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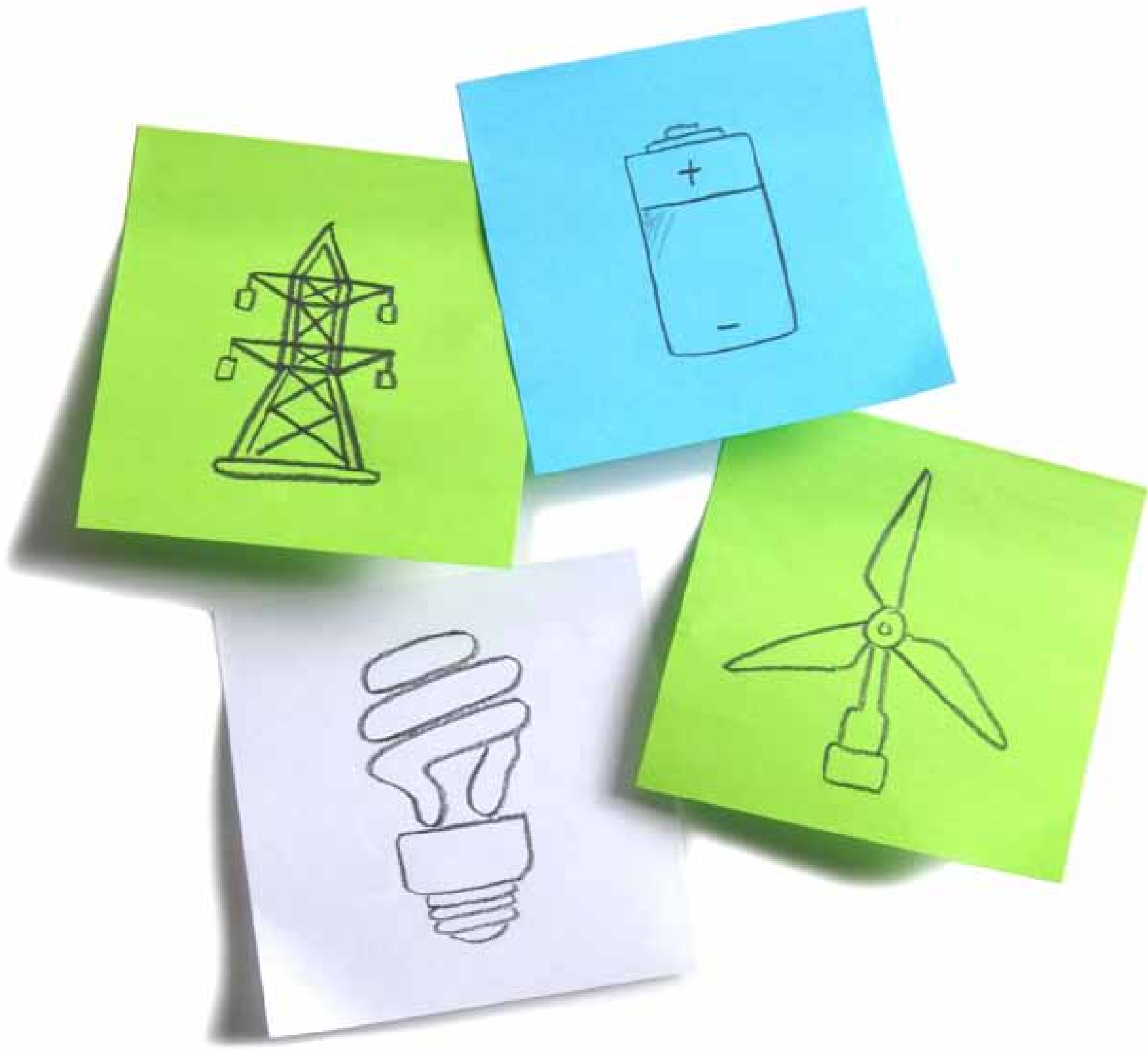
Making the most of R&D tax relief opportunities for the renewable energy and clean technology sector.



Leading business advisers

By trying to reduce their energy bills, companies, individuals and government initiatives are driving R&D business opportunities for new and established companies in the renewable energy sector.

Introduction

Many opportunities exist for organisations to optimise their R&D tax relief. If you have overcome technological challenges in developing new products, processes, materials or technology with respect to renewable energy, then you may qualify for generous R&D tax incentives.

Many companies are not aware of the extent of their eligible activities, or that they are eligible at all. Deloitte offers expertise and experience across a wide selection of industries and has helped many clients achieve tax cash savings under the R&D regime. This document defines Research and Development and offers tips for making the most of R&D tax relief opportunities for renewable energy and clean technology sector.

Definition of R&D

R&D for the purposes of the relief includes basic research, applied research or experimental development. These activities must seek to achieve scientific or technological advancement and involve the resolution of scientific or technological uncertainty.

Relevant Expeniture

A credit of 25% of the incremental expenditure on revenue items, royalties, plant and machinery related to R&D can be offset against a company's corporation tax liability in the year in which it is incurred. A credit of 25% is also available for the relevant expenditure incurred on a building/ structure. Relevant expenditure is broadly defined as the expenditure on the portion of the building used for qualifying R&D activities, provided that at least 35% of the building is used for these activities over a four year period. The credit available is deductible in full in the year the expenditure is incurred. This represents a significant benefit compared to the original legislation which provided for a 20% credit over a four year period, in respect of the cost of a building used solely for R&D.

Base/incremental expenditure

Expenditure is on revenue items, royalties, plant and machinery which qualifies for credit in any year is the incremental expenditure over the expenditure incurred in 2003.

For periods starting after 1 January 2012, the first €100,000 of expenditure can be claimed irrespective of the level of expenditure incurred in 2003. Any additional expenditure claimed above €100,000 must then be incremental expenditure to 2003. There is no calculation of a base year for expenditure on buildings.

A claw back will apply if within a period of 10 years, the building or structure is sold or ceases to be used by the company for the purposes of R&D or for the purpose of the same trade that was carried on by the company when the credit was claimed.

Qualifying expenditure

Credit is given for all R&D related expenditure that consists of:

- Royalties
- Expenses deductible for trading purposes
- Plant and machinery entitled to capital allowances,
- Revenue and capital expenditure on scientific research
- Buildings entitled to capital allowances

The credit is not available for a royalty that is exempt royalty income in the hands of the recipient or is not arm's length. Furthermore, no credit is available for expenditure that is State funded (e.g. expenditure met by grants).

R&D credit time limit

A claim for a credit must be made within 12 months from the end of the accounting period within which the R&D expenditure was incurred.

Entitlement to R&D relief

A company which carries on a trade in Ireland, undertakes R&D activities in Ireland or within the EEA and incurs the expenditure shall be entitled to the credit. However, Irish R&D credit is denied for R&D activities undertaken in EEA countries where a tax deduction for that expenditure is allowed.

Unused R&D credit utilisation

Any unused credit can be carried back and used to reduce the corporation tax liability of the preceding accounting period. Where a credit is not fully utilized in the current or preceding accounting periods the excess can be offset against future corporation tax payable or it can be paid in cash to the company by the Revenue Commissioners over three years.

There is a limit to the amount that Revenue will repay in cash for a tax credit.

For accounting periods starting prior to 22 June 2011, the limit is the greater of:

- The total corporation tax paid by the company for the 10 years prior to the period for which the company is making the claim or
- The payroll tax liabilities for the specific period in which the expenditure, which is the subject of the claim, is incurred.

For accounting periods starting on or after 22 June 2011, the limit is extended to being to the greater of:

- The corporation tax payable by the company for the 10 years prior to the accounting period preceding the period in which the expenditure was incurred, or
- The amount of payroll liabilities which the company is required to remit in the period in which the R&D expenditure was incurred and, subject to certain restrictions, the immediately preceding period equal in length.

Furthermore, R&D credits can now be surrendered to key R&D employees for them to use against their personal income tax liability, reducing the effective income tax rate to a minimum of 23%. There are a number of conditions to be met by both the company and the employee. The most significant of which are:

- The company has an actual Corporation Tax liability in the year of the R&D tax claim, and this sets an upper limit to amount of credits which can be surrendered.
- The employee is not a director nor has a material interest (5%) in the company. This condition applies retrospectively and also applies to the employees connected parties.
- The employee spends a minimum of 75% of their time undertaking qualifying R&D activities.

The tax credit can be carried forward if the individual cannot use all the credit in the first year, and the 23% minimum effective income tax rate can be applied to the combined income with the employee's partner. If an employee leaves the company any remaining credit will be lost. R&D tax credits arising from periods starting after 1 January 2012 can be surrendered in this manner.

Group implications

The computation of a credit is made by reference to expenditure incurred in a group as opposed to on a company by company basis. The R&D credit can effectively be group relieved.

Use of universities and subcontractors

Where a company subcontracts the R&D activities to a third party, any payments made to that person up to an amount of 10% of the company's own R&D expenditure will qualify for the relief. Likewise, where a company subcontracts the R&D activities to universities or third level institutions in the EEA, any payments made to the university up to an amount of 5% of the company's own R&D costs will qualify for the relief. For periods ending after 1 January 2012, the upper limit on the subcontracted R&D which can be claimed is the restriction described above or up to €100,000, whichever is the greater.

Does your company participate in any of the following activities?

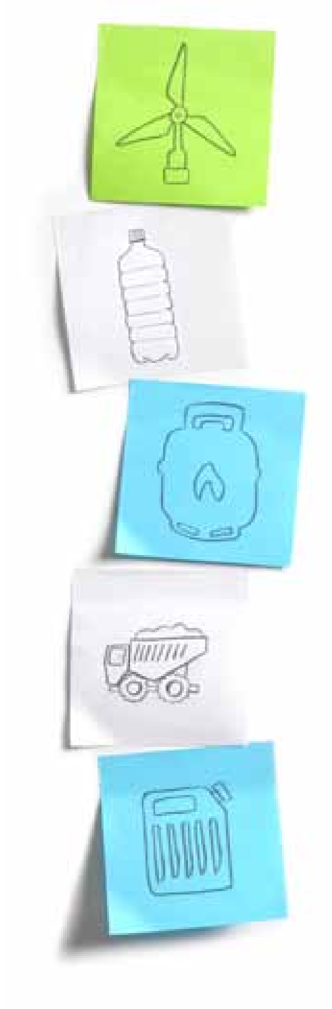
- Developing products or production processes to harness alternative or renewable forms of energy
- Developing products, materials or processes which deliver the same or improved performance whilst using less energy
- Improvements in the efficiency of the manufacturing process of existing products to increase yield as well as reduce waste, byproducts, or environmental impact

How we can help

Deloitte offers a dedicated team working with client teams on R&D claims. Based on our extensive experience over many different industries and companies of all sizes, Deloitte has developed a methodology which facilitates the claim preparation process in a seamless manner, underpinned by effective procedures to ensure a robust claim for submission to the Irish Revenue. This can be integrated with assessments performed by our Global Employer Services team to optimise the use of credits transferred to key employees to ensure the best balance for both company and employee based on a company's philosophy for performance incentives and reward and recognition.

Our Irish R&D tax team consists of both tax and technical specialists which provides expertise in the science and engineering aspects of R&D projects.

Contacts



Our Team

The Deloitte Research & Development group is a team of research and development credit specialists dedicated to providing comprehensive research and development tax incentive services spanning over 35 locations including Ireland, the United Kingdom, the United States, Canada, Europe, and Australia. Our team of experts has extensive experience in the software, telecommunications, biotechnology, pharmaceutical, financial services, manufacturing, petroleum, aerospace, chemical and utilities industries.

Our Irish R&D tax team consists of both tax and technical specialists which provides expertise in the science and engineering aspects of R&D projects.

The R&D tax team, supported where necessary by our global R&D network, will assist you by ensuring that all activities that could qualify for the relief are identified, assessed, documented and where appropriate claimed. Our established relationship with the Irish Revenue will allow for a smooth submission and review process allowing for minimal disruption of your core business.

The Deloitte global R&D network delivers an experienced team who provides insight on local regimes and the opportunities and risks which crossborder interactions bring for large multinational organisations.

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