

Research & Development

Minutes of R&D Consultative Committee on Thursday 11 January 2007 at 1 Horse Guards Road

Present:

Jon Sherman (JS) (HMRC – Chair)
Jeremy Sherwood (JDS) (HMRC)
Lynn Carroll (HMRC)
Ian Young (HMRC)
Frank Buffone (Ernst & Young & ICAEW)
Colin Davis (CIOT)
Peter Shield (Rolls Royce)
John Moore (ICAEW & Deloitte)
Tom Wills-Sandford (Intellect)
Laurence Bard (ICAEW & Shaw & Co)
David O’Keeffe (CIOT & KPMG)
Purnima Madhvi (DTI)
Norman Price (DTI & CBI)

Introductions

1. JS welcomed everyone to the meeting and this was followed by around the table introductions.

Matters arising from the previous meeting

2. There were no matters arising.

The R&D Specialist Units

3. JS said that he wanted the minutes to record his appreciation and thanks to those members of the committee who had worked with HMRC to develop the software training which had been delivered to the R&D inspectors at the training event in October 2006. He thought this was an excellent example of how HMRC and outside bodies could work together in partnership. The end product had been very good and he was extremely grateful for the effort that had been put into delivering it.
4. JDS explained that the units had been operational since 1 November 2006 and already positive results were being seen in respect of increasing consistency and expertise. He asked whether anyone had experienced any problems or improvements in the service being offered.
5. It was suggested that there may be some doubt over where the large non LBS cases would be dealt with. IY explained that the records for a very high percentage of R&D claiming companies identified for transfer would be within the R&D units by 31 March 2007. The units would handle the full tax affairs of the companies they deal with.
6. The exception to this would be those R&D companies which are part of a large group, or whose tax affairs are complex and of which R&D is a relatively small part. In those cases the R&D unit heads would liaise with the existing offices on a case by case basis to

decide which office will take responsibility for dealing with the company's records. If records remain in a local office the R&D unit will be responsible for any issues concerning claims to R&D relief.

7. Companies making an R&D claim for the first time should send their tax return and R&D claim to the appropriate R&D unit rather than their usual tax office. The R&D unit will liaise as necessary with the other office and will decide where the case will be dealt with from then on.
8. Concern was raised that consistency in dealing with R&D claims may still be an issue. Some HMRC inspectors appear to be taking a very different approach to dealing with software R&D claims. JDS explained that the training event in October 2006 included specific training on this area and that steps would be taken to resolve any problems still arising.
9. JS explained that HMRC had worked very hard to get the R&D units up and running by 1 November 2006 and some initial transitional issues were always likely to arise. Any problems should be reported to the relevant unit head.
10. JDS explained that he and LC were responsible for ensuring the consistency of technical advice given to HMRC inspectors in the R&D units and the LBS. They would continue to liaise regularly with operational staff to ensure the consistent operation of the schemes across the various units involved.

Practice Note

11. LC thanked everyone who had provided comments on the draft practice note. The final version of the note was drawn up following a review of those comments and formal written responses would be sent to those who had submitted comments.
12. Many of the points raised had already been discussed at the meeting including the fact that, for the majority of cases, the R&D unit will deal with all aspects of a company's tax return. Where the company record remains outside the R&D unit the unit will be responsible only for any R&D claim within the return. In such cases an R&D inspector will oversee any queries raised in respect of the R&D claim. Some of the other issues commented on were then discussed.
13. HMRC aims to issue any payable credits within 28 days of a claim being received and should be in contact with companies and their advisors in those cases where a payment would not be made within 28 days.
14. The nature and extent of each company's R&D projects will differ as will the way in which each project is carried out and the records generated. It would therefore be inappropriate to prescribe specific record keeping requirements for R&D purposes and it would also be difficult to define a time scale within which all R&D enquiries should be settled
15. During the course of an enquiry it may be necessary for an Inspector to speak to the company's technical specialists in order to better understand the R&D activities being carried out. The company's tax advisor will be a valuable help in facilitating this process.
16. Information provided by the company's own competent professionals should be sufficient to enable the inspector to determine whether the company's activities qualify as R&D in line with the DTI guidelines.

Updates on current legislative issues

17. Clinical trials – HMRC are currently in correspondence with the European Commission (EC) concerning the amendment of the SME and Vaccine Research Relief R&D schemes to include payments to clinical trial volunteers within qualifying expenditure. Upon agreement by the EC a Statutory Instrument will determine the date from which such expenditure will be eligible for relief.
18. Extension of SME relief to mid-sized companies – HMRC are currently in discussions with the EC on this point.
19. Capital/Revenue – this issue is still very much on the agenda. JDS and LC had carried out research into the nature and extent of capital expenditure incurred in respect of R&D. The research suggests that the main issue is a lack of clarity about what is capital and this will be resolved by means of new guidance on the topic. JDS said he was currently working on this along with other HMRC technical specialists and asked whether the committee would value seeing draft copies of the guidance for comment. It was agreed that it was a good idea and JDS said that although currently unable to provide a time by which it would be done he would circulate the draft guidance.
20. JDS asked that if anyone present had specific evidence or comments on this point that they direct them to either himself or Chris Stark of HM Treasury.

Update on qualifying bodies

21. Large companies can claim R&D relief on payments made in respect of R&D work subcontracted to qualifying bodies. JDS said that the qualifying bodies tended to be overseas and HMRC had a list of bodies that had either received provisional clearance or who were awaiting clearance.
22. JDS said that he would be drawing together the provisional clearances in a Statutory Instrument which was expected to be retrospective in nature. To ensure that the initial list contained within the Statutory Instrument was complete JDS said that he would circulate a copy to the members of the Consultative Committee. He requested that people contact him with full details of any bodies for whom clearance had been granted but who were not on the circulated list.
23. JDS said that after the publication of the Statutory Instrument he expected the list to be updated regularly.

DTI Publicity of R&D

24. PM provided background on the DTI's R&D case studies booklet published on 1 November 2006. She said that the booklet had generated some very good feedback that the DTI was keen to build upon over the coming months.
25. NP said that the booklet was not a one off activity. The plan is to add further case studies and to focus on those sectors where companies were not claiming but maybe should. He said that if Committee members had any clients or contacts which may be suitable as a case study example he would welcome details.

26. There then followed a discussion about the best ways of spreading the R&D message including breakfast meetings, roadshows, and client presentations. PM said that she would provide JDS with a list of UK science parks which could be used by the R&D units to identify companies who may be carrying out R&D but who had so far made no claims for tax relief.

AOB

27. JDS explained that the tax law rewrite team were currently working on the R&D legislation. There will be 80 clauses in the rewritten legislation which will come into effect in 2009. JDS said that the new legislation will be subject to consultation and should appear on the HMRC website in February. He suggested that discussion of the rewritten legislation may form an agenda item for future meetings.
28. LB raised a query concerning control and the role of venture capitalists in small companies. JDS explained that HMRC was looking at its approach to dealing with these cases and if, as a result of this, further guidance was felt to be necessary the Corporate Intangibles Research and Development (CIRD) manual would be amended.
29. JDS said that he was currently working on amendments to the CIRD manual and they would include, guidance covering payments to clinical trial volunteers, the time limits for making claims, the definition of capital within R&D, the specialist R&D units, and the Practice Note. There would also be minor changes to the guidance on subcontracted expenditure to make it clear that
- a. payments by SMEs to overseas subcontractors qualify for relief
 - b. where R&D work has been subcontracted it must be carried out directly by the subcontractor.
30. JDS also said that he would be putting an extra line in the SME definition guidance confirming that if a company is a SME at any time in the accounting period then it should be treated as a SME for the whole period.
31. JDS explained that in order to improve the consistency in dealing with claims between the R&D units and LBS, the LBS will be receiving software development training similar to that given to the R&D units staff in October 2006. JDS also said that he would try to arrange for a representative of the LBS to attend the next Consultative Meeting.
32. JDS circulated copies of the latest, December 2006, national R&D statistics. He said that they included for the first time information relating to the large company and vaccine research relief schemes. The information had been taken from company tax returns and was consistent with the projected number of claims which was currently at a rate of about 6000 per annum.
33. From the statistics the total relief claimed, in 2004/05, by SMEs was about £220m and by large companies about £360m.
34. JDS explained that the recent Varney Review will affect the way in which ad hoc, informal and formal consultations will take place in the future. This means that the make up and organisation of future meetings might change. JDS said that HMRC found the current forum a very valuable medium for discussing operational issues and policy directions and would want such a forum to continue in the future. NP agreed that the forum was very useful and suggested that its effect may be improved by means of an email club.

35. It was agreed that the next meeting would be scheduled for just before the summer break.

There being no further business the meeting ended.