

Research & Development (R&D) Corporation Tax Credit Update

The purpose of this note is to provide an update on R&D claims for 2022 and 2023 under section 766C, section 766D, section 776(4D) and section 766A(4C) including some matters to be mindful of in the completion of the R&D panels in the 2023 Form CT1.

Part 29 of the Taxes Consolidation Act 1997 (TCA 1997) was amended in Finance Act 2022 to align the R&D tax credit with international changes and the OECD Pillar Two rules. The amendments included *inter alia* the introduction of two new sections 766C and 766D TCA 1997 and provided for changes in the manner in which an R&D corporation tax credit claim is made and how the benefit of the R&D corporation tax credit is received.

2022

Given the timing of the enactment of Finance Act 2022, it was necessary to develop a Specified Return to enable companies to avail of the new measures for 2022 claims only. This Specified Return formed part of the Form CT1 2022.

2023

An updated Form CT1 2023 incorporating the changes required to claim the R&D credit under section 766C, section 766D, section 776(4D) and section 766A(4C) was released in December 2023.

Revenue Update

2022 Specified Return

2022 R&D claims from LCD and MED customers are at an advanced stage of processing. Due to a large volume of claims by Business Division customers, along with a requirement for a manual intervention to process each claim, additional resources have been allocated to expedite the processing of these claims. It is important to note that Business Division is currently prioritising the finalisation of CT1 2022 claims and will progress to 2023 R&D claims as soon as possible. We encourage taxpayers and/or agents to respond to Revenue as soon as possible in relation to any queries raised by Revenue and communicated to you for 2022. This will allow us to conclude the process for 2022 in the most efficient manner possible.

2023 CT1

Following a high-level review of a sample of 2023 CT1 returns submitted to date, a number of errors have been identified. These errors relate to the completion of the R&D panels with incomplete information provided. Please see below a broad summary of the main errors noted.

1. Expenditure breakdown not provided on section 766C panels. The breakdown between machinery and plant, emoluments and the sum of the remaining qualifying expenditure is a legislative requirement. Failure to provide this breakdown will lead to an invalid claim.
2. The R&D credit claim under section 766C should equate to 25% of the sum of the expenditure included in the boxes for "amount of the expenditure attributable to research and development activities".
3. Some claims are being made under the incorrect section of the legislation. Claims under section 766 or section 766A TCA 1997 cannot be made for accounting periods commencing on

or after 1 January 2023. Claims for accounting periods commencing on or after 1 January 2023 must be made under section 766C/section 766D using the correct panels on the 2023 CT1.

4. For the section 766 claim to feed correctly into the tax calculation in the 2023 CT1, please be aware of the requirement to tick the section 766A box along with clicking the two “Calculate” buttons in the section 766A panel.

In addition, section 766C(7) provides that companies must specify in respect of each instalment whether it should be—

- (a) treated as an overpayment of tax, for the purposes of section 960H TCA 1997, or
- (b) paid to the company by the Revenue Commissioners.

Revenue is receiving a number of requests to amend the above allocation outside the 12-month time limit. Please note, this specification cannot be amended once the 12-month limit has expired.

It may be worthwhile for agents/taxpayers to review their 2023 R&D claims submitted to date and correct the R&D panels within the 12-month time limit if, upon review, it is identified that any of the R&D claim panels were completed incorrectly. It is important to emphasise that this is a self-assessment process, and the onus is on the taxpayer to ensure that a valid claim is made within the 12-month timeframe. This is particularly relevant at this time for companies with March/April 2023 year ends.

An IT update to the Self-Assessment Notice will be released in the near future which will result in the R&D Cash Refund being reflected on the Self-Assessment Notice. This IT update will apply to all CT1s filed after the update has been released for 2023 and subsequent tax years.

As you will be aware the charges and collections screen on ROS does not reflect the R&D Cash Refund claimed under the new R&D rules. Customers will be able to see the R&D Cash Refund due on the Self-Assessment Notice in respect of all 2023 CT1s filed after the update is released.