

**Oury Clark** Quick Guides:



# R&D Tax Relief

Australia & The UK



**Corporation Tax: A21**

**There are a number of key differences between the UK and the Australian schemes although both, and indeed all the schemes, are based on a scheme originally out of Canada.**

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### **Registration Requirements**

There is no need to register in order to claim R&D relief in the UK. The claim is made as part of the company's usual corporation tax return and must be filed within two years of the accounting period it relates to.

To claim R&D relief in Australia you must register for every year you wish to claim and you must be registered before claiming the R&D offset on the company's tax return within 10 months of the accounting period.

### **Differences in Definition**

Australia and the UK use subtly different definitions of what qualifies as Research and Development.

The UK defines R&D activity as those actions which resolve a scientific or technological uncertainty. In order to qualify as a scientific or technological uncertainty the possibility/feasibility of solution is in doubt and it must not be readily available or deducible to a competent professional in the field.

Australia says R&D exists where "Activities whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, but can only be determined by applying a systematic progression of work that is based on the principles of established science and proceeds from hypothesis to experiment, observation and evaluation, and leads to logical conclusions."

The key difference is that Australia has a far more rigidly defined process for R&D and requires very specific hypotheses.

### **Spending Location**

The UK permits claims on R&D expenditure incurred anywhere in the world and does not require any R&D to be carried out in the UK. All that is required is the research be supervised by UK company employees.

In contrast Australia will usually only permit claims on R&D activity conducted in Australia. Under special circumstances overseas claims may be permitted but the requirements are strict and greatly restrict the amount claimable.

## Expert Review

In Australia what activities are classed as core and supporting activities is determined by AusIndustry. The R&D claim is audited and reviewed by experts in the relevant field to ensure it is R&D.

In the UK the only review is by the tax inspector who will argue as far as their knowledge permits. The review is mostly about how well you have justified your work as R&D for tax purposes.

## Minimum Spend

In order to claim the Australian R&D tax offset you must have spent at least AUD\$20,000.

There is no such requirement in the UK.

## Reliefs

For accounting periods commencing before 01 July 2021, Australia permits a refundable tax offset of 43.5% for companies with an annual turnover of less than AUD20 million. Companies exceeding this turnover are permitted a non-refundable rate of 38.5%. This rate is further reduced to the company tax rate for any excess income over AUD 100 million.

For periods commencing on or after 01 July 2021, companies with a turnover of less than AUD 20 million are permitted a refundable tax offset of the company's tax rate plus 18.5%. For companies in exceeding this threshold, the non-refundable offset is determined by the R&D intensity, defined as the R&D expenditure as a portion of the total expenses. If the intensity is less than 2%, the applicable rate is the company's tax rate plus 8.5%, or, if the intensity is more than 2%, the rate is the company's tax rate plus 16.5%. This relief rate is reduced to the company's tax rate for any income over AUD 150 million.

The UK permits SME entities to make additional deduction against taxable profits of 130% of the qualifying expenditure. If the company is lossmaking it may surrender its loss and receive cash at a rate of 14.5%.

Large companies are required to claim under the Research and Development Expenditure Credit scheme which provides a reclaimable tax credit of 12% (9.72% post tax) of the qualifying expenditure. Prior to 1 January 2018 the reclaimable tax credit rate was 11% (8.8% post tax).

For more details of the UK reliefs please see the UK R&D quick guide.

## When to choose the UK?

The following are common situations where UK R&D relief is chosen over Australian relief:

- The Company is not incorporated in Australia nor does it carry on business in Australia via a permanent establishment.
- The research is not carried out in Australia and does not meet the criteria in section 28D in the Industry and Development Act 1986.
- The Company's turnover exceeds AUD\$20 million.
- The Company is loss making.

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