

# R&D Tax Relief

Helping businesses  
make the most  
of their R&D



## R&D Tax Relief

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# 1. Overview of the benefits

**R&D is one of Invest NI's core priorities. We offer a range of advisory and financial support for businesses at every stage of the R&D journey.**

**In addition to Grants for R&D, which are provided by Invest NI, the other main R&D incentive for companies operating in Northern Ireland is R&D tax relief, which HMRC operates through the corporate tax system.**

## R&D tax credits

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This is a UK wide tax incentive for innovation with companies undertaking R&D able to claim increased tax deductions. Those deductions reduce taxable profits and hence a company's tax charge.

- **SME company scheme - extra 125% deduction**
- **Large company scheme - extra 30% deduction**

The extra deduction turns into a cash benefit through the saving in corporation tax (CT) payable on profits, currently at the CT rate of 23% which is set to reduce to 20% by 2015.

## New R&D Expenditure Credit (RDEC) / Above the Line credit (ATL)

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In a bid to better incentivise investment in R&D, HM Treasury have also now introduced a new R&D Expenditure Credit (RDEC), otherwise referred to as 'Above the Line' credit (ATL) for expenditure incurred from 1 April 2013.

The ATL is a credit of 10% of qualifying R&D expenditure and it is anticipated that it will be accounted for by businesses like a grant and subject to taxation (**SEE GUIDE 2**).

**Additional HMRC support for R&D performing businesses is also available via:**

- **Research & Development Allowances – "A type of Capital Allowance" (SEE GUIDE 5).**
- **UK Patent Box – 10% tax rate on UK profits attributable to patented inventions (SEE GUIDE 6).**

### TO NOTE:

- SME Definition for R&D Tax Credit purposes is the Normal EC definition of SME, but then doubled, such that for R&D tax relief purposes, SME is a company that: (1) Has less than 500 employees; AND (2) Either (a) Turnover  $\leq$  €100 million or (b) Balance sheet total  $\leq$  €86 million. (Where the company is part of a Group – the data of related companies will also apply, as per normal EC definition.)**
- HMRC's SME Scheme – is a notified state aid. Therefore where the company is in receipt of any other notified state aid support for any element of the R&D project they are not permitted to claim under HMRC's SME scheme and instead the company must claim under the less advantageous large company scheme.**
- R&D tax relief is available only to companies within the charge to UK corporation tax and is therefore not available to individuals and partnerships.**

## 2. Definitions

### Is my company engaged in qualifying activity?

Regime Overview – What is R&D for tax purposes? (BIS guidelines):



Improvement sought should be more than minor or routine upgrading and should represent something that a **competent professional user working in the field** would consider to be **genuine and non-trivial**.

### Am I small or large?

**Normal EU definition of an SME:**

Number of employees:

**< 250**

**PLUS**

Annual turnover not exceeding:

**€50m**

**OR**

Balance sheet totalling no more than:

**€43m**

**HMRC definition of an SME for R&D tax credit purposes:**

Number of employees:

**< 500**

**PLUS**

Annual turnover not exceeding:

**€100m**

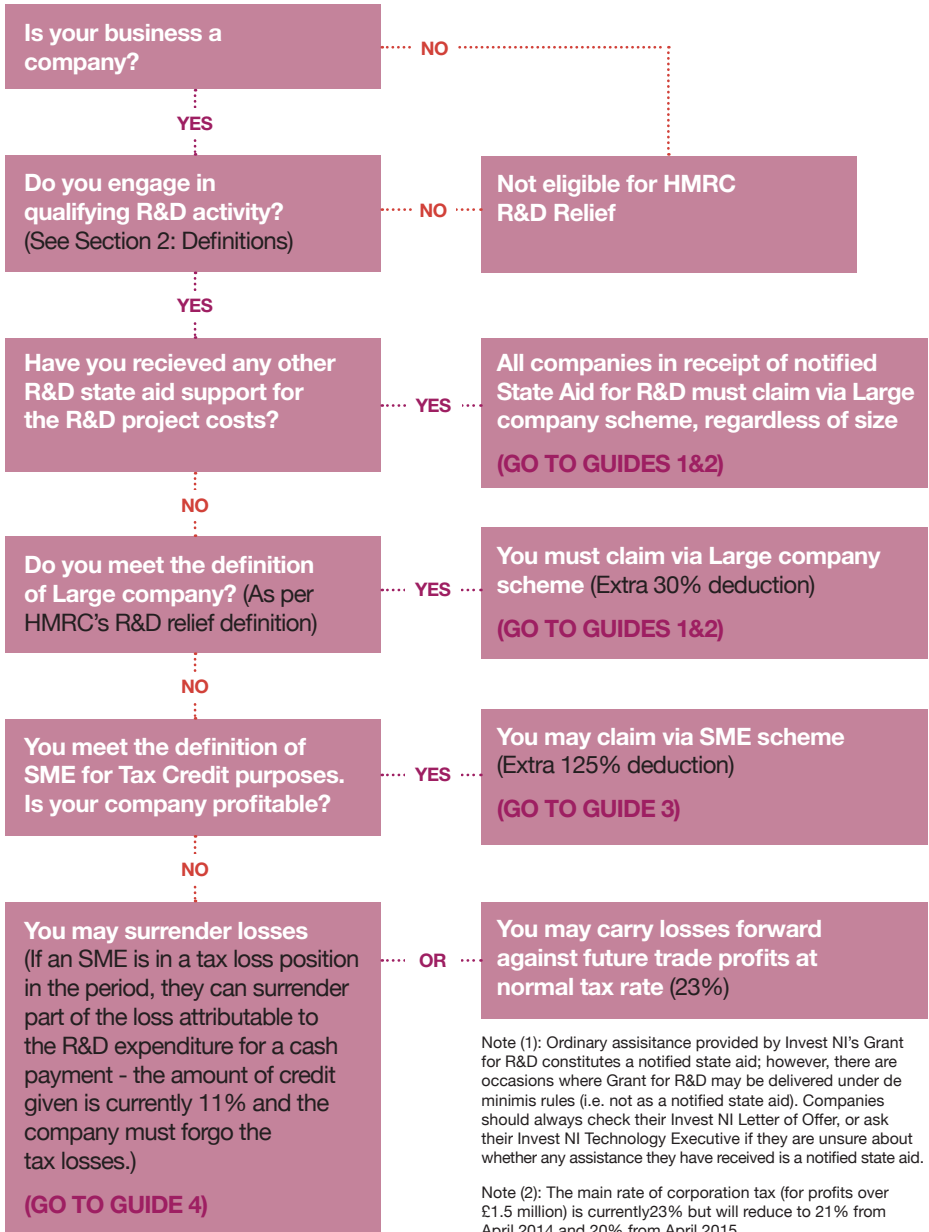
**OR**

Balance sheet totalling no more than:

**€86m**

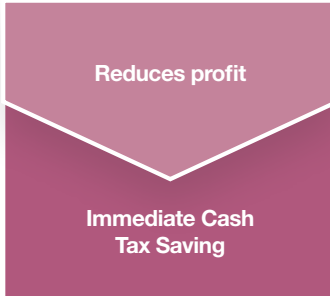
The diagram above sets out the limits for determining whether the company is an SME. A large company is any company which is not an SME. Bear in mind the test includes worldwide partner and linked enterprises.

# 3. Am I eligible?



# GUIDE 1

## Large company scheme - what is the benefit?



### The Large Company Scheme

If your company is not small or medium-sized, or you are an SME but in receipt of any other notified state aid support for the R&D project which your claim relates to, then you can only claim under the Large Company Scheme.

### Rate of tax relief

From 1 April 2008, the tax relief on allowable R&D costs is 130% - that is, for each £100 of qualifying costs, your company could have the income on which Corporation Tax is paid reduced by an additional £30 on top of the £100 spent. If instead there is an allowable trading loss for the period, this can be increased by 30% of the qualifying R&D costs - £30 for each £100 spent. This loss can be carried forwards or back in the normal way.

For Accounting Periods beginning on or after 1 April 2016, the new 'Above the Line' credit will be effectively mandatory for large companies and there will no longer be the option to claim the existing super-deduction.

**(SEE GUIDE 2)**

	FROM APRIL 2013
Qualifying R&D	£100k
Extra 30%	£30k
The extra deduction will result in tax saved at 23%	£6,900k
Saving from R&D claim	6.9%
Plus	
Saving from ordinary tax deduction	23%
<b>Overall saving per £ of spend</b>	<b>29.9%</b>

### Above the Line (ATL) Credit - what is the benefit?

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#### Above the Line - what's the point?

- Affects R&D budget holders directly and their decisions
- Payable where no CT liability so cash value for R&D losses
- Reduces the 'visible' cost of R&D making the UK more competitive
- For US (or other high tax jurisdictions) inbounds into UK, allow cash savings from R&D tax incentives to be preserved in the group.

### Key elements of the new 'ATL credit Tax'

Incentive received as P&L receipt and within PBT rather than the company's tax charge.

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Applies to qualifying expenditure incurred on or after 1 April 2013.

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Companies will initially have the option to elect into the R&D credit regime or continue to claim the current super-deduction until 1 April 2016.

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For APs beginning on or after 1 April 2016, the new ATL credit will be mandatory and there will no longer be the option to claim the existing super-deduction.

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The R&D expenditure credit will be given at a 10% rate and is taxable (2013 net benefit is therefore 7.7%).

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SMEs are able to claim where they are required to make large co. claims (e.g. those in receipt of Invest NI notified aid).

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## GUIDE 3

### SMEs - what is the benefit?



From 1 April 2012, the tax relief on allowable R&D costs is 225% – i.e. for each £100 of qualifying costs, your company could have the income on which Corporation Tax is paid reduced by an additional £125 on top of the £100 spent.

It also includes a payable credit in some circumstances. (See **Loss Making SME guide**)

In certain specific situations, even if your company meets the definition of a SME, you may not be able to claim relief under the SME Scheme – e.g. if you have received any other notified state aid support for a particular project. But, you may be able to claim under the Large Company Scheme.

This means that, if your company is small or medium-sized, you may be able to claim R&D Relief under the SME Scheme for some costs and the Large Company Scheme for other project costs.

If your company is small or medium-sized, then you can only claim R&D relief if your company is a going concern when it makes the claim and is not in administration or liquidation at that time. If your company ceases to be a going concern after making a claim but before any credit is paid, HMRC treats the claim as if it has not been made and you can't get tax credit.

	FROM APRIL 2013
Qualifying R&D	£100k
Extra 125%	£125k
The extra deduction will result in tax saved at 23%	£28,750
Saving from R&D claim	28.75%
Plus	
Saving from ordinary tax deduction	23%
<b>Overall saving per £ of spend</b>	<b>51.75%</b>

#### The Small and Medium-sized Enterprise Scheme

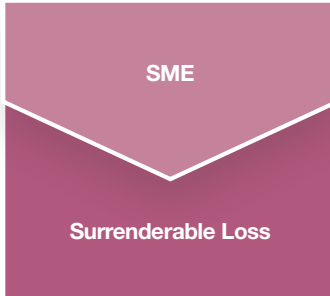
You can only claim under the scheme for SMEs if your company meets the definition of an SME for R&D Relief purposes (see the section above for a definition).



## GUIDE 4

### SMEs - loss-making?

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If an SME company is in a tax loss position in the period, they can surrender part of the loss attributable to the R&D expenditure for a cash payment. If such a loss is surrendered the amount of credit given is currently 11% and the company must forgo the tax losses.

This payment is approximately half the rate of cash benefit that would be obtained by using the relief against future taxable profits.

(In the SME example used in Guide 3: the £225k is surrendered at 11% giving a credit paid to the company of £24,750 - i.e. the payable credit is worth c25% of the R&D expenditure).

	FROM APRIL 2013
Qualifying R&D	£100k
Extra 125%	£125k
Loss surrendered	£225k
Tax credit 11%	£24,750
Overall saving per £ of spend	24.75%

#### NOTE:

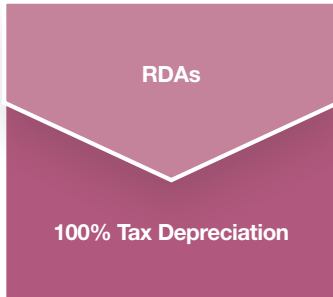
The surrenderable amount is the lower of:

- The unrelieved trading loss; and
- 225% of the qualifying R&D expenditure (for expenditure incurred on or after 1 April 2012).

## GUIDE 5

### R&D Allowances (RDAs) “A type of Capital Allowance”

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- Provides a cash-flow benefit against the usual reducing balance basis of tax depreciation
- 100% allowance for qualifying expenditure
- Balancing charges claw back relief upon disposal (not change of use).

#### QUALIFYING EXPENDITURE

##### What's included

All capital expenditure incurred for:

- Carrying out R&D
- Providing facilities for carrying out R&D

##### What's not included

- Acquisition of rights in R&D
- Acquisition of rights arising out of R&D
- Expenditure on the provision of a dwelling
- Acquisition of land

# Patent Box - making the UK an attractive place to do business

The UK Patent Box introduced a 10% tax rate on UK profits attributable to patented inventions phased in over four years from 1 April 2013. This change is good news for companies with patented IP in UK or a UK company that could patent their technology in the future. These new rules will benefit companies from a wide range of industry sectors.

### How to take advantage of Patent Box

- A company with patented inventions can benefit from the new regime. The patent box doesn't extend to other categories of IP such as trade marks and copyright.
  - To qualify for the regime a company must own one or more UK patents or patents registered at the European (or certain other EU Countries) Patent Office or hold an exclusive licence over these types of patents.
  - Your group must have performed significant development of the patented technology (which can include development under partnerships, joint ventures and cost-sharing arrangements).
  - In some cases the claimant company must continue to be actively involved in decisions concerning the further development and exploitation of the patented invention.
- The 10% tax rate applies to a company's worldwide profits attributable to the patented invention. Qualifying profits include profits arising from licensing, disposals of patent rights and the sales of products which include patented inventions, as well as 'notional royalties' in respect of process patents.

QUALIFYING  
PROFITS  
**10%**  
CORPORATE TAX

**NON**  
QUALIFYING  
PROFITS  
**23%**  
CORPORATE TAX

### Applies to:

#### Relevant IP Income

1. Sales of the patented item or items incorporating it
2. Royalties from Licensing
3. Sales of qualifying patented rights
4. Infringement income
5. Using a patented process to produce non patented items
6. Using patented items to provide a service

### Does not apply to:

- Unpatented products
- Routine return
- Marketing return

### Profits falling within the patent box are calculated using a three stage formula:

#### STAGE 1

Identifies profits attributable to qualifying income (e.g. profits arising from the sale of products which include patented inventions).

#### STAGE 2

Deducts a 'routine return' equal to 10% of certain costs to leave residual profits attributable to intellectual property.

#### STAGE 3

Deduct profits attributable to brand rights based on a notional brand royalty. The resulting amount qualifies for the Patent Box.

- Companies with a smaller amount of patent-related income can take advantage of a simplified regime
- Profits arising up to 6 years before grant of patent qualify for the additional deduction
- Only needs to be one patent per product (provided they arise on or after 01 April 2013) – don't necessarily have to give away valuable I.P.

### What does this mean for companies?

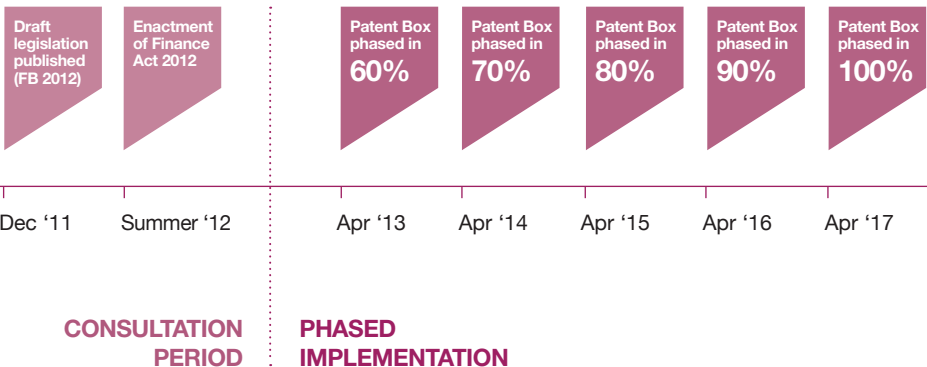
Companies should determine how to get the most out of the Patent Box by:

- Identifying where they benefit from patented items;
- Thinking about which method of calculation of Patent Box profits is most advantageous (there are various choices available under the rules); and
- Considering whether they can patent types of technology that historically they may not have chosen to patent.

Multinational companies should also consider whether to centralise patent ownership in the UK in order to maximise the benefit obtained from the regime - but they must still meet the development and active ownership conditions.

ELIGIBILITY	A COMPANY QUALIFIES IF:
The company <b>owns IP Rights</b>	Beneficial ownership of UK, European (or certain other European countries) Patent Office, patent or exclusive license or rights acquired through cost contribution arrangement.
The company has performed <b>development activity</b>	Activity must have ‘significantly contributed’ to development of the patent, product, or process. This activity can be carried out by the company or another part of the group.
The company meets the <b>active management condition (Applies to group companies only)</b>	Patent Box company must perform a significant amount of management activity in relation to the development or exploitation of the rights.
The company receives <b>Relevant IP Income (RIPI)</b>	Sales of products containing one patented invention, and spares designed for them.  Licence fees and royalties, including notional royalties for use of patents.

## PATENT BOX: Phased Implementation







**Where can I get more information  
about the HMRC R&D and  
Patent Box rules?**

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**NIrCTO  
HMRC's  
Northern Ireland Corporate Tax Office  
Custom House  
Custom House Square  
Belfast  
BT1 3ET**

**David Stewart  
T: 03000 599 000  
E: [david.r.stewart@hmrc.gsi.gov.uk](mailto:david.r.stewart@hmrc.gsi.gov.uk)  
[hmrc.gov.uk/nircto](http://hmrc.gov.uk/nircto)**

**For further information about  
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speak to your Client Executive.**

**For further information on  
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[www.nibusinessinfo.co.uk/patentbox](http://www.nibusinessinfo.co.uk/patentbox)**

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