Irish Research and Development ("R&D") tax credit regime

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The Irish R&D tax credit regime for companies within the charge to tax in Ireland, introduced from 1 January 2004, acknowledges that research and development are the keys to a more knowledge-intensive economy aimed at providing a sustainable, long term basis for growth and employment. This incentive, which is designated to increase Ireland's attractiveness as a location for R&D and to provide a well targeted stimulus for such value added activities, is given effect through the tax system.

In a survey recently carried out by the Irish Taxation Institute, the 50 companies that provided detailed financial data on their activities increased their R&D spend by €318m and their total employment by 20,340 between the years 2003 to 2011. That survey indicates that there has been a substantial increase in R&D spend and jobs that arose in that period. The companies that responded to the survey stated that, in making R&D location decisions, tax incentives were the second most important factor after the availability of qualified staff.

Tax credit for revenue expenditure

- The credit applies to incremental group expenditure on R&D over the expenditure of a base year (2003).
- The first €200,000 of expenditure incurred on R&D is excluded from the incremental basis. This applies to accounting periods commencing on or after 1 January 2013. For example, if a company's R&D spend in 2013 amounts to €800,000 and its R&D spend in the base year (2003) amounted to €350,000, then the credit for 2013 would be calculated by reference to R&D spend of €650,000 (i.e. €200,000 plus incremental R&D spend of €450,000).
- The tax credit of 25% is in addition to the corporate tax deduction of 12.5% available for qualifying expenditure giving an effective tax deduction for such expenditure of 37.5%.
- Any R&D expenditure that is met by grant assistance by the State, the EU or the EEA will not qualify for the R&D credit.
- The credit is available to reduce the current year corporation tax liability.
- The company can elect to offset the unused portion of the tax credit against corporation tax of the preceding accounting period, creating a corporation tax refund.
- The unused portion of the tax credit can be carried forward indefinitely.

- Alternatively, the company can elect to have the unused portion of the tax credit repaid to the company in three instalments paid over a period of 33 months from the end of the accounting period in which the R&D expenditure was incurred as follows –

    - A payment of 33% of the excess will be made as the first instalment. This is repaid by Revenue no earlier than the return filing date for the accounting period in which the R&D expenditure was incurred.

    - The remaining balance will be used to first reduce the corporation tax of the next accounting period.

    - If an excess still remains, a second instalment amounting to 50% of that remaining excess will be paid to the company. This is repaid by Revenue no earlier than twelve months after the return filing date for the accounting period in which the R&D expenditure was incurred.

    - Any remaining balance will be used to reduce the corporation tax of the next accounting period.

    - If an excess still remains, that amount will be paid to the company as the third instalment. This is repaid by Revenue no earlier than 24 months after the return filing date for the accounting period in which the R&D expenditure was incurred.

    - The amount of money that a company can claim under the above mechanism is limited to the greater of:

        - the corporation tax paid by the company for the ten years prior to the accounting period in which the R&D expenditure was incurred, or

        - the payroll liabilities accounted for by the company in the accounting period in which the qualifying R&D expenditure was incurred.

- Expenditure incurred by a company on the outsourcing of R&D to unconnected party or to a third level institution may qualify for the R&D tax credit provided certain conditions are satisfied. There are various limits on the amount of such expenditure that may qualify for the R&D tax credit.

- R&D tax credit claims must be made within 12 months of the end of the accounting period in which the qualifying expenditure was incurred.

- From 1 January 2012, key employees who are involved in the company's R&D activities can effectively receive part of their remuneration tax-free provided certain conditions are satisfied. This relief involves the employer company surrendering some or all of its R&D tax credit to the employee subject to various limits. The option of surrendering R&D tax credits in this manner is not available to loss-making companies.

Tax credit for capital expenditure

An R&D tax credit is also available for expenditure incurred on building that is used for R&D activities provided certain conditions are satisfied. The tax credit is available in the year the expenditure is incurred and amounts to 25% of the relevant expenditure incurred.

Accounting treatment

For accounting periods commencing on or after 1 January 2009 the R&D tax credit can be booked above the line for Irish GAAP and IFRS.

For US GAAP there is no absolute consensus among firms as to the accounting treatment but in most scenarios they believe the credit can be booked above the line.

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