is inherently more innovative, and we are aware of many businesses in both the UK and overseas where the scale of their R&D tax credit claim has directly affected hiring decisions.

**Section 766B Taxes Consolidation Act 1997 places limitations on the R&D credit to be paid under section 766 and 766A TCA 1997. Do you consider the limits to be appropriate? What is the impact of these limits on your R&D activities? If you claim R&D tax reliefs in other countries, are similar limitations in place? If so, how do the limitations differ and what are your views on this?**

We do not consider the limits to be appropriate for claimants or the wider Irish economy. Limits inevitably reduce the amount of capital a business has available to reinvest, which may distort investment decisions, in turn leading to reduced growth and receipts for the treasury. In the UK, the equivalent scheme provides numerous methods for realising the benefit, including receiving a cash payment at a lower rate of relief.

**What changes might help R&D tax credit claims to be dealt with more smoothly, while ensuring better compliance? How could the Department of Finance and/or Revenue improve on the quality of information and/or guidance available to companies? If you claim R&D tax reliefs in other countries, how does the claim process differ and what are your**

**views on this?**

The uncertain cost involved in preparing an R&D Tax Credit claim could be mitigated by clearly defining the documentation (number of projects, key points for qualification) required to support the claim. Meanwhile the ambiguity surrounding the definition of R&D activity could be minimised by clarifying the language and providing sector specific examples, as well as by making experts available to field queries from prospective claimants. Furthermore, frequent reinterpretation of the legislation and updated Revenue guidance causes uncertainty for businesses, this could also be improved with guidance that includes applied examples.

The revenue could also raise awareness of the availability of the R&D Tax credit, particularly among SMEs and those sectors that have not traditionally made use of the scheme. Another way to help emerging businesses, could be to condense the 3-year R&D Tax Credit refund to one year and providing simplified documentation requirements for SMEs. We would also recommend a pre-approval process for first-time claimants by small and micro businesses.

Persistent anxiety over the Revenue subsequently challenging the claim due to subcontracted R&D being claimed by another party could be ameliorated by introducing guidance that would allow businesses providing subcontracted R&D activity to have greater certainty that the R&D tax credit would be available.

**If the rules in relation to how the credit is claimed or distributed were to be altered, for example in relation to the payment or carry-forward of excess credit, what transition provisions or other considerations would be required? In responding to this question,**

**please have regard to multilateral and jurisdictional changes in the international tax landscape and their potential consequences for the Irish tax system as a whole.**

As mentioned in response to question 7, other jurisdictions provide numerous methods for realising the benefit, including receipt of a cash payment at a lower percentage. We believe this would benefit the Irish economy by enabling businesses to bring investment decisions forward resulting in higher overall investment. In the UK, changes to the R&D tax credit scheme have been announced well in advance of the changes actually taking effect, giving businesses time to acclimatise to the new rules, resulting in a smoother transition.

### **SMEs and the R&D Tax Credit**

**Do you think there are ways of improving the current R&D tax credit system to make it more attractive to SMEs, taking account of EU State aid constraints that would militate against the introduction of a targeted element to the existing tax credit?**

The primary mechanisms would be those outlined in answer to question 1. As with large and enterprise scale businesses, improving the generosity, simplicity, predictability and speed of the Irish system would be particularly beneficial to those companies that do not have the resources, capital reserves, expertise and staying power to navigate the complexities of the system.

**Having regard to overall Exchequer cost, what other measures could be taken to improve supports for SMEs carrying out R&D?**

The Revenue could provide assistance to first time

claimants by setting up a clear and unambiguous framework for compliance based on the industry the organisation works in. Secondly, the establishment of industry specific panels to clarify queries and adjudicate on marginal cases would provide much needed certainty and clarity.

**Thank you for reading. If you have any questions please contact Brendan or Vinayak.**



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