

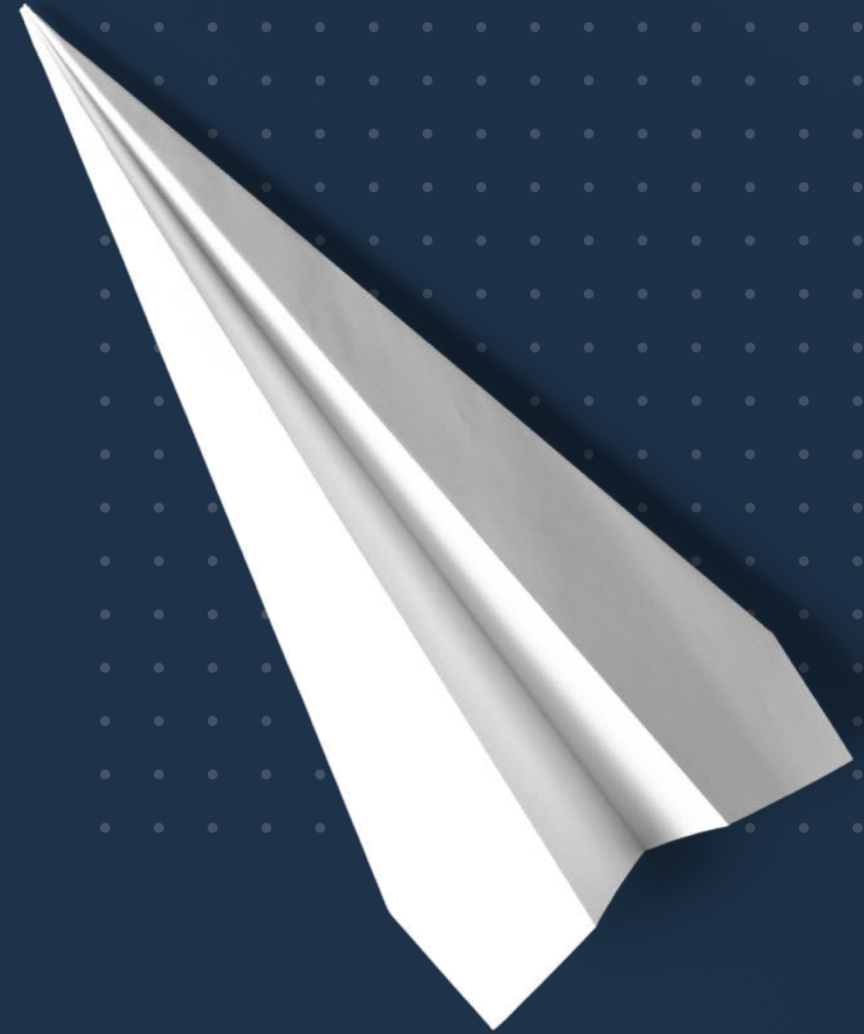
**ONLINE WEBINAR**

**HMRC R&D Tax Claims  
UPDATE**

September 2023



| Innovation



# What are R&D Tax Credits?

The R&D Tax Credit Scheme is a HMRC incentive designed to inspire innovation & increase spending on R&D activities by companies operating in the UK.

For tax purposes, R&D is considered as:  
Activities that seek to:

- Achieve an advance in overall knowledge or capability in the field of science or technology; and;
- resolve scientific or technical uncertainty
- Understand the baseline



# R&D Tax Credit Schemes – Until 31<sup>st</sup> March 2023



## SME Scheme

- Less than 500 employees or less than €100 million turnover.
- Benefit of £24.70 per £100 on R&D if profit making
- Benefit of £33 per £100 on R&D if loss making
- Claims can go back 2 full years



## RDEC Scheme

- Over 500 employees or more than €100 million turnover.
- No minimum R&D spend
- No upper limits on claims
- Benefit of £10.50 per £100 on R&D

# News Headlines



## Scrapping of R&D tax credits is economic vandalism

FSB has called for the Chancellor's proposed cut to R&D tax support for small firms to be scrapped, labelling the cuts as economic vandalism. Figures released by the ONS this week indicate that the majority of R&D investment in the UK stems from small businesses. FSB Policy Chair Tina McKenzie said: "The Chancellor has turned triumph to disaster, with the self-inflicted R&D credit crunch set to cut a swathe through start-ups, spin-out and advanced engineering companies. Driving small R&D firms out of business is economic vandalism."

## FINANCIAL TIMES

### Jeremy Hunt's R&D shake-up divides UK small businesses

Tech start-ups + Add to myFT

### UK tech start-ups hasten overseas expansion after R&D tax cuts

Move threatens Britain's standing as a tech hub and government ambitions to grow the sector

### Jeremy Hunt set to overhaul Britain's R&D tax credits scheme for SMEs

Angry backlash expected after business group warned against cuts to a system 'of such importance for growth'



Jeremy Hunt is expected to make the tax credits for SMEs less generous © Zrara Farrar/HM Treasury

## Bloomberg

US Edition

Live Now Markets Economics Industries Technology Politics Wealth Pursuits Opinion Businessweek Equality Green

Technology City of London

### Startups Stung by UK Delay in Awarding Tax Credits to Innovators

Founders under pressure as government takes longer on claims

## THE TIMES

### 'Free money from HMRC': firms cash in on questionable tax credits

A scheme plagued by 'waste has handed out millions of pounds for scientific 'innovations' like vegan menus

### Spurious claims for R&D tax credits leave the taxman red-faced



HM Customs and Revenue said the R&D tax credits scheme was being targeted by criminal gangs



### Eight held over research & development tax credit 'fraud conspiracy'

HMRC investigating £16m of sham claims for tax breaks



Companies have allegedly claimed tax breaks for "innovations" such as tweaking washing machine temperature as advisers forecast that HMRC "almost never checks" claims

### Research & development tax credits cut will force jobs abroad

Blow to tech firms from smaller incentives



Jeremy Hunt's autumn statement last week reduced the income tax credit for R&D

### Rush to pay R&D tax credits during Covid 'contributed to widespread fraud'



### Tax credit fraud is a 'major scandal', says peer



... against the handling of the R&D tax credits scheme in the House of Lords



Innovation

# Legislation Changes – 1<sup>st</sup> April 2023



SME Scheme uplift to reduce from 130% to 86%  
Credit rate 14.5% - 10%

SME	Old	New
Eligible	£1.00	£1.00
Profitable	£0.25	£0.16 / £0.22
Breakeven	£0.19	£0.09
Loss	£0.33	£0.19
Research	£0.33	£0.27



RDEC rate to increase from 13% to 20%

RDEC	Old	New
Eligible	£1.00	£1.00
Net	£0.11	£0.16 / £0.15



Mathematics, Data & cloud computing costs eligible



Additional Information Form – Technical Report & Finances  
Compulsory from 8<sup>th</sup> August 2023 - Senior person sign-off R&D claim



Company Corporation Tax for making over £250,000 profit 25%  
Tax Agent notification & Pre-registration to claim R&D relief

# Legislation Changes – Future Changes



SME R&D Intensive Industries > 40% of expenditure  
14.5% cash in of 186% Enhanced = 27p/£



SME & RDEC Schemes to be combined – Consultation finished  
Potentially from 1<sup>st</sup> April 2024



Overseas subcontractor costs ineligible from 1<sup>st</sup> April 2024

# HMRC R&D Communication Forum

## Who?

R&D agents, professional bodies  
About 140

## Why?

HMRC sponsored forum to engage with the R&D sector

## When?

Twice a year around January and July

## Where?

Pre-COVID in person  
Post-COVID Webinar

## What?

Operation of Schemes  
Discussion & Consultation  
Issues arising on changes  
Policy update

## How?

Presentation by Operations  
Upcoming Changes  
Q&A

# HMRC R&D Communication Forum - July 2023

## Policy update

Intensive scheme under review but Gov not considering changes at the moment  
Cost £500m for 20k companies

## Targets

New Target 85%  
Ambition dedicated R&D claim perf section within agent services dashboard

## Merged Schemes

Gov not made decision yet but option open  
Some simplification  
RDEC like scheme  
Subcontractor rules?  
Announcement next fiscal event

## Non-Compliance

Estimate rises from 3.6% to 16.7%  
International Best Practice (!)  
£1.1billion fraud/error  
£1b in SME  
Winter 2023 further update  
Policy update  
Fraud estimated @ <5%

## 2022-23

Total claims increased 1%  
43,577 SME  
9,659 RDEC  
92% processed within 40 days Dec/Jan peak  
91% Mar/Apr peak

## Non-Compliance

125/500 claims rejected  
Reduced fraud/error by £250m in 2023



# CIOT LETTER raising concerns to HMRC July 2023



Volume compliance approach – capability build with HMRC



Poor behaviour – technical law wrong, poor communication, grammatical errors, wrong company names, wrong projects mentioned



Meaningful fact finding



Lack of engagement and discussion – “It is my opinion...” contradicting competent professionals



Closing enquiries – no proper closure notices, leaving companies hanging with no right to appeal



Careless behaviour on Penalties

Type of behaviour	Unprompted disclosure	Prompted disclosure
Reasonable care	No penalty	No penalty
Careless	0% to 30%	15% to 30%
Deliberate	20% to 70%	35% to 70%
Deliberate and concealed	30% to 100%	50% to 100%



Breakdown of goodwill and trust between HMRC and tax payers (corporate)  
Discouraging legitimate claims

# CIOT LETTER HMRC Response August 2023



*"...HMRC's response not met its professional standards and Charter commitments..."*  
Focusing on Compliance Approach, Guidance & Communication, Agent Standards



Process review with additional support and training for caseworkers



90% of claims involve an agent!! NEW – HMRC wants to see collaborative working with representative bodies to improve compliance – problem requires collective action



HMRC still believes that 50% rising to 75% of claims under £10k are non-compliant



Scale of volume approach means that required action  
*"will have an impact on compliant claimants"*



Campaign & Projects (C&P) Teams targeting large volume claims in certain trade sectors



Expanded the teams, from 93 in 2020/21 to 191 FTE specialists amongst the 500 compliance officers

# CIOT LETTER HMRC Response August 2023



Raising Agent Standards – Agents that lack capability or purposely abuse the schemes

Some of these agents are part of national representative bodies!!



The Additional Information Form will support better provision of information



Common reasons for claims being ineligible

- Not a field of science or technology (ie arts and humanities)
- Upgrading internal systems
- Existing technology applied to a new industry
- A bespoke solution that doesn't involve science or technology



Common reasons R&D is overclaimed or wrong scheme:

- Ineligible costs – marketing
- Consumables that went on to being sold
- Excessive staff costs
- Subcontractor or subsidised projects (ref Quinn case)



Penalties applied – prudent, reasonable, evidence of behaviour, reasonable care

Looking at examples from CIOT and others to see what works or improvement needed

If you don't like it you have right to appeal

# CIOT LETTER HMRC Response August 2023



Reviewing the CIRDC manual and working on new draft [Guidelines for Compliance](#)



Will give more visibility of planned compliance activity, working with agents and rep bodies to address error and fraud in certain sectors and share compliance communications  
*“Some of the examples shared fall short of our standards”*



Random Enquiry Programme of 500 claims that increased the estimate of error and fraud:

- 1 withdrew claim on enquiry being opened
- 22 withdrew because agreed claim not valid
- 11 withdrew as not worth time and costs (low value claims)



Common reasons R&D is overclaimed or wrong scheme:

- Ineligible costs – marketing
- Consumables that went on to being sold
- Excessive staff costs
- Subcontractor or subsidised projects (ref Quinn case)



[HMRC’s Compliance Professional Standards](#) (July 2020)  
Regularly run surveys to assess awareness and application of standards  
Where staff fall short, additional training is offered to build capability

# ADR - HMRC Compliance Checks Process



12 questions or nudge letter?  
Accusation of fraud



Round 1 responses to questions.....Round 2.....Round 3.....60 days each round!



Call with HMRC Caseworker (TEAMS) – HMRC now refuse to engage on a call  
Shortest 96 days, longest 745 days, av 314 days!!



Review by another HMRC Officer or SOLS team



## Alternative Dispute Resolution (ADR)



Tribunal



Penalties? 5 Questions

Type of behaviour	Unprompted disclosure	Prompted disclosure
Reasonable care	No penalty	No penalty
Careless	0% to 30%	15% to 30%
Deliberate	20% to 70%	35% to 70%
Deliberate and concealed	30% to 100%	50% to 100%

# Alternative Dispute Resolution

## Jesminara Rahman – Tax Resolute Ltd

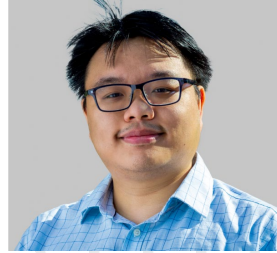
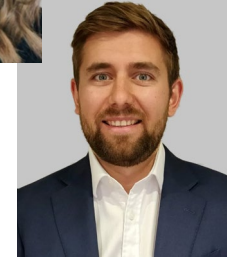
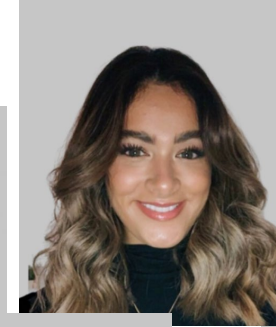


Ex HMRC Tax Advisor  
HMRC ADR Design Lead

Tax Resolute Ltd  
Tax investigation expert  
ADR Mediator

Q&A with THE expert on ADR  
with TBAT's own Sam Stephens

# Who is TBAT Innovation? R&D tax team:



Mechanical Engineering  
Rolls Royce PLC – 8 years  
Production Ops - 13 years  
Manufacturing Advisory Service – 8 years  
TBAT Innovation – 7 years

Research backgrounds  
4 PhDs  
3 Masters  
Physics  
Chemistry  
Computer Science  
Manufacturing Engineering  
Material Science  
Product Design  
Accountancy ICAEW ACA



# How does TBAT work with clients?



Do you have a claim? What is your R&D?  
What have you spent on R&D? Ballpark estimate of benefit



Commercial agreement – up to 20%, tiered or fixed contracts based on estimated benefit



Anti Money Laundering Check – Legal for ALL tax advisors



Kick off meeting for technical details of projects and financial reports



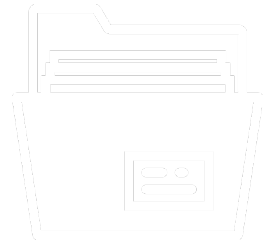
TBAT fully writes up the technical report & analyses finances  
Report Checked by client  
Uploaded to HMRC Additional Information portal by TBAT



TBAT or Accountant prepares CT600 & Tax Computation with R&D claim



HMRC repays CT or cashed in losses  
TBAT Invoices





# Our Services



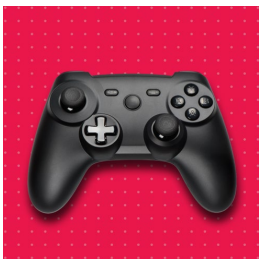
## R&D Tax Credits

We bridge the technical expertise gap between you, the client, and your accountant to ensure you submit a robust and successful R&D Tax Credit claim to HMRC.



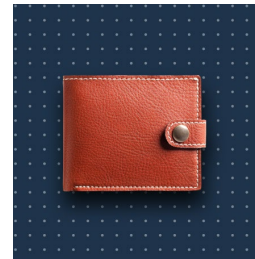
## Grant Funding

We identify appropriate funding sources, write applications and technical reports, as well as reviewing and resubmitting previous applications.



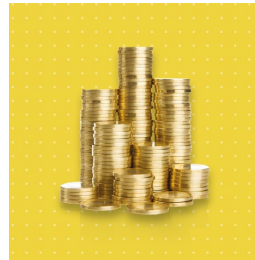
## Video Games Tax Relief

Similar to R&D Tax Relief, Video Games Tax relief can be claimed by businesses who are liable to pay corporation tax. We can check your eligibility and support in making a claim.



## Capital Allowances

We support in receiving capital allowances on assets owned by the business and used by the business. Capital Allowances can cover things such as building premises, equipment and machinery.



## SEIS / EIS Support

We support businesses looking for investment, to grow and develop by two generous tax relief schemes which make businesses a more attractive and less risky investment opportunity.



## Patent Box

If you're creating IP within your business that's patented and liable to pay corporation tax, you may be eligible to claim relief on the amount of corporation tax paid by the business.

# Questions & Thanks!

For more information visit [tbat.co.uk](https://tbat.co.uk)

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**Ian  
LinkedIn**



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# HMRC UPDATE - Summary



HMRC will continue to launch more Compliance Checks



HMRC are protecting the public purse from fraud and boundary pushing



CIOT Letter -



TBAT supports HMRC that Compliance Checks are necessary



ADR – a good process

# Lords Committee Finance Bill Recommendations

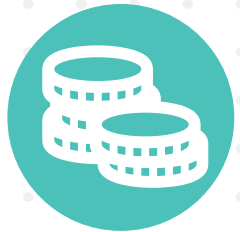
- Legislative changes within the draft Finance Bill 2022-23 are not effective in isolation
- Improvements to HMRC's compliance capability are also required
- More focused and targeted approach to identifying suspect claims, expertise and resource
- Fraud and error could be mitigated before claims are made if HMRC improved guidance and communications support it provides to businesses
- Committee welcomes inclusion of mathematics, cloud computing and data licensing costs
- Government introduces some form of transitional relief for expenditure on specialised resource, which is not available in the UK, particularly for contracts which have already been entered into
- BEIS and HMRC should work together on a new awareness campaign aimed at providing SMEs with accurate information about what is, and as importantly, what is not R&D



# 1<sup>st</sup> August 2023 – Additional Information Form



Reports used to be optional  
Now compulsory



By project narrative  
By project costs



Direct & Indirect costs



Technical Narrative – Baseline, Uncertainty, Advance  
NO PICTURES

Are you able to succinctly explain the R&D?

# R&D claim gone wrong?

IP

VC OWNED

Contracts

*Accrued costs*

*Apportionment*

SME profit or  
loss making

Intangibles

Director  
Management  
Companies

**What is in  
the  
Public  
domain?**

Trade or  
Internal  
purpose?

**Routine**

**Notified State  
Aid**

*Intangibles*

**VAT**

**Carried  
Forward  
Losses**

SME  
BECOMING  
AN LE

**SME  
PAYE  
CAP**

*Monies owed  
to HMRC*

**RDEC 7  
Step  
Process**

Are you  
'competent'?

**Non-Notified  
State Aid**

*Timesheets &  
records*

*No baseline*

*Unpaid*

*Invoices*

SME or RDEC

*Connected &  
Linked  
companies*

# HMRC Compliance Checks/Enquiries



90,000 claimant  
companies



2500 enquiries 2022  
2000 letters Jan  
2023  
& Rising  
Fraudulent or irregular  
claims



Technical focus  
Random selection  
or targeted by  
unusual SIC code



30 minutes review  
time  
H / M / L Risk

# Technical Narrative – HMRC Push back

## Projects

Why was the project undertaken?

## Baseline – State of the Art

Google searched something current  
Advance Overall  
Public Domain

## Uncertainties

That is not a recognised uncertainty  
This is routine to solve to a competent person

## Advance

Not a recognised science or technical area!  
That is already available, but it isn't  
That has been done already

## Approach

Used routine methods  
This is routine  
Combining known technology is not R&D

## Competent Persons

Who is competent?  
30 years experience does not make you competent 🤔

**HMRC publishing a Compliance Action Plan!!**



# What to look for in a good R&D tax agent?



Do they focus on the technology or the money first?  
Do they have technical people that understand your technology?  
Do they help to identify what are good R&D projects?



Do they carry out a thorough AML?  
Documents, PEP, high risk countries, trade in certain sectors, complex company structures



Are they asking high fees? 35% is not uncommon  
Are they charging very low fees? How much support are they really providing?



Do they get you to write up the report?  
Do they provide a very small report for a high fee?



Do they try to push boundaries encouraging you to utilise more costs in the claim?



Are there penalties for breaking long contracts?



What support do they offer if an HMRC Compliance Check is started? At what cost?  
Do they partner with accountants?

# Innovation Challenge 2023

The Innovation Challenge will see our partners come together to deliver four free-to-attend, vibrant and informative workshops.

Registration now open for our Online Workshops:

- Finance – Thursday March 23rd 1-5pm 1-4:30pm
- People and Recruitment – Thursday 27th April 1-5pm
- Product Development & Protection – Thursday 25th May 1-5pm
- Commercialisation – Thursday 15th June 1-5pm

Applications to enter the Challenge will open on 23rd March and close on 31st July.

10 Finalists will be invited to pitch at our flagship event in October, where participants will have the chance to win £5000, with the runners-up receiving support packages from our partners.

Further details please visit: [tbat.co.uk/the-innovation-challenge/](https://tbat.co.uk/the-innovation-challenge/)

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