

RESEARCH AND DEVELOPMENT – WHAT'S IN IT FOR YOU?

Research and development (R&D) is vital to many businesses. It helps them grow and improve profits through creating new, innovative or cutting-edge products and services. Competitive advantage is a key element of success in an increasingly harsh business environment. The R&D tax credit system gives generous tax relief on such work helping companies to continue investing in the future.

The tax credit can either reduce corporation tax liabilities or, for some small or medium sized companies, provide a cash lump-sum. The current level of relief for small companies provides an initial 100% deduction against profits plus a further 75%. For large companies this further credit is reduced to 30%. The minimum level of qualifying expenditure must be £10,000.

Not all “development” work qualifies as R&D and HM Revenue & Customs now has a specialist unit, so it is important that claims are carefully considered before being made. Generally, your company can only claim for R&D relief if a project “seeks to achieve an advance in overall knowledge or capability in a field of science or technology through the resolution of scientific or technological uncertainty - and not simply an advance in its own state of knowledge or capability”. In other words, you are looking for a solution to a problem. If it's obvious to a professional in your sector how to resolve something, then it's probably not R&D. If it is less than obvious, then

you should be considering making a claim. Such work can often be part of the normal new product development that many companies undertake, so you may not realise you are undertaking qualifying R&D work.

For accounting periods ending before 9 December 2009, it is also worth noting that any intellectual property rights arising from the R&D work had to be owned by the company making the claim. This condition no longer applies to later accounting periods and may allow greater scope for claims to be made. In all cases, however, the work must be relating to your own trade, or a future trade you intend to undertake within the company.

The development of commercially innovative products, or continued development of existing products will not generally qualify, although any element of this that involves technological advancement may, so it is always worth discussing what development work you are undertaking.

We consider the following to be key to a successful claim:

- Identify that the company undertakes R&D Identify the relevant expenditure attributable to this R&D
- Explain the technological or scientific challenge involved
- Document how the work undertaken overcame the challenge

- Identify where the intellectual property rights lie (subject to the relevant year end above). Be prepared; know what H M Revenue & Customs is looking for in a claim.

We can therefore assist you in evaluating the work you undertake in this area and work with you to make an appropriate claim. We have experience of making many successful claims and understand the tax legislation surrounding R&D.

Even if you cannot obtain tax relief, you should be considering how you are going to keep delivering competitive products or services to your customers in a rapidly changing world. R&D may be the answer.



Richard Hutchinson
Partner – Rothmans Havant



ARE YOU PLANNING AHEAD FOR THE VAT CHANGE?

When the Chancellor announced the VAT increase back in June, the six months advance warning was welcome, especially by small businesses who are likely to feel the impact the most. Now with the summer vacations behind us and the busy Christmas period looming, it might be a good time for businesses to take stock and ensure they are making the most of the opportunity to prepare in advance for the change.

The increase in the VAT rate to 20% will be implemented on 4 January 2011 during what is traditionally a hectic period so businesses would be well advised to have everything in place beforehand.

This time, H M Revenue & Customs is likely to take the view that you have had plenty of warning in advance and will show little leniency if errors are made.

Interestingly, a recent YouGov survey found that almost a third of small businesses feel that the VAT increase will affect them adversely, and nearly a fifth are planning wage freezes or even cuts to compensate.

Businesses will remember the last time a change was made to the VAT rate. It is estimated that apart from the disruption caused by tying up key resources, implementing the change cost small businesses up to £1,500 in bureaucracy alone!

Many small businesses have not been able to raise their prices for some time now, and the VAT hike is not going to help the situation. Moreover, with some competitors likely to try to absorb the VAT increase to avoid having to pass it onto their customers, the pressure to remain competitive could increase considerably in the New Year. This would be a good time, therefore, for all businesses, and especially for retailers, to review their costs and pricing strategies. A little competitive intelligence wouldn't go amiss either!

Some businesses might be tempted to avoid some of the impact by pre-invoicing at the lower 17.5% rate but care must be taken here not to contravene the anti-forestalling regulations and incur penalties.

There are also other potential pitfalls in areas such as recurring invoices and debit and credit notes that could incur penalties.

Businesses directly or indirectly involved in importing will need to review import VAT deferment levels, and might seek advice on whether a switch to Simplified Import VAT accounting is appropriate.

Also businesses on the flat rate scheme should note that revised higher rates will generally be introduced at the same time, which will have an impact on cashflow.

All in all it seems a little advanced planning and professional advice could potentially save time and avoid problems further down the road. If you would like help preparing for the VAT change, do contact us sooner rather than later.



Daren Laidlaw
Partner – Rothmans Segensworth

THE IMPORTANCE OF MAKING A WILL – A SIMPLE GUIDE TO INTESTACY

When a person dies without having left a valid will, he or she is said to have died “intestate”. The law sets out the rules which apply in that situation, and the following is a simple guide following some recent changes:-

1. Married person with children

Spouse gets everything up to £250,000 and personal possessions.

Anything remaining is divided in two:

- Half of this goes to the children at 18 or on earlier marriage.
- Half is put in trust for the spouse’s lifetime – he or she gets the income. On spouse’s death this half goes to the children.

If a child predeceases, leaving children, they will take his share equally between them.

2. Married person, without children

If there are parents, brothers or sisters of the whole blood, nephew or nieces:

Spouse gets everything up to £450,000 and personal possessions.

Anything remaining is divided in two:

- Half of this goes to spouse.
- Half to parents. If no parent is living then it goes to brothers or sisters or their children.

3. Married person, without parents, brothers or sisters of the whole blood, nephews or nieces

Spouse takes whole estate.

4. Unmarried person with children

Estate goes to children at 18 or on earlier marriage. If a child predeceases, leaving children, they will take his share equally between them.

5. Unmarried person without children

Estate goes to parents.

If none, then to siblings of the whole blood or their issue.

If none, then to siblings of the half blood or their issue.

If none, then to grandparents.

If none, then to uncles and aunts of the whole blood or their children.

If there is none of the above, the estate goes to the Crown.

The above shows that not having a will can mean that your estate can end up with distant relatives that you would not expect to benefit. In addition, intestacy causes significant problems for those you leave behind. It is therefore as important as ever to make a will.

Please contact us if you require advice on estate planning and inheritance tax mitigation.



DIRECTOR'S RESPONSIBILITIES

Directors are appointed to manage and run companies and with that comes a range of serious legal responsibilities.

Who can become a director?

All limited companies must appoint a minimum of one director, although most have at least two. Public limited companies require a minimum of two directors.

A director cannot be someone who has been barred from the role by a court, or who is an undischarged bankrupt, or who is aged under 16. That apart, a director must be someone the shareholders of a company feel is best suited to taking the reins of that company.

The choice of a director must conform to the articles of association that govern the management of a company. These set out what a director may or may not do.

Skill and care and expectations

Essentially, a director is required to demonstrate the skill to be expected of someone with their expertise and experience. They must also behave in a way that would be expected of someone who is taking good care of the businesses as if it were their own.

The actions of a director must be taken in good faith and in the interests of the company. That is, a director must: deal with all shareholders fairly and equally; stand above conflicts of interest and be open and honest about any conflicts of interest; and refuse any personal profits made at the cost of the company.

Companies House

Under company law, a director holds responsibility for filing certain documents with Companies House including the annual return, the annual report and accounts, and changes to the registered company address.

The late filing of accounts can involve penalties of up to £1,500 for private companies and up to £7,500 for public companies.

Employment law

A director holds a duty to observe that their company complies with all aspects of employment law. If they don't, they could be liable in cases of unfair dismissal, racial, religious or sexual discrimination or working practices that treat employees unfairly.

The same duties apply to health and safety regulations. Directors must see to it that risk assessments are conducted and that health and safety policies are drawn up and implemented.

Taxes and accounts

Company directors must check that PAYE taxes, VAT and National Insurance are paid at the correct time and in the correct amounts.

A director is responsible for ensuring that a company's profit and loss account and a balance sheet are prepared. They must also make sure that the company keeps proper accounting records and must take reasonable and proper steps to ensure that the accounts are true and fair. Additionally, a director has a duty to provide auditors with all the information and explanations they may request.

OTHER ISSUES

Insider dealing

It is a criminal offence for a director to deal in securities when in possession of unpublished price sensitive information, which is otherwise known as insider dealing.

Insolvency

A director may be guilty of wrongful trading if they do not take all necessary steps to minimise losses to creditors once they know or ought to have known that a company is in a position where it is unlikely to avoid liquidation. Should a company go into liquidation, a director must have monitored the company's affairs in a way that would have been taken by a reasonably prudent business person.

Disqualification

A director may be disqualified for a number of reasons connected to a failure in fulfilling their duties. Not filing tax returns or paying taxes, not submitting the appropriate returns to Companies House, not compiling and filing accounts, not maintaining the required company records and running an insolvent company can all result in a director's disqualification.

It is the responsibility of the courts to decide whether a person should be disqualified from holding the position of director, and disqualification periods can range from two to fifteen years.



James Reilly
Director – Rothmans Fareham

DIRECTOR'S RESPONSIBILITIES - CONTINUED

Any person that is disqualified may not be a director, behave as if they were a director, exert an influence on the running of a company or play a part in the creation of a new company.

Good practice

Given the strict legal obligations imposed on directors of companies, it makes sense to follow a series of good practices. Each board member should be supplied

with management information on a regular basis; the information provided to the board should be recorded, along with any actions that need to be taken, and by whom, as a result; and professional advice should be sought in those situations where the issues do not fall within the knowledge or experience of the directors.

SUMMARY

Directors are often the pivot on which a company turns. It is their vision, their ability to tell short-term tactic from long-term strategy, their understanding of the business operation and of market trends on which the success of a company can depend. If you would like us to advise on the other statutory duties a director must carry on, please don't hesitate to contact us.

ROTHMANS DOES DRAGONS' DEN ...

Andy Spencer from Rothmans' Havant office has been experiencing life as a dragon – apart from the jet-set lifestyle and bundles of cash at his fingertips!

Rothmans has continued its support for the University of Portsmouth Centre for Enterprise's PIPEline programme, which has just completed its second cycle for 2010. PIPEline is an intensive short programme established to support idea-stage entrepreneurs, encouraging participants first to look at their own skills and creativity, then gain guidance from experts to help move their ideas forward culminating in a final one-day Dragons' Den style pitching event. Andy was one of the judging panel and has since started working with some of the finalists to help them with commercial and financial aspects of their business ideas.

Andy commented "The PIPEline programme was piloted earlier this year to encourage graduates in the Hampshire region to further their knowledge in order to help them start their own business. Some of the business ideas that have come out of the programme have been fantastic and I am delighted we have been able to encourage these young entrepreneurs to get their ideas off of the ground."



As well as cash prizes from sponsors, participants were able to access support and specialist skills from a variety of business support specialists, including Rothmans. The final day of PIPEline was a great success with all of the pitches being of an exceptional quality.

As a firm we have experience of a vast number of businesses, in every stage of development and in a wide range of sectors. This is just one of the ways we use that experience to help businesses grow and develop.



Andrew Spencer
Rothmans Havant

WESSEX CHARITY AWARDS



The stars of the region's charities and not-for-profit organisations received their prestigious awards for their incredible efforts and vital contribution to the local community at the recent Wessex Charity Awards 2010 gala dinner at the Winchester Guildhall.

Charities and businesses from across the region attended the Awards. Heart-warming films of the exceptional work being undertaken in the region by the fifteen finalists were shown to the 300 guests who included The High Sherriff of Hampshire, The Mayor and Mayoress of Winchester and Mr Steve Brine MP.

Rothmans sponsored the winner of the Trustee Board of the Year which was awarded this year to Winchester Churches Nightshelter. The Nightshelter is a charity which offers direct access accommodation with outreach support. They are an essential lifeline where basic needs of shelter, food and hygiene can be met but they also offer vital help in easing loneliness, providing a secure support network to address problems, and a start to being included in society again.

Andrew Perriam [centre] and Richard Hutchinson [right] of Rothmans with Sarah Lloyd Chair of Trustees of Winchester Churches Nightshelter with her fellow trustees and staff



Photograph by Burlison Photography

The other winners on the night were:

Charity of the Year –

Cherry Tree Nursery

Chief Executive of the Year –

Sarah Brocklebank from The Phyllis Tuckwell Hospice

Volunteer of the Year –

Amani Amari from Haslars Visitors Group

Fundraising Team of the Year –

Oakhaven Hospice

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