



# Fact Sheet

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## UK R&D Tax Relief Changes

New R&D tax relief measures have been announced which will affect companies in accounting periods beginning on or after 1 April 2023. These will apply to companies making claims under both the small and large R&D regimes. This will introduce a requirement to pre-notify HMRC of claims and to provide HMRC with additional information to support claims, an extension of costs qualifying for R&D and a restriction on non-UK costs being claimed.

With HMRC increasing their team of R&D inspectors recently by 100, performing more compliance checks and delaying payments of the R&D tax credits, it is important now, more than ever to consider and discuss with your adviser R&D claims as early as possible to ensure that claims are sufficiently documented and in line with the latest legislation and HMRC guidance.

### Background

HMRC has recently published draft legislation for the R&D tax relief changes announced in the 2021 Autumn budget. They have requested feedback by 24 September 2022 and it is expected that the legislation will be enacted in the Finance Bill 2022-23. This will include secondary legislation which has not yet been released in draft form.

### What are the main changes?

- Requirement that claimants notify HMRC in advance of their intention to make a claim, if they are new claimants or have not claimed in the previous three accounting periods
- Requirement to provide additional information to support claims
- Expansion of the categories of qualifying expenditure to include data licences, cloud computing and pure mathematics to better reflect developments in technology and the different ways that cutting edge research and development is now undertaken
- Restriction on non-UK expenditure, to encourage more spillover benefits, such as employee skills and industrial know-how, produced by research and development activity to arise in and benefit the UK
- Qualifying staff costs to also include new Health and Social Care levy



- Miscellaneous changes to legislation including new powers for HMRC

## Relevant accounting periods

These changes will affect companies under both the small and the large R&D regime and will apply to *accounting periods commencing on or after 1 April 2023*.

## Requirement that claimants notify HMRC in advance of their intention to make a claim

A company will need to *pre-notify* that they are making a claim if they are a *first-time claimant*, or *have not made any claims in the last three years*. **The notification must be made by six months after the period in which they intend to make a claim.** *HMRC will not accept late notifications and will not accept claims without a notification and so the decision as to whether make a claim, will need to be made earlier on in the company's annual cycle.*

## EXAMPLE

A company has a year ended 31 March 2024.

### Current rules:

Usual R&D submission date: By 31 March 2025 (tax return due date – 12 months from end of period of account)

Latest R&D submission date: By 31 March 2026 (tax return amendment deadline – 24 months from end of period of account)

### New rules:

Notification deadline: By 30 September 2024 (6 months after the year-end and 18 months before the current latest deadline)

Usual R&D submission date: By 31 March 2025 (same as current but requires notification first by the notification deadline)

Latest R&D submission date: By 31 March 2026 (same as current but requires notification first by the notification deadline)

## Requirement to provide additional information to support claims

It will be mandatory to provide certain information when making a claim. The key information that will need to be provided, where the most usual approach would be to prepare an R&D report, will be:

- A description of the R&D projects
- A breakdown of the qualifying costs
- Details of any agent who has advised on the R&D claim
- Approval by a senior officer of the company

The first two areas are already commonly supplied with claims, although not previously specifically required by legislation. However the requirements to disclose details of the agent and the approval by a senior officer are new requirements. Further details on these requirements will be released in secondary legislation later this year.

There will also be a requirement for claims to be made digitally through HMRC's tax return portal. Further details will be included in secondary legislation.

## Extension of qualifying expenditure

The scope of qualifying expenditure for R&D has been expanded to include:

- Data license payments to access and use digital data
- Cloud computing services that include the provision of access to, or maintenance of remote data storage, operating systems, software platforms and hardware facilities
- Pure mathematics (further details to be provided in secondary legislation)

To qualify these costs need to relate directly to R&D and

cannot be included in claims if relating to indirect supporting activities. There is a further restriction for data licenses where there is the right to sell, publicise, share, or communicate the data to other third parties for purposes other than R&D.

### Non-UK expenditure restricted

Subcontracted R&D work and the cost of externally provided workers (EPWs) will only qualify for R&D if the work has taken place in the UK, for accounting periods beginning on or after 1 April 2023. Currently costs incurred outside of the UK can also be claimed.

There are exceptions to this rule where the activity cannot reasonably be undertaken in the UK for geographical, environmental, social, regulatory or other legal reasons. However the exception cannot be used for cost reasons or if there is a shortage of skilled workers in that area in the UK. Two examples provided by HMRC of when the exception may be available is deep ocean research and clinical trials.

### Qualifying staff costs to also include new Health and Social Care levy

The qualifying staff costs and PAYE/NIC cap will include the new Health and Social Care levy in the same way as other national insurance contributions, for accounting periods beginning on or after 1 April 2023 when it becomes a separate tax in its own right.

### Miscellaneous changes to legislation

New powers have been introduced so HMRC can recover any excessive or overpaid credits and to remove a claim made in error from the tax return.

There are also other minor proposed changes to the legislation and further details will be included in secondary legislation released later this year.

**BGM can help you identify whether the existing and new R&D rules will apply to your business and the steps you need to take if so.**

**For further information, please contact David Lucas at [davidlucas@bgm.co.uk](mailto:davidlucas@bgm.co.uk) or your usual BGM advisor.**



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