Irish Tax Institute

May 2025

Research & Development Tax Credit and Options to Support Innovation

Response to the Public Consultation

Table of Contents

1 About the Irish Tax Institute

The Irish Tax Institute is the leading representative and educational body for Ireland's Chartered Tax Advisers (CTA) and is the country's only professional body exclusively dedicated to tax.

The Chartered Tax Adviser (CTA) qualification is the gold standard in tax and the international mark of excellence in tax advice. We benchmark our education programme against the very best in the world. The continued development of our syllabus, delivery model and assessment methods ensure that our CTAs have the skills and knowledge they need to meet the ever-changing needs of their workplaces.

Our membership of over 6,000 is part of the international CTA network which has more than 32,000 members. It includes the Chartered Institute of Taxation UK, the Tax Institute of Australia, the Taxation Institute of Hong Kong and the South African Institute of Taxation. The Institute is also a member of the CFE Tax Advisers Europe (CFE), the European umbrella body for tax professionals.

Our members provide tax services and business expertise to thousands of Irish owned and multinational businesses as well as to individuals in Ireland and internationally. Many also hold senior roles in professional service firms, global companies, Government, Revenue, state bodies and in the European Commission.

The Institute is, first and foremost, an educational body but since its foundation in 1967, it has played an active role in the development of tax administration and tax policy in Ireland. We are deeply committed to playing our part in building an efficient and innovative tax system that serves a successful economy and a fair society. We are also committed to the future of the tax profession, our members, and our role in serving the best interests of Ireland's taxpayers in a new international world order.

Irish Tax Institute - Leading through tax education

2 Institute Recommendations

The Irish Tax Institute welcomes the opportunity to contribute to the public consultation on the Research & Development (R&D) Tax Credit and on options to support innovation. To help us formulate our responses to the consultation questions posed by the Department of Finance in its consultation paper, the Institute carried out a survey of members and sample businesses in April 2025.[1]

Some broad themes emanating from our survey included: the importance of having a competitive R&D Tax Credit rate; the need to simplify the claims process, in particular for SMEs, given the level of documentation required to support a claim and the cost involved in preparing a claim; the uncertainty over whether certain R&D activities qualify for the credit which persists, and the anxiety among companies over the potential for Revenue to subsequently challenge an R&D Tax credit claim. Respondents also emphasised the need to increase the existing caps on outsourced R&D activities, which are required to access particular expertise and equipment.

The following key recommendations are based on the feedback we received from businesses carrying on R&D in Ireland and from our members who advise such businesses on making R&D Tax Credit claims. Further details on the findings of the survey are set out in the detailed responses to the consultation questions in the body of this submission.

Institute Recommendations on the R&D Tax Credit

1. Many countries are currently improving or introducing new incentives for R&D. Given the mobility of R&D investment, it is critical that the Irish R&D Tax Credit is continually benchmarked against the incentives in key competitor jurisdictions.
2. We believe policymakers should consider increasing the R&D Tax Credit rate to preserve and attract more R&D investment by large multinationals in Ireland. The recent 5% increase only maintained the overall net value of the credit (25%) for large companies subject to the new 15% minimum effective tax rate under Pillar Two. Having a competitive rate would ensure Ireland can continue to compete internationally for global R&D investment.
3. We know from feedback from our survey that there is a certain level of anxiety amongst companies over the potential for Revenue to subsequently challenge R&D Tax Credit claims. While verification of claims by taxpayers is an intrinsic part of a self-assessment system, it is important that Revenue Compliance Interventions are proportionate, apply commercial awareness and are conducted in a timely and efficient manner, in the interest of all parties.
4. The frequency and commonality of the errors made by taxpayers in the R&D Tax Credit claims process in recent years highlights the need to simplify the Form CT1 (corporation tax return) to make it easier for businesses to comply with their tax obligations and have certainty over their R&D Tax Credit claims. We welcome the commitment by Revenue at the Tax Administration Liaison Committee (TALC) to discuss with stakeholders how best to restructure and simplify the Form CT1 for 2026 and, it would be important that the R&D panels would be reviewed as part of this process.
5. We urge Revenue to publish guidance on common errors identified on R&D Tax Credit claims and to create information videos on how to complete the relevant R&D panels correctly for the benefit of all claimants. The learnings from Revenue

1 Irish Tax Institute R&D Survey, April 2025, based on 89 respondents – 36 were companies based in Ireland and 53 were tax advisers who advise companies on making R&D Tax Credit claims.

Compliance Interventions should be used to support businesses to minimise the risk of error.

6. Consideration should be given to using the existing in-house technical expertise within the two enterprise State agencies (i.e. IDA and Enterprise Ireland) to verify the science test in R&D Tax Credit claims. This would help to address concerns among businesses that the external R&D experts engaged by Revenue to opine on the science element tend to be more from academic backgrounds, which can often result in knowledge gaps, as the technical expert is applying science theory to commercial practices.

7. We believe the following supports would increase the attractiveness of the R&D Tax Credit, in particular for SMEs:

    a. Condensing the current 3-year R&D Tax Credit refund to one year. Accelerating the refund would provide valuable assistance to smaller companies that tend to be cash constrained.

    b. Introducing a pre-approval process for first time R&D Tax Credit claims by small/micro companies similar to the Advance Assurance Agreement process operated by HMRC in the UK.

    c. Providing SME-friendly guidance, with step-by-step instructions on the claims process and practical studies, together with tips on how to avoid common errors in claims is essential, similar to the approach adopted by HMRC in the UK.

    d. Revenue guidance on the R&D Tax Credit has changed 21 times since its introduction. While many of the updates have provided more clarity on various aspects of the credit, the combination of the volume of iterations and the change in emphasis to the extent to which a company may rely on the guidance, has added to the uncertainty regarding R&D Tax Credit claims, in particular where the legislation underpinning the guidance has not been amended but Revenue's interpretation of it has altered. Consultation with stakeholders in advance of updates to Revenue guidance is essential to providing more tax certainty for claimants.

8. The level of qualifying expenditure incurred by a company when R&D is sub-contracted or outsourced to a third-party or university or institute of higher education should be increased, above the current limits of 15% of in-house R&D expenditure or €100,000 (whichever is greater). This would be in keeping with Government policy to foster collaboration between academia and private businesses. The restriction could be removed completely for R&D outsourced to universities/institutes of higher education to encourage greater STEM skill-sets, while qualifying R&D expenditure outsourced to third parties could be capped by reference to the company's qualifying internal R&D spend.

9. The existing concession on the use of agency/temporary staff should be put on a legislative basis so that it is not considered outsourcing of R&D where certain conditions are met. The relevant conditions should also be amended to ensure the rules reflect modern commercial practices of where such contract work is performed and its duration.

10. Consideration should be given to permitting outsourcing of R&D to a related party in circumstances where Ireland is the owner and has played an active role in managing and developing internally generated IP arising from R&D activities. A cap on the amount of related spend which qualifies could be set by reference to the Irish company's own internal spend on R&D.

11. We recommend that the definition of relevant expenditure should be modernised to allow expenses which are critical to R&D processes to qualify such as training and maintenance relating to R&D equipment.

12. Revenue guidance relating to overhead costs needs to be simplified. For example, providing for a set percentage of labour overheads in Revenue guidance would help simplify R&D expense claims and provide more certainty to taxpayers.
13. We believe legislative clarification is necessary to ensure rent is a qualifying cost for the purposes of the R&D Tax Credit. Rent is a substantial cost for most SMEs and the change in Revenue guidance in July 2020 has significantly narrowed the circumstances in which rent may qualify. In our view, Revenue's interpretation creates an inequity in favour of larger companies that have the available resources to invest in the construction of a building for R&D purposes rather than incur a rental cost.
14. Consideration should be given to reducing the 35% threshold for R&D activities carried on by a company in a qualifying building or structure under section 766D TCA 1997 given there is no *de minimis* for plant and machinery for the purposes of the R&D Tax Credit.
15. The stipulation that a building must qualify for industrial buildings allowance to meet the conditions for the credit under section 766D TCA 1997 is outdated and should be removed to reflect the changing nature of how and where R&D activities are carried out in a modern knowledge economy.
16. Industry specific guidance, with detailed practical instances of what R&D activities qualify and do not qualify should be developed to address uncertainty surrounding what can qualify and how to document certain processes in particular sectors.

Institute Recommendations on Options to Support Innovation

17. Consideration should be given to introduce new targeted measures to incentivise innovation in specific priority areas of digitisation and decarbonisation. It would be important that any new tax incentive would be considered a "qualified refundable tax credit" for the purposes of the OECD Pillar Two Global Anti-Base Erosion Model (GloBE) Rules and the US Foreign Tax Credit Regulations.
18. The following administrative oversights could ensure claims are made for true innovation:

    a. a Revenue pre-approval process for first-time claims by small/micro companies,

    b. availability of sector specific SME-friendly guidance, and

    c. ensuring the level of documentation required to support a claim is stratified according to business size.

The Institute would be happy to engage further in this consultation through stakeholder meetings or direct discussions. Please contact Anne Gunnell at agunnell@taxinstitute.ie or (01) 6631750 if you require any further information.

3 Research, Development and Innovation as a Key Driver of Economic Growth

The role that research, development and innovation (RDI) plays in economic growth has been recognised for some time by the OECD and the European Commission. RDI plays a central role in driving productivity growth and fostering competitiveness in economies. The Innovation Index 2024[2] identifies RDI as a key driver of economic growth in Ireland.

The R&D Tax Credit has been in place in Ireland for over 20 years. Given recent global trade uncertainty and policy changes in other countries, now is an opportune time for Ireland to review its current offering and identify how best it can be used to boost Ireland's competitiveness and support the Exchequer.

The European Commission has stated that new knowledge and breakthrough innovation will drive the green and digital transformations that are underway in society and that research and innovation policy will play a key role in responding to global challenges.[3]

With global tax reforms and increased competition for investment, Ireland must ensure its tax system promotes and supports innovation if it is to continue to attract foreign direct investment and drive the digital transformation and just transition of the Irish economy.

We welcome the commitment in the Programme for Government 2025: Securing Ireland's Future[4] to continue to build Ireland's research capacity and to increase the level of research and development undertaken by Irish enterprises ensuring that innovation is supported from concept to commercialisation and scaling up.

It is clear that the Government must play an important role to develop an ecosystem to foster increased investment in R&D by companies of all sizes. The *Impact 2030*[5] strategy published by the Department of Further and Higher Education, Research, Innovation and Science aims to drive coordination and cohesion of the national research and innovation agenda. One of the objectives of this strategy is to ensure the tax offering for R&D in Ireland remains competitive and is more accessible to SMEs.

The R&D Tax Credit is an essential element of Ireland's strategy to reach its R&D intensity target of 2.5% of GNI* by 2030. The number of companies claiming the R&D Tax Credit from 2019 to 2022 remained relatively static, increasing by just 30 claimants in 2022 compared to 2019.[6] According to provisional data on the R&D Tax Credit released by Revenue in April, 173 more companies claimed the credit in 2023 compared to 2022 at a cost to the Exchequer of €1,407 million.[7]

The R&D Tax Credit has a vital role to play in fostering private R&D investment in Ireland and the Institute welcomes this opportunity to provide feedback on the policy and operational aspects of the credit to ensure it can be considered best in class internationally.

2 Ireland's Innovation Index 2024, IRDG and KPMG, May 2024.
3 European Commission, Research and Innovation Strategy 2020-2024.
4 Programme for Government 2025 - Securing Ireland's Future, January 2025.
5 Department of Further and Higher Education, Research, Innovation and Science Report: Impact 2030: Ireland's Research and Innovation Strategy, May 2022.
6 Revenue Commissioners, Research & Development ("R&D") Tax Credit Statistics, July 2024.
7 Revenue Commissioners, Corporation Tax: 2024 Payments and 2023 Returns, April 2025.

4 R&D Tax Credit

The R&D Tax Credit is a very important benefit for all Irish companies carrying on R&D activities and it has been improved in several ways since its introduction in 2004. R&D Tax Credit claims are closely scrutinised by Revenue.

In April 2025, the Institute carried out a survey of members and a sample of Irish businesses[8] to help inform our response to the Department of Finance. We have set out the findings of this survey in the responses below to the questions in the consultation document.[9]

4.1 General Queries

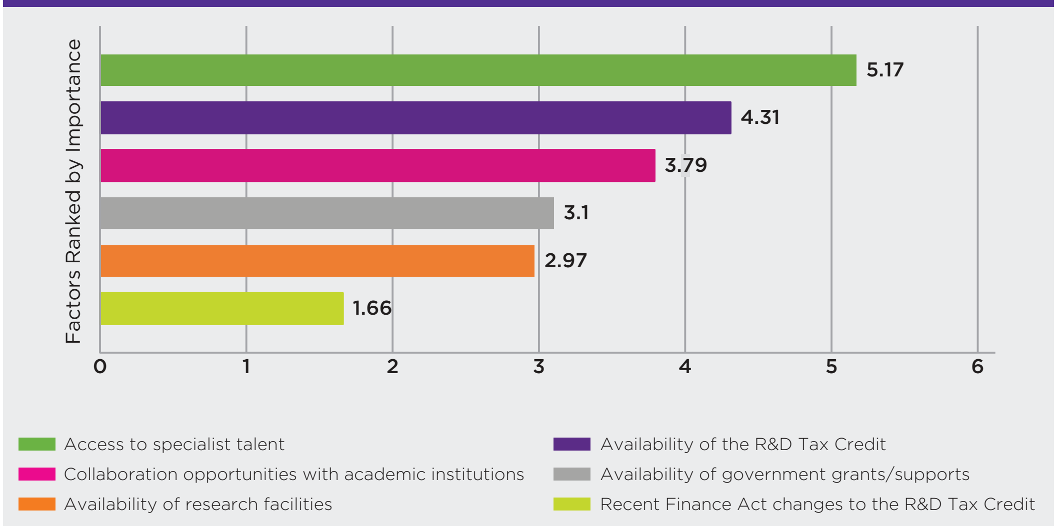
For R&D-active companies, please provide a general overview of your company (sector, headcount, size) and the role that the R&D tax credit has played in supporting your company to survive, thrive, or to grow.

We asked businesses carrying on R&D activities to identify their category of business and business sector. The majority of businesses that responded to our survey (51.7%) were foreign-owned multinational corporations (MNCs). The next largest cohort were SMEs (20.7% small Irish businesses and 6.9% medium sized Irish businesses). The remaining 20% of respondents comprised Irish PLCs (10.3%) and micro-sized Irish businesses (10.3%).

The sectors represented by the majority of businesses that responded to our survey included MedTech, wholesale & retail trade and pharmaceutical. Other sectors included manufacturing, forest products, pulp & paper and mining, oil & gas.

We asked these businesses to identify and rank in order of importance the key factors they consider when deciding on whether to base their R&D activities in Ireland. Access to specialist talent was ranked as the most important (i.e. 5.17 out of 6), with the availability of the R&D Tax Credit as the second most important factor (i.e. ranked 4.31 out of 6). Collaboration opportunities with academic institutions was ranked third (i.e. 3.79 out of 6).

Key factors companies consider when deciding to base R&D activity in Ireland

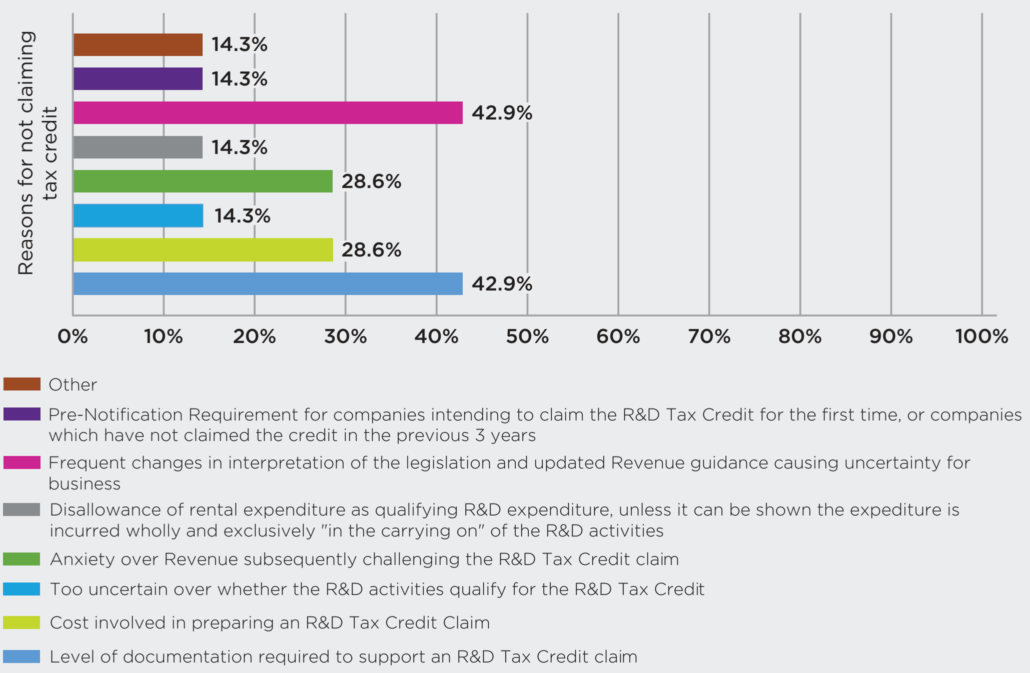


8 Irish Tax Institute R&D Survey, April 2025, based on 89 respondents – 36 were companies based in Ireland and 53 were tax advisers who advise companies on making R&D Tax Credit claims.
9 Department of Finance, Research & Development Tax Credit and Options to Support Innovation Public Consultation, April 2025.

About 24% of the respondent businesses had considered locating R&D activities in Ireland but decided against doing so. We asked whether businesses ever claimed the R&D Tax Credit on R&D expenditure and similarly, 24% of respondents had not claimed the R&D Tax Credit.

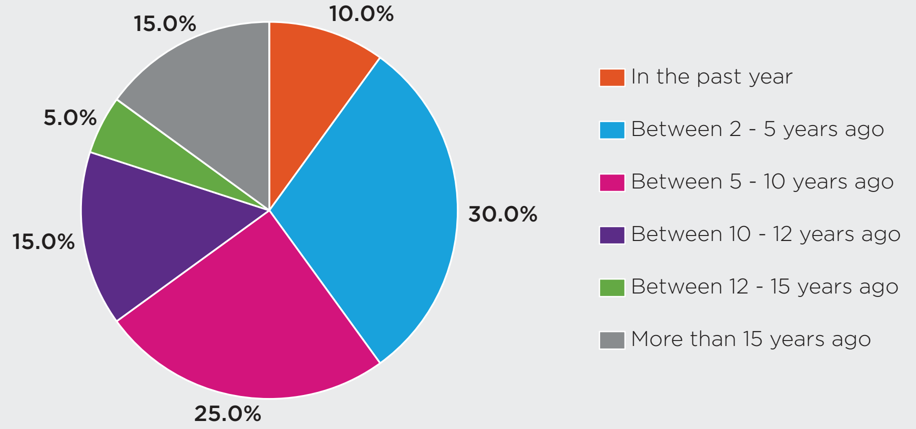
In evaluating the reasons why an R&D Tax Credit was not claimed on R&D expenditure, frequent changes in interpretation of the legislation and updated Revenue guidance causing uncertainty for business, and the level of documentation required to support a claim, were the top reasons selected by the businesses. Anxiety over Revenue subsequently challenging the claim and the costs involved in preparing a claim were selected as the third and fourth reasons for not claiming the R&D Tax Credit.

Reasons businesses did not claim the R&D Tax Credit on R&D expenditure



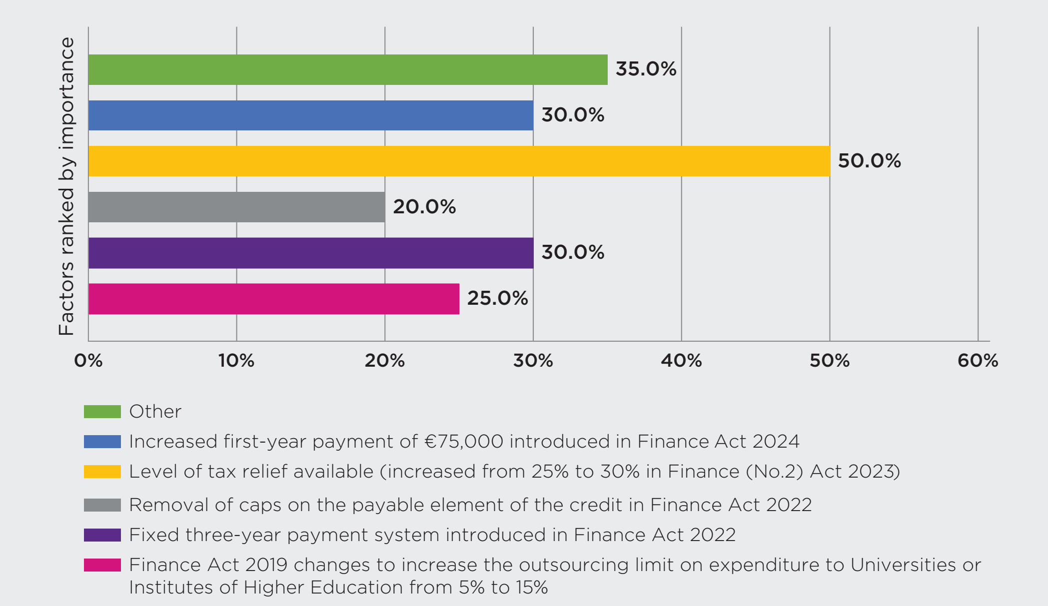
About 35% of the businesses that responded to the survey first claimed the R&D Tax Credit more than a decade ago, and for 15% of them it was over 15 years since their first claim. Over 40% of the businesses that responded made their first R&D Tax Credit claim in the past five years.

When businesses first claimed the R&D Tax Credit



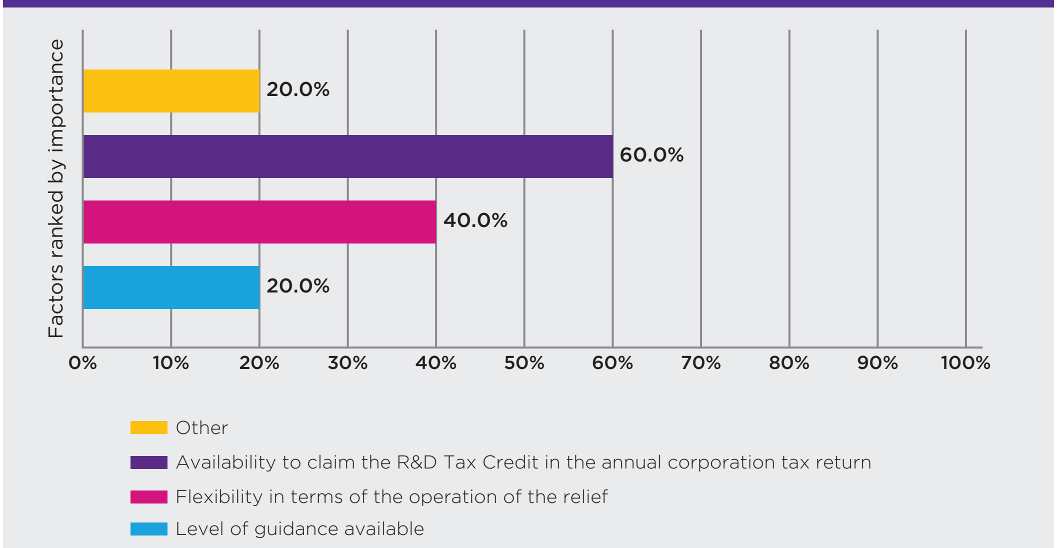
Of those businesses that responded, about 50% indicated that the level of tax relief available at 30% was the key factor which prompted them to claim the R&D Tax Credit. The increased first-year payment of €75,000 and fixed three-year payment system were also key factors which prompted the businesses to claim the R&D Tax Credit.

Key factors which encourage businesses to claim the R&D Tax Credit



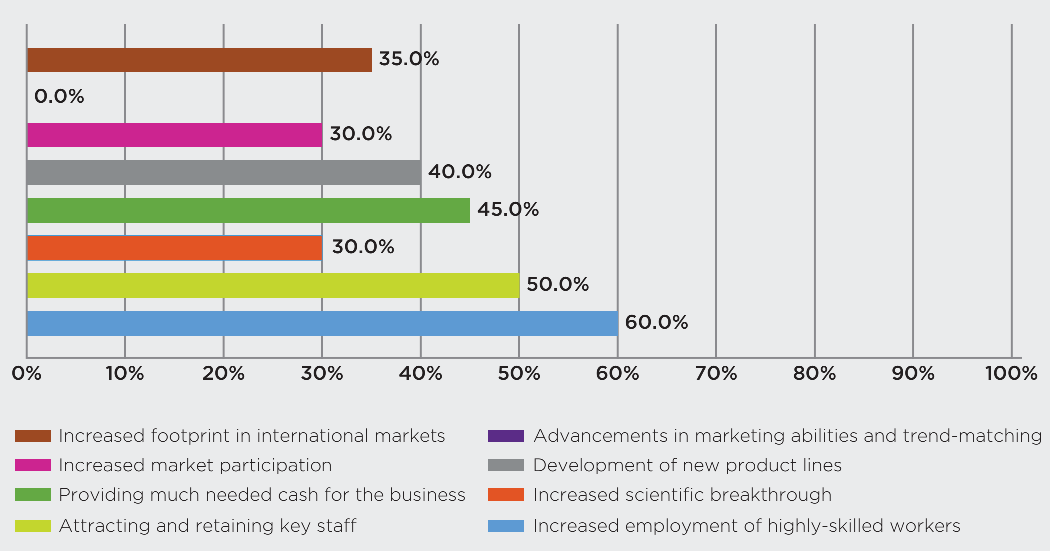
In assessing the design of the R&D Tax Credit, 60% of respondents indicated they valued the availability to claim the credit in the annual corporation tax return and 40% valued flexibility in the operation of the relief.

What businesses value about the design of the R&D Tax Credit



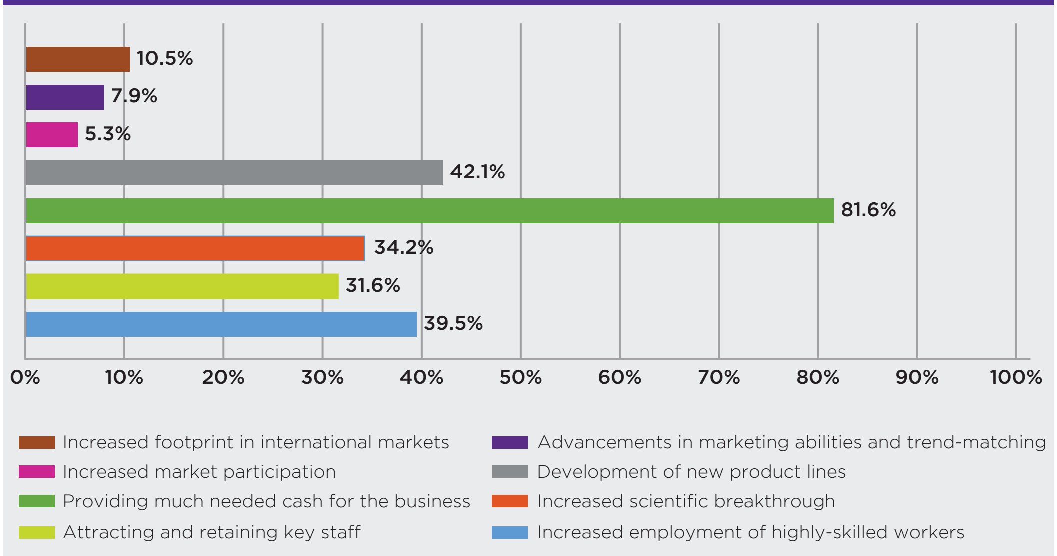
In analysing how the R&D Tax Credit has supported businesses carrying on R&D activities to survive, thrive, or grow, respondents to our survey indicated increased employment of highly skilled workers and attracting and retaining key staff as the most important factors which have supported the company. The R&D Tax Credit providing much needed cash for the business was also ranked very highly by respondents.

Businesses' opinion on how the R&D Tax Credit has supported them to survive, thrive, or grow



We also asked members advising businesses on R&D Tax Credit claims who completed the survey, to identify how the R&D Tax Credit has supported their clients to survive, thrive, or grow. The R&D Tax Credit providing much needed cash for the business was ranked highest by tax advisers. The development of new product lines and increased employment of highly skilled workers were also ranked highly by tax advisers.

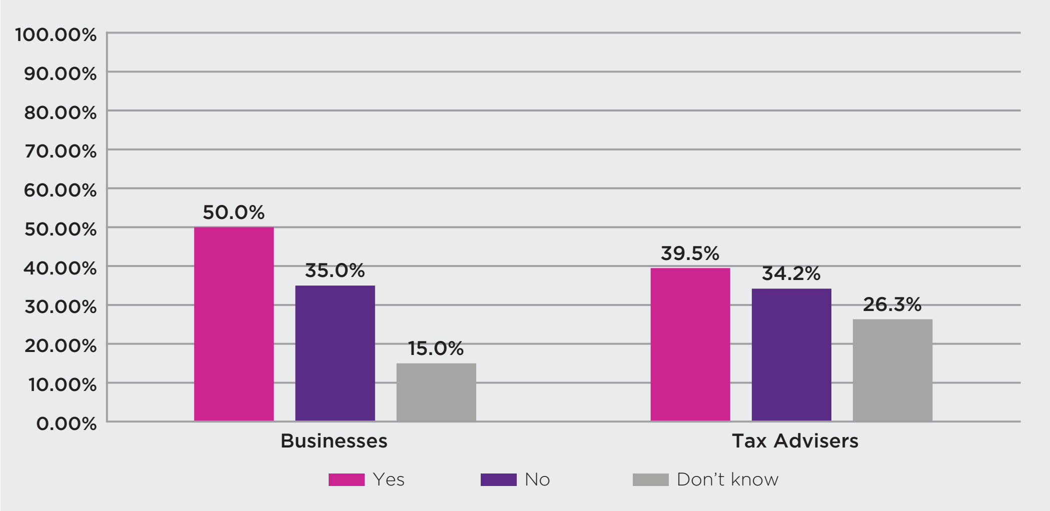
Tax Advisers' opinion on how the R&D Tax Credit has supported businesses to survive, thrive, or grow



Have the recent measures which were introduced in Finance Act 2022, Finance (No.2) Act 2023 and Finance Act 2024 encouraged additional spending on R&D in your organisation? Please provide some detail in your answer.

50% of the businesses who responded to our survey agreed that the recent Finance Act changes[10] had encouraged additional spending on R&D. 39.5% of tax advisers surveyed also agreed the recent legislative changes had encouraged additional spending by companies on R&D.

Whether recent Finance Act changes encouraged businesses to incur additional R&D spend



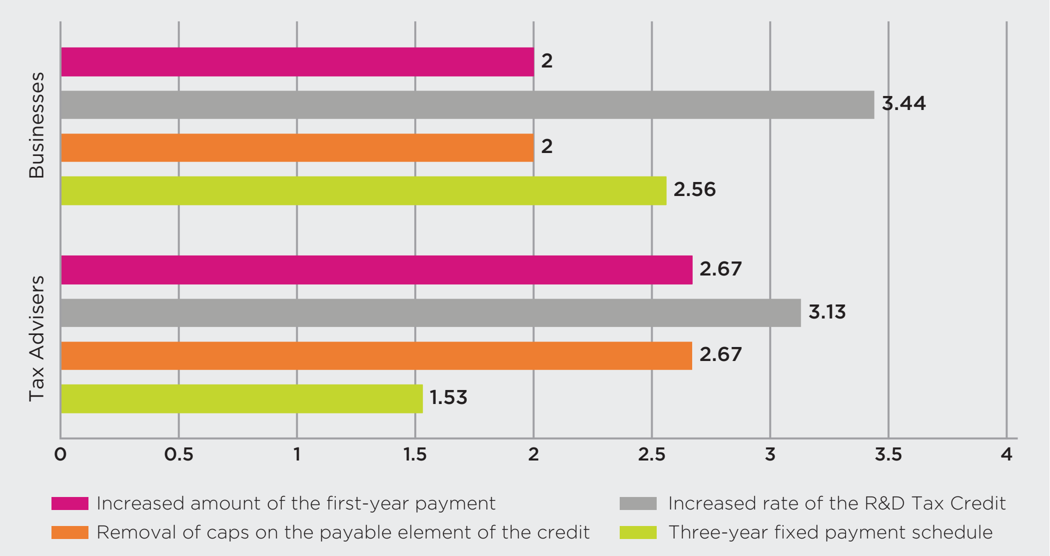
The increased rate of the R&D Tax Credit from 25% to 30% in Finance (No.2) Act 2023 was ranked by businesses carrying on R&D activities as the most beneficial change for the company (i.e. 3.44 out of 4). Members advising businesses on R&D Tax Credit claims also ranked the increased rate as the most beneficial change for companies (i.e. 3.13 out of 4).

Businesses carrying on R&D activities ranked the change to the three-year fixed payment schedule in Finance Act 2022 as the second most important factor (i.e. ranked 2.56 out of 4). The increased first-year payment and the removal of caps on the payable element of the credit were ranked equally third (i.e. 2 out of 4).

Members advising businesses on R&D Tax Credit claims ranked the increased first-year payment and removal of caps on the payable element of the credit (equally) as the second most important factors (i.e. 2.67 out of 4). The change to the three-year fixed payment schedule in Finance Act 2022 was ranked third (i.e. 1.53 out of 4).

10 Finance Act 2022 introduced a new three-year fixed payment schedule, removed existing caps on the payable element of the credit and allowed the first €25,000 of a claim on R&D expenditure payable in full. Finance (No.2) Act 2023 increased the R&D Tax Credit rate to 30% and doubled the first-year payment to €50,000. Finance Act 2024 increased the amount of the first-year payment to €75,000.

Analysis of recent legislative changes which were most beneficial to businesses



The importance of a Competitive R&D Tax Credit Rate

It is evident from both the businesses and tax advisers who completed our survey that increasing the R&D Tax Credit rate from 25% to 30% in Finance (No.2) Act 2023 was the most important and beneficial change which prompted businesses to undertake R&D and claim the R&D Tax Credit.

While the increase in the R&D Tax Credit rate from 25% to 30% from 1 January 2024 was very welcome in delivering a real monetary increase in the credit for SMEs, the 5% rate increase only maintained the overall net value of the credit (25%) for large companies subject to the new 15% minimum effective tax rate under Pillar Two. Therefore, we believe it is crucial that policymakers consider a further rate increase to preserve and attract more R&D investment by large multinationals in Ireland in the ever-evolving global economic environment.

It is essential that Ireland's R&D Tax Credit can continue to compete with the incentives for R&D investment offered by other EU Member States and competitor countries. For example, the R&D tax credit (SIFIDE) in Portugal has a base rate of 32.5% plus an incremental rate of 50% where qualifying expenses increase in comparison to the average of the expenses incurred in the two previous years up to €1.5 million.

Spain's R&D Tax Credit amounts to 25% of R&D related expenses plus an incremental rate of 42% (applied to the excess) where the expenses on R&D activities are higher than the average expenses incurred in the two preceding years. These incremental rates in Portugal and Spain reward businesses where the R&D activities and R&D spend increase year on year.

Although an increase in the R&D Tax Credit rate in Ireland would increase the cost to the Exchequer when measured in terms of tax foregone, it cannot be underestimated the significant benefit additional spend on R&D activities could provide to the Irish economy through high-skilled job creation, as illustrated by the responses to our survey.

Boosting innovation and retaining and enhancing Ireland's competitive edge can only happen if bold steps are taken. Therefore, increasing the rate of the credit must be considered as part of the overall review of the regime so that the Programme for Government[11] commitment to continue to increase the level of research and development being undertaken in Ireland and to ensure innovation is supported, from concept to commercialisation and scaling up, can be delivered.

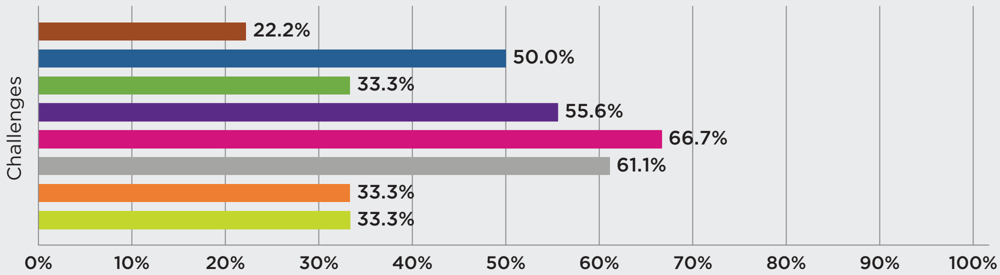
11 Programme for Government 2025: Securing Ireland's Future, January 2025.

What is the R&D outlook for the company over the short to medium term, both in terms of currently ongoing projects and potential future projects, and what are the key challenges to continuing R&D activities in Ireland?

In our survey, we asked businesses carrying on R&D activities and members advising such businesses to identify the key challenges to continuing R&D activities in Ireland. The cost involved in preparing an R&D Tax Credit claim, the level of documentation required to support it and anxiety over Revenue scrutiny of a claim were the key challenges identified by both categories of survey respondents.

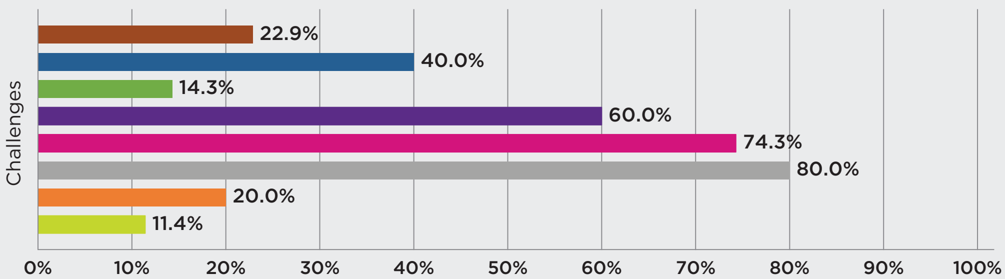
Frequent changes in interpretation of the legislation and updated Revenue guidance causing uncertainty for businesses was also considered a key challenge by both businesses and tax advisers.

Businesses' opinion on key challenges to continue R&D activities in Ireland



- Other
- Frequent changes in interpretation of the legislation and updated Revenue guidance causing uncertainty for businesses
- Disallowance of rental expenditure as qualifying R&D expenditure, unless it can be shown the expenditure is incurred wholly and exclusively "in the carrying on" of the R&D Activities
- Cost involved in preparing an R&D Tax Credit claim
- Level of documentation required to support an R&D Tax Credit claim
- Anxiety over Revenue scrutiny of R&D Tax Credit claims
- Preferred competitor offerings in other jurisdictions
- Current rate of the R&D Tax Credit

Tax Advisers' opinion on key challenges for businesses to continue R&D activities in Ireland



- Other
- Frequent changes in interpretation of the legislation and updated Revenue guidance causing uncertainty for businesses
- Disallowance of rental expenditure as qualifying R&D expenditure, unless it can be shown the expenditure is incurred wholly and exclusively "in the carrying on" of the R&D Activities
- Cost involved in preparing an R&D Tax Credit claim
- Level of documentation required to support an R&D Tax Credit claim
- Anxiety over Revenue scrutiny of R&D Tax Credit claims
- Preferred competitor offerings in other jurisdictions
- Current rate of the R&D Tax Credit

We have outlined below some specific comments we received in this regard.

"The amount of work required to ensure that the claim goes through has become cost prohibitive as it often outweighs the credit itself for small and medium sized clients." – Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

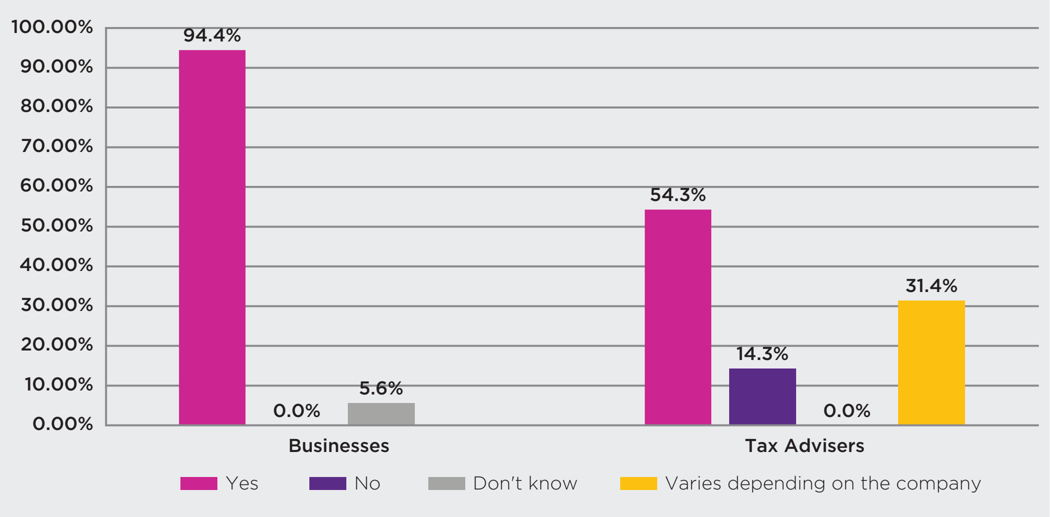
"Level of detail that Revenue are asking is not practical or commercial." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Inability to bring in related 3rd party costs as Ireland is the IP holder and obtains contract R&D services from related companies." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

Is R&D a continuing activity every year, or an intermittent activity?

94.4% of businesses who completed the survey indicated that R&D is a continuing activity every year. 54.3% of members advising businesses on R&D Tax Credit claims indicated that R&D is a continuing activity every year for the companies they advise, while 31.4% noted it is dependent on the company.

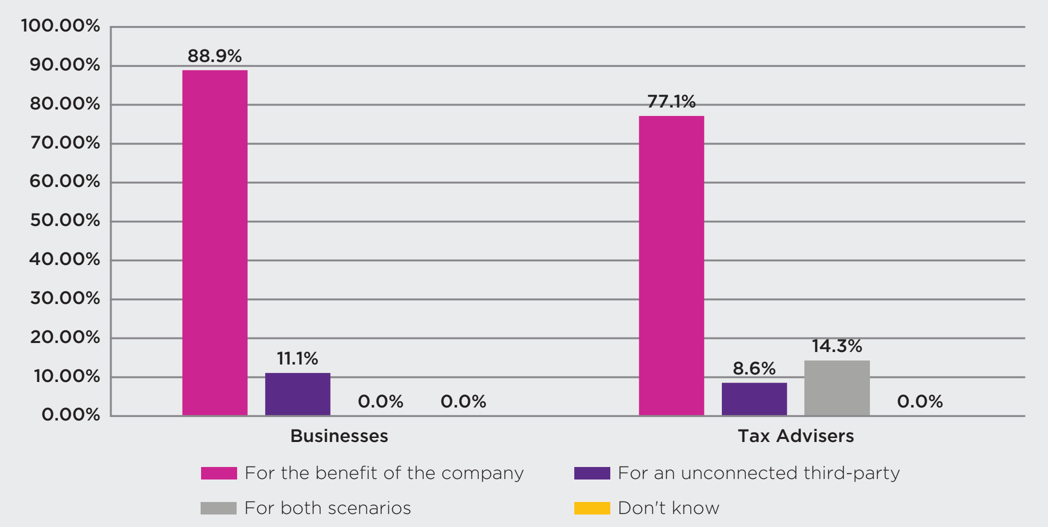
Whether R&D is continuing every year, or intermittent



Are you undertaking R&D activity for the benefit of your company or for an unconnected third-party?

88.9% of the business respondents indicated that the R&D activity is undertaken for the benefit of the company while 11.1% indicated the R&D activity is undertaken for an unconnected third party. 77.1% of members advising businesses on R&D Tax Credit claims indicated that their clients are undertaking the R&D activity for the benefit of their own company, while 8.6% of their clients are undertaking the R&D activity for an unconnected third-party.

Whether R&D activity is undertaken for the benefit of the company or an unconnected third party



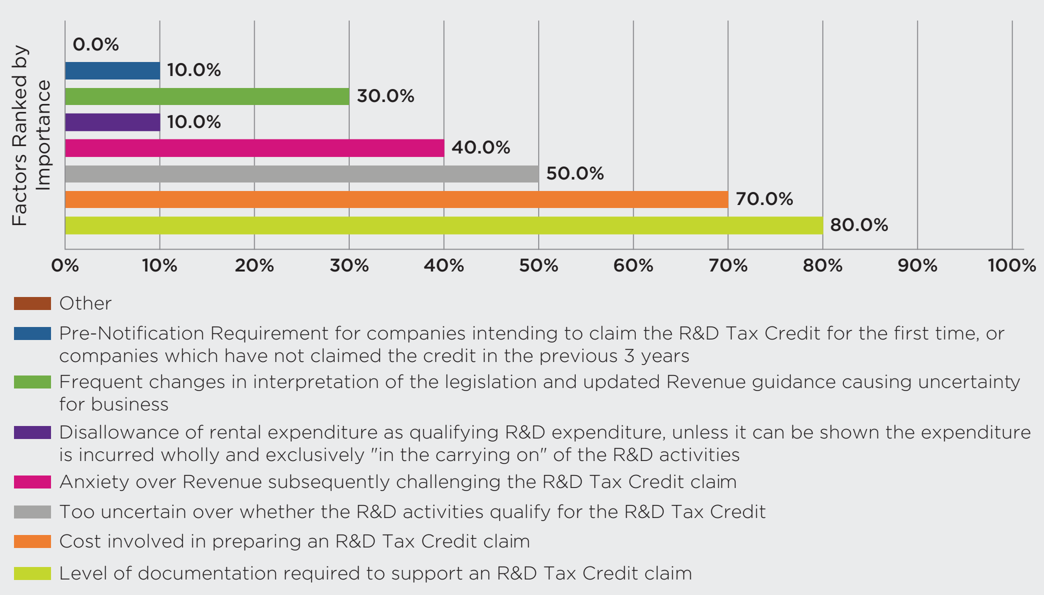
Are there instances where a claim for the credit has not been submitted in respect of potentially qualifying activities, and if so, what considerations informed this decision?

55.6% of businesses carrying on R&D activities confirmed there have been instances where an R&D Tax Credit claim was not submitted for potentially qualifying activities. Similar to the business respondents, 54.3% of members advising businesses on R&D Tax Credit claims confirmed there have been cases where an R&D Tax Credit claim was not submitted by their clients for potentially qualifying activities.

In our survey, we asked businesses carrying on R&D activities to identify and rank in order of importance the main considerations that informed their decision not to submit an R&D Tax Credit claim. The survey respondents ranked the level of documentation required to support an R&D Tax Credit claim and the cost involved in preparing a claim almost equally, indicating there is no one factor which informs their decision rather several factors are considered.

Businesses also ranked uncertainty over whether the R&D activities qualify for the R&D Tax Credit and anxiety over Revenue subsequently challenging the claim as other considerations which informed their decision-making process.

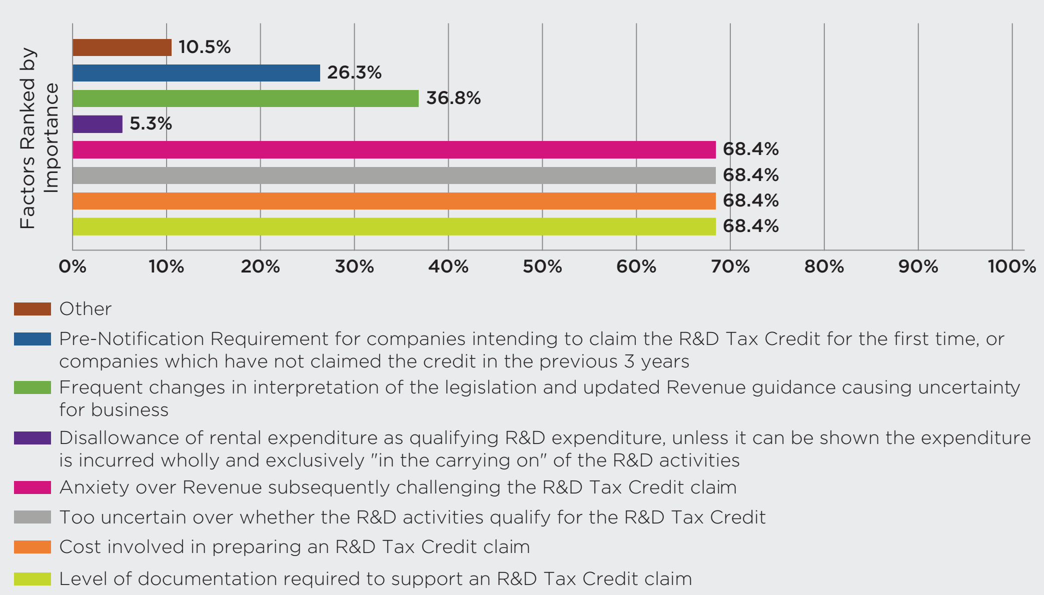
Businesses' opinion on why R&D Tax Credit claims were not submitted



Interestingly, members advising businesses on R&D Tax Credit claims selected (equally) the same factors considered by the businesses themselves which prevented them from claiming the R&D Tax Credit. These were:

- the level of documentation required to support an R&D Tax Credit claim,
- the cost involved in preparing the claim,
- uncertainty over whether the R&D activities qualify for the credit, and
- anxiety over Revenue subsequently challenging the claim.

Tax Advisers' opinion on why R&D Tax Credit claims were not submitted



Simplify the Claims Process

An R&D Tax Credit claim must be made within 12 months of the year-end. Currently, there are over 100 separate fields relating to making an R&D Tax Credit claim on the Form CT1 (corporation tax return).

While completing the relevant R&D fields of the Form CT1 used to be the easiest part of the process, the number and complexity of the R&D panels that now exist have resulted in Revenue identifying several common errors and omissions by taxpayers in returns in recent years.

Omissions in the return can mean the claim is not made within the 12-month period and Revenue has noted the importance of making a valid claim within the 12-month time limit.

The frequency and commonality of the errors made by taxpayers highlights the need to simplify the Form CT1 to make it easier for businesses to comply with their tax obligations and have certainty over their R&D Tax Credit claims.

We welcome the commitment by Revenue at TALC to review the Form CT1 for 2026 and to discuss with stakeholders this year on how best to restructure and simplify the form. It would be important that the R&D panels would be reviewed as part of this process.

We also urge Revenue to publish guidance on common errors identified on R&D Tax Credit claims and to create information videos on how to complete the relevant R&D panels correctly for the benefit of all claimants.

Improve Supports for SMEs Undertaking R&D

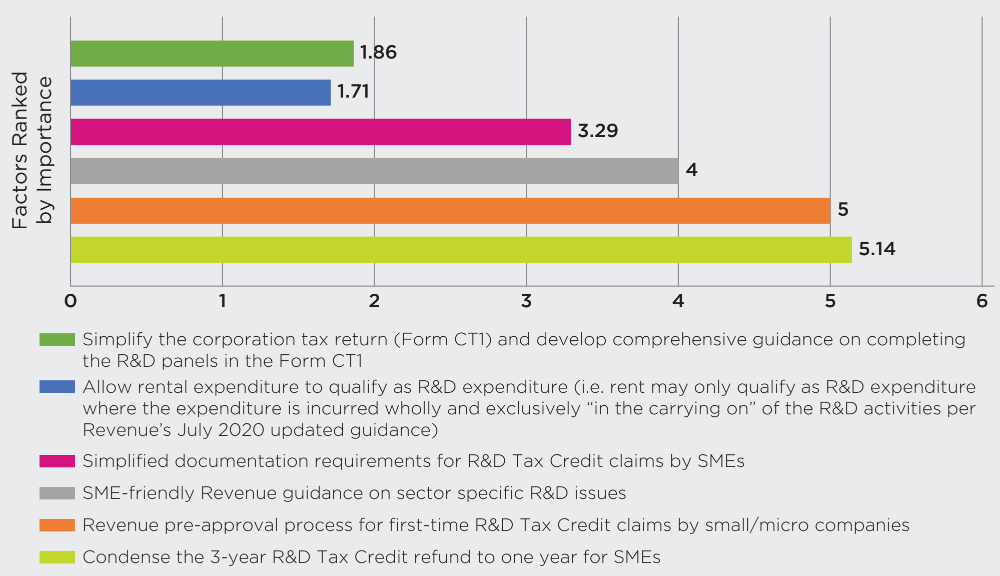
The R&D Tax Credit is extremely valuable but there can be undue cost and uncertainty involved in the claims process which can significantly reduce the attractiveness of the credit for SMEs.

In our survey, we asked SMEs carrying on R&D activities to identify and rank in order of importance the measures they consider would improve the supports for SMEs undertaking R&D and increase the level of uptake of the R&D Tax Credit by SMEs.

Condensing the 3-year R&D Tax Credit refund to one year for SMEs was ranked as the most important (i.e. 5.14 out of 6 each). Respondents ranked a Revenue pre-approval process for first-time R&D Tax Credit claims by small/micro companies as the second most important factor (i.e. ranked 5 out of 6).

SME-friendly Revenue guidance on sector specific R&D issues (4 out of 6) and simplified documentation requirements for R&D Tax Credit claims by SMEs (3.29 out of 6) were also ranked highly by SMEs.

Measures identified by SMEs to improve supports for SMEs carrying out R&D



We strongly urge **condensing the 3-year refund to one year**, particularly for SMEs, as it is evident from the survey findings that such a change would be extremely beneficial to these cash constrained businesses, with only a timing cost for the Exchequer.

Consideration should also be given to a **pre-approval process for first time R&D Tax Credit claims by small/micro companies**. In the UK, SMEs making their first R&D claim can apply for an "Advance Assurance Agreement" before claiming R&D tax relief on their company tax return. HMRC will check the details of a company's application and if HMRC agree R&D tax relief applies, they will guarantee the claim will be accepted provided it is in line with what was discussed and agreed in the company's application. The Advance Assurance Agreement applies to the first three accounting periods.

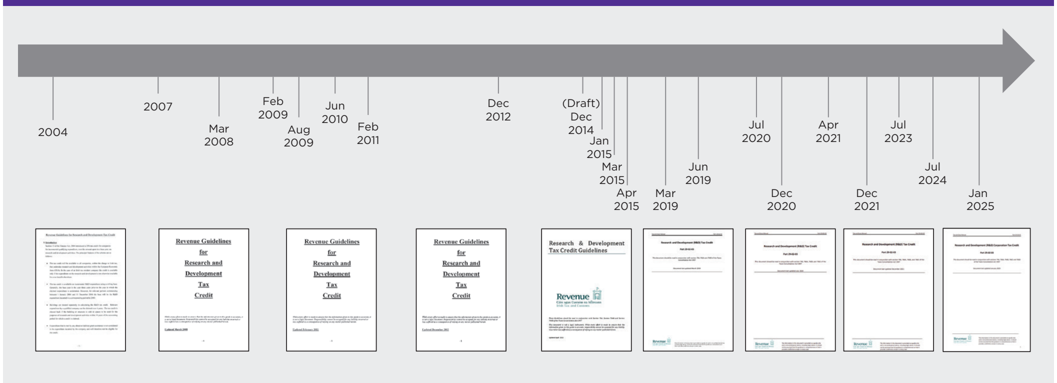
In addition, where a company is conducting numerous R&D projects which it is claiming R&D tax relief on, HMRC will only require details of up to a maximum of 10 projects for an accounting period.

SME-friendly guidance, with step-by-step instructions on the claims process and practical studies, together with tips on how to avoid common errors in claims is needed, similar to the approach adopted by HMRC in the UK.

We also recommend that **Revenue guidance relating to overhead costs should be simplified** as it has become very complex to navigate, particularly for SMEs. This could be achieved, in the first instance, by providing for a set percentage of labour overheads in guidance to help simplify R&D expense claims and provide more certainty to taxpayers.

Revenue guidance on the R&D Tax Credit runs to 84 pages.[12] Revenue's R&D Tax Credit Guidelines have been updated and amended 21 times since the credit was first introduced.

Revenue R&D Tax Credit Guidelines



Many of the updates to the guidance have provided more clarity on various aspects of the credit. However, the combination of the volume of iterations and the change in emphasis to the extent to which a company may rely on the guidance, has added to the uncertainty regarding R&D Tax Credit claims, in particular where the legislation underpinning the guidance has not been amended but Revenue's interpretation of it has altered. Ensuring there is **consultation with stakeholders in advance of updates to Revenue guidance** helps to provide more tax certainty for claimants, in particular for SMEs.

12 Part 29-02-03 - Research & Development (R&D) Tax Credit Guidelines (revenue.ie)

Revenue Compliance Interventions on R&D Tax Credit Claims

By their nature, Revenue interventions to verify R&D Tax Credit claims differ from other types of tax compliance interventions. In examining a claim, Revenue will consider whether the activity underpinning the claim has met the qualifying criteria for R&D (the science test) in addition to checking the accuracy of the financial elements of the claim and the claim calculation (the accounting test).

Whether an activity satisfies the "science test" can be subjective and views may diverge between the company's technical expert, Revenue and an independent technical expert who may be appointed by Revenue to examine the claim during a Revenue Audit. Following extensive engagement between these parties, a company may ultimately agree to amend its R&D Tax Credit claim in some cases. This amendment is generally made by way of a "technical adjustment" to the claim.

A tax-geared penalty is not applied if the conditions for the treatment of an amendment as a "technical adjustment" are met. The introduction of a legislative basis for "technical adjustment" treatment in Finance Act 2021 was a welcome development. It is an important acknowledgement that penalties are not appropriate where a taxpayer has taken due care. Recognition of the appropriateness of this treatment for R&D Tax Credit claims, given the subjective nature of R&D, continues to be important in practice.

Revenue revised its approach to compliance interventions from 1 May 2022 by introducing a new three-level Compliance Intervention Framework (CIF) and revised Code of Practice.[13] Revenue issues "Level 1" interventions, designated for generic queries, where Revenue has not conducted any examination of the case. While the objective of a Level 1 intervention is to support compliance and encourage self-reviews, feedback from members suggests the requests are still quite detailed and often when a response is submitted to Revenue, a further list of queries issues.

In addition, the CIF comprises a "Level 2" intervention which can be either a "Risk Review" or an "Audit". Risk Reviews are intended to be more focused than an Audit but require the same level of preparation by the taxpayer, as upon receipt of a Risk Review notification, the taxpayer must consider whether a Prompted Qualifying Disclosure for the tax head and period notified is required and respond to Revenue within 28 days. Additional time can be sought to prepare this disclosure, contingent on the taxpayer notifying Revenue of their intention to make a disclosure within 21 days of receipt of the compliance intervention letter.

For example, in the context of a Risk Review notification in relation to an R&D Tax Credit claim for a specific period, not only must the taxpayer and their adviser review the R&D Tax Credit claim and supporting documentation, they must also review the corporation tax return for the same period. If the opportunity to make a qualifying disclosure is missed (or the disclosure made is incomplete), the taxpayer's details could be published on the List of Tax Defaulters if a settlement arises and the tax element exceeds €50,000.

It is clear from the responses to our survey that there is anxiety amongst companies over the potential for Revenue to subsequently challenge an R&D Tax Credit claim. This concern remains high among taxpayers and can act as a barrier to companies availing of the credit. While verification of claims by taxpayers are an intrinsic part of a self-assessment system, it is important that Revenue Compliance Interventions are proportionate and conducted in a timely and efficient manner, in the interest of all parties.

13 Code of Practice for Revenue Compliance Interventions, Revenue Commissioners, May 2022.

Innocent errors in returns are inevitable. Supports to assist taxpayers to avoid common errors through lists of common errors identified, simplifying claims and providing tailored information resources are important. The learnings from compliance interventions should be used to support businesses to minimise the risk of error.

Allow IDA and Enterprise Ireland to Verify the Science Test

Revenue appoints and agrees the terms of engagement with external R&D technical experts who are tasked with opining on the science element of R&D Tax Credit claims. We understand that Revenue informs such technical experts of the R&D legislation and current Revenue guidance in advance of their review.

It is vital that the R&D technical experts tasked with opining on the science test of R&D Tax Credit claims have the experience of the application of science in a business environment. Feedback from our members indicates that the technical experts used by Revenue to opine on the science test tend to be more from academic backgrounds, which can often result in knowledge gaps, as the technical expert is applying science theory to commercial practices. These technical experts tend to be more knowledgeable of basic research rather than experimental development which is the category of R&D most often carried out in Ireland.

We understand in other jurisdictions, the relevant tax authorities do not have the responsibility for opining on the science element of R&D claims. Instead, separate public bodies have been established to verify the science element of eligible R&D expenditure. Ireland already has two State agencies, the IDA and Enterprise Ireland, which have in-house technical expertise that verify R&D activities for the purposes of providing funding for qualifying R&D.

If Government wants to deliver on its commitment to build Ireland's research capacity among its enterprise base and encourage a greater take up of the R&D Tax Credit across all companies and sectors, consideration should be given to using the existing technical expertise within the two enterprise State agencies to verify the science test in R&D Tax Credit claims.

This would remove the need for Revenue to engage independent experts that may not have the commercial and sectoral R&D expertise required to accurately opine on the science test of an R&D Tax Credit claim.

What proportion of R&D activity and expenditure undertaken to date would have been incurred by the company/group in Ireland in the absence of the R&D tax credit?

Up to half of the businesses that responded to our survey indicated ranges of between 10% and more than 75% of their R&D activities currently take place in Ireland, while 45% noted less than 10% of their R&D activities take place in this country.

There was a drop off in the amount of R&D activity that would take place across all businesses in the absence of the R&D Tax Credit. For example, the percentage of those who confirmed no R&D would take place in Ireland rose from 5% (with the credit) to 11.1% without it.

4.2 Subcontracted R&D Activities to a University/Institute of Higher Education

Under existing legislation, outsourcing R&D work to universities and institutes of higher education is restricted to 15% of the in-house R&D expenditure or €100,000 (whichever is greater). As stated in the consultation document, collaboration between universities or institutes of higher education and companies actively undertaking R&D can play an important role in developing a knowledge-based ecosystem. It can boost quality education and employment prospects for students and graduates and promote the growth of the Irish economy.

During the period in which R&D activities were undertaken by the company, did the proportion of the company's overall headcount with STEM qualifications increase? If so, what specific areas of STEM were of relevance?

52% of businesses carrying on R&D activities confirmed the proportion of the company's overall headcount with STEM[14] qualifications increased when the company was undertaking R&D.

44.1% of members advising businesses on R&D Tax Credit claims confirmed the proportion of overall headcount with STEM qualifications increased in their client companies when undertaking R&D.

Specific areas of STEM that were noted of relevance included electrical engineering, computer science data processing, software engineering, software development, AI/machine learning, data analysis, environmental sciences, health sciences and development of medical device products.

Where elements of R&D activity were outsourced to a university or institute of higher education, please provide information on relevant considerations. For example, was outsourcing required to access particular expertise or equipment? Was it a standalone project or did it result in longer-term collaboration?

37.5% of the businesses that responded indicated outsourcing to a university or institute of higher education was required to access particular expertise or equipment, while 33.3% did not know.

26.5% of tax advisers surveyed indicated that outsourcing to a university or institute of higher education was required by their clients to access particular expertise or equipment, while 41.2% did not know.

We have outlined below some specific comments we received which demonstrate that particular expertise and equipment was essential to ensure the companies could carry out their R&D activities.

14 Science, Technology, Engineering and Mathematics

"The university provided specific laboratory expertise which we did not have in-house." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Expertise of health science specialists." - Comment by an Irish PLC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Generally speaking, outsourcing to universities is used differently by different size entities. Large businesses to generate a pipeline for talent and SMEs to access expertise." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

Responses from both businesses and tax advisers show that in some instances the outsourcing was for a standalone project (i.e. 17.4% and 35.3% respectively) but the majority was not (i.e. 39.1% of business respondents and 32.4% of tax advisers).

A large portion of businesses and tax advisers who completed the survey did not know if the outsourced activity resulted in longer-term collaboration. However, 26.1% of business respondents and 11.8% of tax adviser respondents indicated that it did.

Are there instances where the current cap has specifically limited outsourcing plans to universities or institutes of higher education?

22.7% of the businesses who responded and 38.2% of the tax advisers who completed the survey noted that the current cap had specifically limited outsourcing plans to universities or institutes of higher education.

Feedback from businesses suggest that companies in their early stages are often unable to take on an employee full-time and therefore, outsourcing some of the R&D activity at that time is more viable, even with the loss of the benefit of the R&D Tax Credit.

Are there any factors other than the cap which would be relevant in encouraging additional collaboration on R&D between companies and universities or institutes of higher education?

In our survey, we asked for views on what other factors could encourage additional collaboration on R&D between companies and universities or institutes of higher education. The following are some of the comments we received.

"Hosting of fellows for a year in industry would be of benefit, but IP has to remain with the industry partner not the university/institute of higher education. It would be more attractive if the cap was increased." - Comment by a micro-Irish business in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"It would be helpful to know the expertise based of each university/institute. Ideally it could be clear that University A is a centre of excellence for drug substance manufacture and University B is a centre of excellence of drug product manufacture. Competitiveness between centres of excellence/universities can be positive, however, given the size of Ireland, collaboration and strategic alignment to industry needs and individual universities/clusters could accelerate our gap to how this works in business and education for say the US, South Korea, etc." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Internship programmes/grants." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"The universities need to accept that the companies who pay them own the IP from the collaboration projects. The majority of companies would collaborate more if the contracts were restructured and publishing rights removed." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Often it is the availability of researchers/staff in the universities that is the issue. Researchers are usually on temporary contracts, so the project may have to secure additional funding to ensure the availability of researchers for the duration of the project. Issues also arise with equipment and capital costs associated with access to equipment. If you look at other countries (e.g. France) they provide an additional tax credit for research with universities at a higher rate, up to 40% and capped at 6 million euros per year." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

4.3 Spill-over Effects of Collaboration with Universities and Institutes of Higher Education

The Programme for Government commits to improving the Irish education system to equip students with the skills they require to succeed in a rapidly changing world. As noted in the consultation document, the presence of an R&D-active businesses in a local economy can help to foster the interest of students in STEM subjects at primary and secondary levels.

Does your company have engagement with any university or institute of higher education other than for the outsourcing of elements of R&D activity, for example offering work placement opportunities to students; input into curriculum development, sponsorship of programmes at PhD level or at another level, etc?

Over half of the businesses that responded to our survey noted that they engage with universities and institutes of higher education by supporting students at third level through placement, internship, sponsorship and in developing curriculum management systems in association with universities.

""We offer work placements and internships to students of various higher-level institutions." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Have worked with several universities in defining course content. Served on advisory boards for several universities. Taken on interns sponsored PhDs." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"We offer internships and where relevant, we co-fund postgraduates." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"We develop a curriculum management system in association with our university customers" - Comment by a Small Irish business in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

Does your company have any engagement on STEM initiatives with schools at primary or secondary level, or with other civil or social groups?

Almost half of the businesses surveyed noted that they have engagement on STEM initiatives with schools at primary and secondary school level and in the wider community. Examples cited included partnerships with Junior Achievement Ireland (JAI), Ocean Literacy Group, BT Young Scientist Competition and running STEM workshops on site for local primary schools.

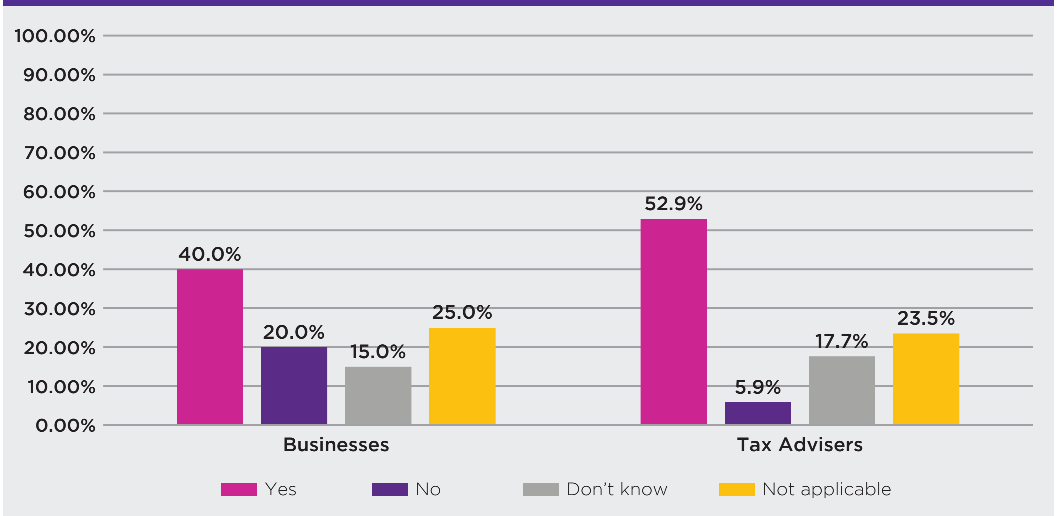
4.4 Subcontracted R&D activities to Unconnected Third Parties

Under the existing rules, outsourcing R&D work to third parties is restricted to 15% of the in-house R&D expenditure or €100,000 (whichever is greater). Any outsourcing to a related party (i.e. group company) can prohibit the claim entirely.

Where elements of R&D activities were outsourced to unconnected third parties, please provide detail on the impetus for this action – for example was outsourcing required to access particular expertise, equipment or services?

40% of business survey respondents and 52.9% of the tax advisers surveyed noted that outsourcing by companies to unconnected third parties was necessary to access particular expertise, equipment or services.

Whether outsourcing to unconnected third parties was necessary to access particular expertise, equipment or services



Reasons cited for outsourcing to third parties included accessing life sciences expertise and equipment not available in-house and to scale up quickly.

"Capacity of personnel, specialised equipment and expertise has been a driver although mainly due to timeline to deliver. 80-90% is generally kept internally for new product introduction and later in-sourced." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

Tax advisers who responded highlighted that outsourcing to third parties was necessary, in particular, for smaller claimants which rely on external support because specific skills were not available in-house.

> *"We see it predominantly with software developers or code writers where the business owners don't have the specific expertise internally."* - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

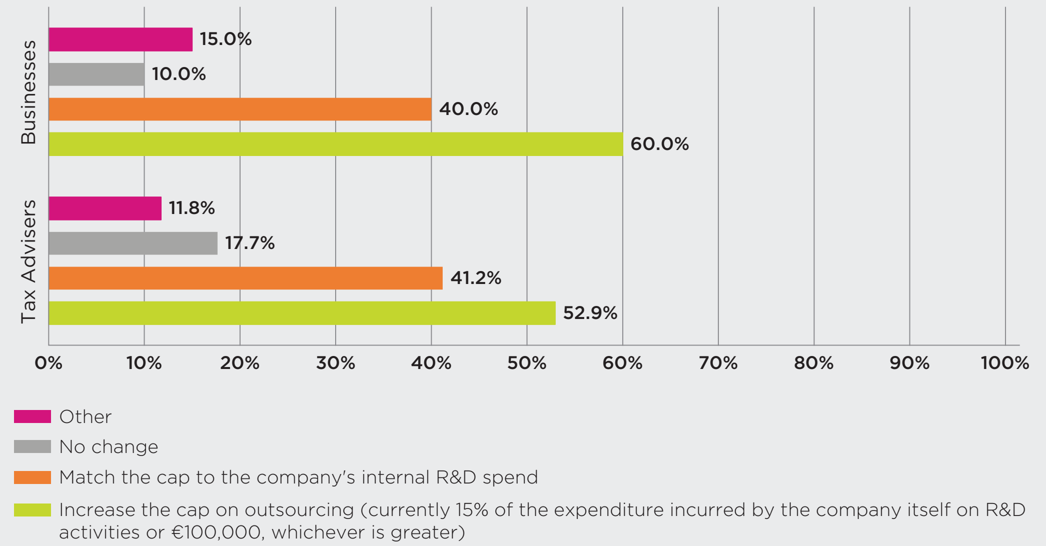
> *"Smaller claimants rely on external supports"* - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

Having regard to the credit's policy objectives of supporting high value-add employment and economic activity, are there amendments to the outsourcing provision that you believe would be beneficial and cost-efficient for the Exchequer?

The majority of businesses (60%) and tax advisers (52.9%) who completed our survey selected an increase to the cap on outsourcing as the change which would be most beneficial.

A similar number of businesses (40%) and tax advisers (41.2%) who completed the survey agreed that matching the cap to the company's internal R&D spend would be beneficial and cost-efficient for the Exchequer.

What changes to the outsourcing rules would be beneficial and cost-efficient for the Exchequer



Business respondents specifically highlighted the need to remove agency staff from the outsourcing cap for third parties.

Are there instances where the existing cap has limited plans to outsource activities, resulting in an overall reduction in R&D activities?

20% of businesses and 23.5% of tax advisers surveyed noted that the existing cap has limited plans by companies to outsource activities resulting in an overall reduction in R&D activities.

Feedback received from tax advisers suggests in general for large R&D claims, the caps are breached where those companies need to enhance headcount for specific projects. Other respondents noted that once the cap is near being breached, the level of expenditure slows and therefore, acts as a disincentive to increased R&D activity.

"Yes and no. Often when clients come to us and we see a potential R&D claim, they have already taken on the sub-contract work and are limited because there isn't enough internal spend. Business owners whose companies are in their early stages who are undertaking R&D activities often sacrifice taking a salary themselves so therefore internal R&D spend is not at the required level." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"15% rate is too low. The rate should be increased or increased for subcontracted work with Irish SMEs on R&D projects, which could benefit both the claimants and subcontracted parties in the long-term." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Clinical research is often restricted by the caps - this should be removed. Companies outsourcing clinical research to hospitals etc should be able to claim the full costs." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

Increase Limits on Outsourcing to Universities and Unconnected Third Parties

An R&D environment that supports collaboration with the university sector is regarded as the best practice model internationally. As noted above, businesses undertaking R&D will often find some elements or stages of that work which cannot be completed in-house and must be outsourced.

Outsourcing to third parties is particularly common in certain industries such as the food, pharmaceutical and biotech sectors and can be of particular importance to the SME sector, which often do not have the in-house R&D capability to carry out all of the necessary R&D activity.

While outsourcing can frequently result in quicker and more cost-effective completion of innovation projects, the feedback we have received suggests companies find the restrictions imposed on it very prohibitive. It can be particularly problematic for companies carrying out clinical trials. In contrast, there are no outsourcing restrictions under the OECD Model Nexus Rules for the Knowledge Development Box (KDB).

We recognise that removing the existing limitations on outsourcing in their entirety could pose the risk of an Irish company setting up and outsourcing all R&D investment to an international location. However, Ireland's limits are far more restrictive compared to other competitor countries, like the UK.

In the UK, a new merged R&D scheme[15] came into effect for accounting periods beginning on or after 1 April 2024. Under the new merged scheme, companies contracting out R&D activities are, subject to conditions, able to include the costs of these activities regardless to whom they are contracted. The expenditure is limited to 65% of the amount incurred where the third party is not connected with the company.

Under the new merged scheme, expenditure on externally provided workers and subcontracting arrangements are restricted to UK based activities. There are limited exceptions for qualifying overseas expenditure where geographical, environmental or social conditions do not exist in the UK, but exist elsewhere, and where it would be wholly unreasonable for a company to replicate these conditions in the UK.

In our view, the amount of outsourcing permitted to universities and unconnected third parties should be increased to encourage more collaboration and ensure that Ireland's R&D Tax Credit can remain competitive. For example, the restriction could be removed completely for R&D outsourced to universities/institutes of higher education to encourage greater STEM skill-sets, while qualifying R&D expenditure outsourced to third parties could be capped by reference to the company's qualifying internal R&D spend.

Remove Agency Staff from the Outsourcing Restrictions

The use of agency staff is considered to be outsourcing for the purpose of computing the amount of qualifying R&D activity and related expenditure and is subject to the limitations on outsourcing outlined above. This rule relates to any individual not remunerated directly by the company for their services.

Revenue allow costs incurred, which relate to individual consultants who are hired on a part time or short-term basis to undertake sub-contracted activity, to be treated as part of the direct employee costs of the company and not as agency staff, provided that the following conditions are met:

- The individual works under the company's control and direction.
- The individual works on the company's premises.
- The individual must be able to contribute specialist knowledge, which cannot be supplied by the in-house research team, to a specific R&D project being undertaken by this in-house team.
- The engagement period does not exceed six months.

This is a welcome concession in Revenue guidance but feedback we have received from members and businesses carrying on R&D indicates that the conditions to satisfy the concession for agency staff often do not reflect the commercial reality of such projects, in particular the requirements for the individual to work on the company's premises and for the engagement period not to exceed six months.

15 HM Revenue & Customs, Research and Development tax relief: the merged scheme and enhanced intensive support.

Feedback also suggests that many agency staff, such as software developers, prefer to undertake freelance contract work from their own desks because it suits their lifestyle, the type of work they carry out and the type of projects they are engaged in.

We believe that the concession for agency/temporary staff should be broadened to reflect more the commercial reality surrounding the location and duration of such type of contract work and be put on a legislative footing.

Permit Targeted Outsourcing to Related Parties

Outsourcing to a related party, such as another company in the group, is not allowed for the purposes of computing the amount of qualifying R&D activity. In contrast, the UK's new merged scheme contains specific rules which apply where R&D activities are subcontracted between connected parties. A company can claim the R&D tax relief in the UK on the lower of the cost incurred by the company itself, or, the costs incurred by the connected party that would have been qualifying if the connected party was able to make an R&D claim in respect of the activities.

While in France, R&D expenses can be subcontracted to public or private entities. Subcontracted expenses are eligible up to €2 million (€10 million if the principal and the subcontractor are not dependent) and three times the amount of other R&D expenses incurred by the company.

It was highlighted by both businesses carrying on R&D and tax advisers helping such companies make R&D Tax Credit claims that related party spend should be permitted in circumstances where Ireland is the owner of internally generated IP from R&D activities and it has played an active role in managing and developing that IP.

It is critical that Ireland continues to incentivise larger companies to invest in R&D in this country and to generate and exploit IP going forward in a post-Pillar Two world. This is even a more challenging prospect now that the benefit under the KDB has been significantly diminished by the imposition of the global minimum rate of 15% on large MNCs under the Pillar Two rules. In real terms, it means these companies will pay tax at a rate of 15% on such qualifying income that would have previously been subject to 6.25% under the KDB.

To address concerns policymakers have regarding related party spend, we would recommend that the amount that could be claimed by the Irish company that is the owner of the relevant IP, which it has actively managed and developed from R&D activities, would be set by reference to the Irish company's own internal spend on R&D.

4.5 Grant Funding

During the period in which R&D activity was carried on by the company, what proportion of R&D projects undertaken received grant support from:

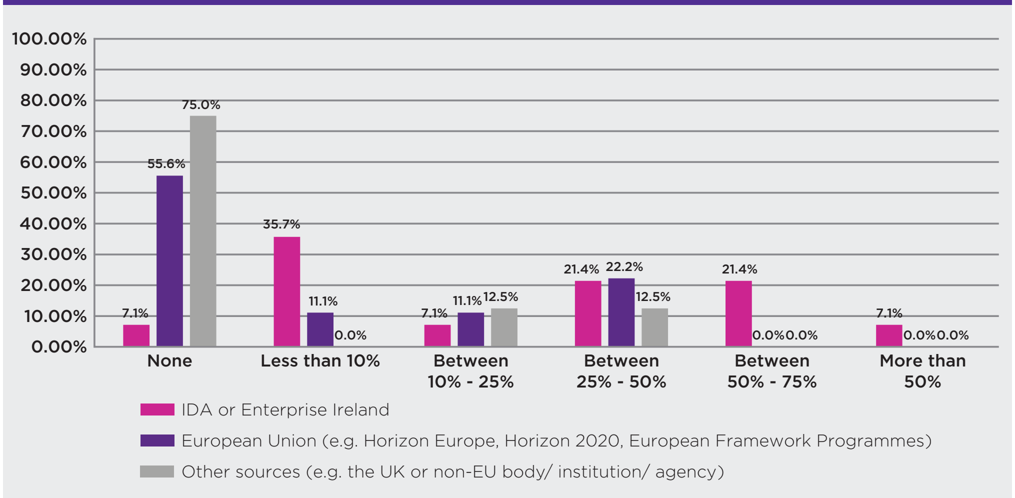
o the IDA or Enterprise Ireland;

o the European Union (such as Horizon Europe, Horizon 2020, European Framework Programmes etc); and/or

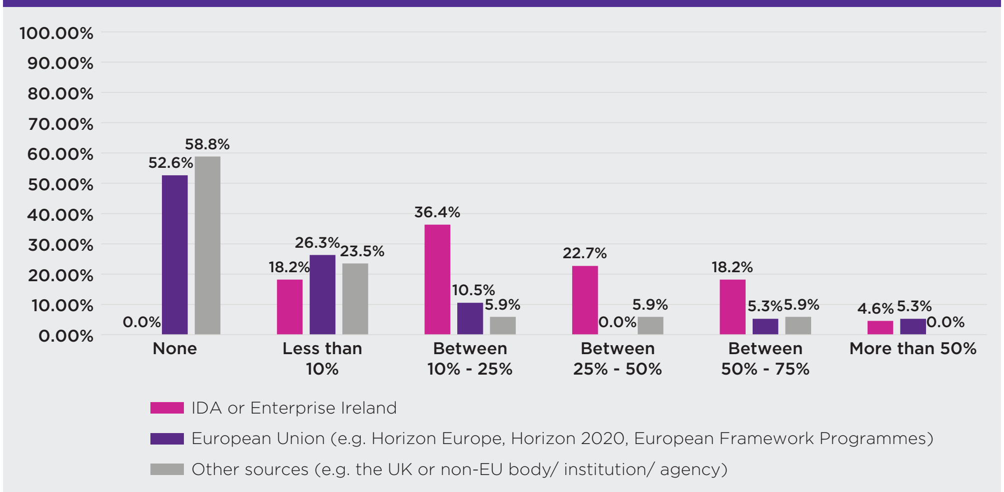
o Other sources (such as the UK or from a body/ institution/agency outside the European Union).

Almost two-thirds of the survey respondents noted that the R&D activities undertaken had qualified for both grant funding and the R&D Tax Credit. Based on the survey feedback, the largest proportion of grant support was received from the IDA or Enterprise Ireland followed by grants from the European Union (e.g. Horizon Europe, Horizon 2020, European Framework Programmes, etc.)

Businesses' opinion on proportion of R&D projects undertaken which received grant support from the IDA, Enterprise Ireland, EU or another source



Tax Advisers' opinion on proportion of R&D projects undertaken which received grant support from the IDA, Enterprise Ireland, EU or another source



Are there any impediments to identifying and/ or claiming grant supports?

Businesses who completed the survey highlighted a lack of knowledge of the grants available as a barrier to claiming grant support. This was more pronounced for SMEs, as often large MNEs can avail of third-party expertise to assist with the claims process. Other business respondents noted the timeline for applying for a grant and receiving funding and having the resources and budget available to make a grant application as impediments to claiming such supports.

Tax advisers who responded to the survey highlighted the level of paperwork and the costs associated with preparing a grant application as barriers to claiming such supports. We have included below some specific comments made by the survey respondents in this regard.

"Lack of knowledge and transparency around grants available." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"We are lucky to have strong third-party expertise on this as a large multinational. I'm not sure how SMEs would navigate leveraging the available supports without relatively considerable investment with the risk of no/limited return." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"In the tech/software space the timeline to apply & successfully draw down a grant is quite long & thus far we have not identified projects internally that would run over the longer periods of time the IDA grants seem to require." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Resources, budget to engage advisor to assist with application. Lengthy process - hard to get buy in from teams. Limits to grants in Dublin." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"The time and costs involved." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Level of detail required in making a claim." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

4.6 The Future of Research and Development

What is the company's biggest threat or competitor to growth and in attracting R&D investment in the future?

A number of broad themes emerged from our survey on the threats to growth of businesses and future R&D investment in Ireland. These included geopolitical instability, international tax changes, rising costs, infrastructure constraints in the Irish economy (i.e. housing and transport), difficulties attracting talent, AI adoption and emerging technologies. We have outlined below some specific comments we received from survey respondents in this regard.

"Geopolitical instability, lack of private investment funding for startups in Ireland - this needs to be substantially increased if we are to be competitive." - Comment by a Micro Irish business in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Global uncertainty, international tax changes, competition from other tax jurisdictions." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Emerging technologies and AI, international tax changes." - Comment by a Small Irish business in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Attracting talent. More threat to Ireland as a location than to the company." - Comment by a Foreign-Owned MNC in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Other jurisdictions offering better incentives." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Cost and lack of infrastructure and educational investment." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Global trade uncertainty, AI, cheaper emerging technologies, changing rules and regulations." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

"Global trading uncertainties, particularly in respect of the willingness of US companies to continue their FDI programs in Ireland." - Comment by a Tax Adviser in response to the Irish Tax Institute R&D Tax Credit and Options to Support Innovation Survey 2025, April 2025.

Given the mobility of R&D investment, it is critical that the R&D Tax Credit is continually benchmarked against key competitor jurisdictions to ensure Ireland can continue to attract additional R&D investment in the current uncertain global trade environment.

Are there specific categories or areas of R&D which are currently being undertaken in your sector which you believe may not currently qualify for the R&D tax credit? If yes, please indicate why such R&D activities are not encompassed in the existing definitions.

Our survey findings suggest Ireland should do more to incentivise R&D relating to digitisation and decarbonisation of the economy similar to what has been introduced in other EU Member States, such as France and Luxembourg.

Clinical trials/research was also specifically highlighted as an area where some uncertainty can prevail over whether such expenditure qualifies for the R&D Tax Credit even though such costs are considered qualifying R&D in other competitor jurisdictions, like the UK. The Frascati Manual[16] also notes clinical trials can be treated as R&D.

Members also cited concerns in relation to Revenue's strict interpretation of R&D and how its guidance is out of step with the current definitions in the Frascati Manual and the industrial research definition in the General Block Exemption Regulation (GBER).

Expand the Definition of Qualifying R&D Expenditure

Revenue guidance[17] notes the R&D Tax Credit is available in respect of expenditure incurred wholly and exclusively "in the carrying on", by the company, of qualifying R&D activities. Costs which are not wholly and exclusively incurred in the carrying on of the R&D activity, do not qualify as relevant expenditure.

Revenue guidance confirms overheads which are wholly and exclusively incurred directly in the carrying on of the qualifying R&D activity, for example power consumed in the R&D process, qualifies for the R&D Tax Credit. Revenue takes a very strict interpretation of the phrase "in the carrying on" in section 766 TCA 1997, most notably in relation to the treatment of rental costs.

We believe the definition of relevant expenditure should be modernised to allow expenses which are critical to the R&D process to qualify, such as training and maintenance relating to R&D equipment. Providing for a set percentage of labour overheads in Revenue guidance would also help to simplify R&D Tax Credit claims and provide more certainty to taxpayers.

16 Frascati Manual 2015: Guidelines for Collecting and Reporting Data on Research and Experimental Development, OECD, October 2015.

17 Tax and Duty Manual Part 29-02-03, Research and Development (R&D) Corporation Tax Credit, Revenue Commissioners.

Revenue's Interpretation of Rental Costs

In July 2020, Revenue updated its guidance on the circumstances in which rental costs can be considered qualifying expenditure for the purpose of the R&D Tax Credit. Notwithstanding representations from practitioners through TALC,[18] Revenue confirmed its view in guidance that in most cases rent does not qualify as R&D expenditure, but there may be scenarios where rent can qualify where the expenditure is incurred wholly and exclusively in the carrying on of the R&D activities.

Revenue guidance provides examples of rent incurred on a specialised laboratory or a clean room in order to advance R&D activities which it states may be qualifying expenditure, but the rent of an office space in which R&D activities are carried on is not qualifying expenditure, as the office is "*the setting in which R&D happens and does not itself perform a key function in relation to the R&D process*". This view does not take into account the changing nature of how some R&D activities are carried out as technologies evolve.

We believe that Revenue guidance significantly narrows the circumstances where rent may be included as qualifying expenditure on R&D and in our view, is contrary to the policy intention of the R&D Tax Credit. The interpretation would also appear to be at odds with Revenue guidance on the apportionment of rental costs for the purposes of the KDB. The change of interpretation has significantly impacted the attractiveness of the R&D Tax Credit for SMEs and has substantially narrowed the circumstances where rent may be included as qualifying expenditure on R&D.

We consider that Revenue's interpretation creates a clear inequity in favour of companies that have the available resources to incur expenditure on the construction or refurbishment of a building or structure for R&D purposes rather than incur a rental cost. Section 766D TCA 1997 provides that where a company acquires a building and incurs expenditure on the refurbishment of the building for R&D purposes, these costs, subject to meeting specific conditions, qualify for the R&D Tax Credit. However, based on Revenue's updated guidance, renting the same refurbished R&D building may not qualify for the R&D Tax Credit even if the same R&D activity is being undertaken in the building.

In our view, legislative clarification is necessary to ensure rent is a qualifying cost for the purpose of the R&D Tax Credit so that the credit can continue to encourage investment in innovation by Irish business, in particular for SMEs.

Amend the Rules on Qualifying R&D Capital Expenditure

As outlined above, expenditure on the construction or refurbishment of a building for use for qualifying R&D activity may qualify for an R&D Tax Credit under section 766D TCA 1997, where such a building also qualifies for industrial buildings capital allowances.

The credit is available for new expenditure on the construction, including refurbishment, of a building or structure where the R&D activities carried on by a company in that building or structure over a period of four years represents at least 35% of all activities carried on in the building or structure. The R&D Tax Credit is calculated by reference only to that portion of the building or structure to be used for R&D activities.

The feedback we have received suggests the rules related to qualifying capital expenditure are too restrictive due to the 35% threshold imposed and the stipulation that the building must qualify for industrial building allowances in order to claim the credit under section 766D TCA 1997. This is out of step today in a modern knowledge-based economy when R&D is not necessarily carried out in a clean room setting but can be conducted from a desk.

18 The Institute made a submission to Revenue seeking further clarification on the change to the treatment of rent in the Research & Development Tax Credit TDM (Part 29-02-03) in November 2020.

For example, a software company that constructs a building may not qualify even where 100% of its activities carried on in its building relate to R&D activities. It can even be difficult for some life sciences and manufacturing companies to qualify where the R&D activities are undertaken on the same site but in a separate building to the manufacturing facility.

Ireland's rules relating to qualifying capital expenditure are more restrictive compared to other jurisdictions such as Luxembourg, Poland and the UK. In Luxembourg, eligible expenses for R&D projects or programmes include costs of buildings and land, to the extent and for the duration period used for the project. Regarding buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles, are considered eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible.

In Poland, an entity with the formal status of an R&D centre (RDC) can claim depreciation of buildings used to conduct R&D activity as an eligible R&D expense. In the UK, there is a first-year allowance of 100% on the qualifying capital expenditure on R&D, including expenditure on plant, machinery and buildings (but not land) used for the purposes of carrying out R&D activities.

We believe the 35% threshold under section 766D TCA 1997 should be reduced given there is no *de minimis* for plant and machinery for the purposes of the R&D Tax Credit. We also recommend that the requirement that the building must qualify for industrial buildings allowance be removed to reflect the changing nature of how and where R&D activities are carried out as technologies advance.

How will decarbonisation and digitalisation play a role in your company and what opportunities are there more broadly for R&D in these areas?

Survey respondents noted that digitisation of the Irish economy will significantly improve business efficiency and allow Irish companies to grow and compete internationally.

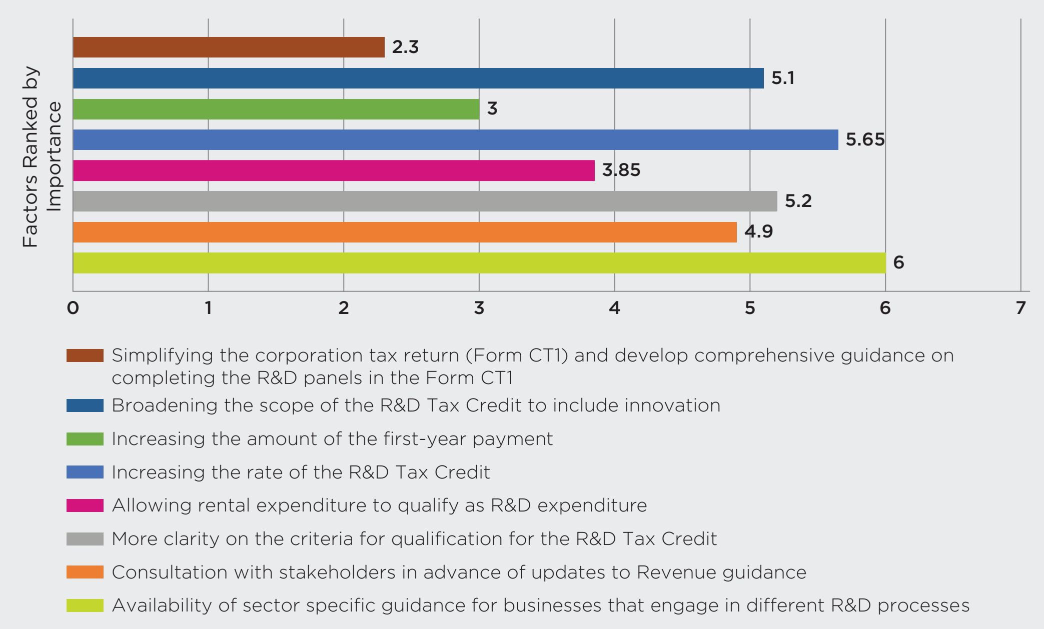
The feedback highlights the need for strategic investment by Government in these areas and the opportunities for R&D. Other countries were cited as having much greater incentives for decarbonisation projects.

Given Ireland is likely to miss its 2030 emissions targets which will expose the Exchequer to billions in fines, it would be far more beneficial for the Irish economy to invest now to create enhanced offerings for decarbonisation incentives.

Other than amendments to the rate or scope of the tax credit, are there any measures or amendments to the current regime which you feel would encourage greater engagement with the R&D tax credit?

We asked businesses carrying on R&D to identify and rank in order of importance what reforms to the current R&D Tax Credit would encourage greater take up of the credit. Availability of sector specific guidance for businesses that engage in different R&D processes was ranked as the most important (i.e. 6 out of 8), with an increase in the rate as the second most important factor (i.e. ranked 5.65 out of 8). This was followed closely by providing more clarity on the criteria for qualification for the R&D Tax Credit as the third most important factor (i.e. 5.2 out of 8).

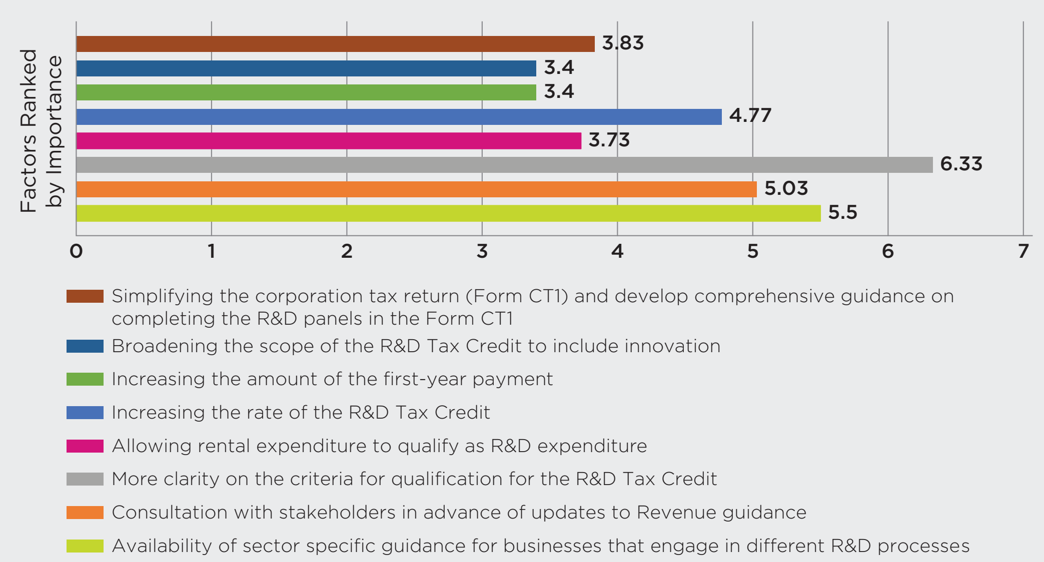
Businesses' opinion on reforms which could increase the uptake of the R&D Tax Credit



We also asked members who completed the survey, based on their experience of advising companies on R&D Tax Credit claims, to identify and rank in order of importance reforms to the current R&D Tax Credit they believe would encourage greater take up of the credit.

Providing more clarity on the criteria for qualification for the R&D Tax Credit was ranked as the most important (i.e. 6.33 out of 8), with the availability of sector specific guidance for businesses that engage in different R&D processes as the second most important factor (i.e. ranked 5.5 out of 8). Consultation with stakeholders in advance of updates to Revenue guidance was ranked third (i.e. ranked 5.03 out of 8).

Tax Advisers' opinion on reforms which could increase the uptake of the R&D Tax Credit



Availability of Sector Specific R&D Guidance

The processes and documentation needed to support an R&D Tax Credit claim can be daunting. This is particularly challenging for business sectors such as food, software and IT, which traditionally do not document their processes and costs to the same extent as highly regulated sectors, such as pharma and financial services.

Industry specific guidance, with detailed practical instances of what qualifies and what does not qualify would be welcome. For example, starting with sector-specific guidance for food production, software and med-tech industries, all of which engage in very different R&D processes. The feedback we received from businesses in our survey would suggest that uncertainty surrounding what can qualify and how to document such processes, continues to persist in these sectors.

We understand work is underway between Revenue and the IDA to develop guidance for the Food & Beverage sector. We look forward to this work progressing in the months ahead and to providing feedback as part of its development at the TALC R&D Discussion Group.

5 Options to Support Innovation

Innovation is currently defined in the OECD's Oslo Manual[19] as follows:

> *"An innovation is a new or improved product or process (or combination thereof) that differs significantly from the unit's previous products or processes and that has been made available to potential users (product) or brought into use by the unit (process)."*

Innovation is summarised in the OECD's Frascati Manual[20] as follows:

> *"In summary, it has to do with putting new or significantly improved products on the market or finding better ways (through new or significantly improved processes and methods) of getting products to the market. R&D may or may not be part of the activity of innovation, but it is one among a number of innovation activities. These activities also include the acquisition of existing knowledge, machinery, equipment and other capital goods, training, marketing, design and software development. These innovation activities may be carried out in-house or procured from third parties."*

How would you define innovation, having regard to the need for definitions for policy purposes to be specific, unambiguous, and focused on delivering real additionality?

The IDA and Enterprise Ireland refer to the definitions in the Frascati Manual when deciding if a company is carrying on innovation for the purposes of qualifying for grant funding.

Innovation is the process of developing and implementing new or significantly improved products, services, or processes that create substantial value and differentiate from previous offerings. This involves introducing novel solutions that address unmet needs, enhance efficiency, or improve outcomes, thereby delivering tangible benefits and competitive advantage.

There are some key elements that would need to be met including:

- **Novelty:** The innovation must be new or significantly improved compared to existing products, services, or processes.
- **Implementation:** It must be brought into use or introduced to the market, not just conceptualised.
- **Value Creation:** It should provide substantial benefits, such as increased efficiency, better performance, or enhanced user experience.
- **Differentiation:** It should stand out from previous offerings, providing a unique advantage.
- **Additionality:** The innovation should deliver real, measurable improvements or added value beyond what was previously available.

19 Oslo Manual 2018: Guidelines for Collecting, Reporting and Using Data on Innovation, OECD, October 2018.
20 Frascati Manual 2015: Guidelines for Collecting and Reporting Data on Research and Experimental Development, OECD, October 2015.

Given the potentially broad scope of "innovation", are there specific government objectives that a support should target to ensure it is cost effective to the taxpayer, adds value to the economy, drives growth and ensures high quality employment?

To ensure that any innovation support is cost-effective for taxpayers, adds value to the economy, drives growth, and ensures high-quality employment, consideration should be given to target several key objectives that align with broader policy goals such as the green and digital transitions. Innovation is quite broad and therefore, policymakers could examine the option to introduce an innovation incentive related to digitisation and decarbonisation.

Areas of focus could include the following:

a. **Green Transition Decarbonisation and Net Zero Commitments:** Support innovations that contribute to reducing carbon emissions and achieving net-zero targets. This includes funding for renewable energy projects, energy-efficient technologies, and sustainable manufacturing processes. The introduction of such targeted measures to encourage research, development and innovation which will facilitate emissions reductions and the development of new low carbon and carbon neutral products would be in line with the Government's commitment to achieve net-zero emissions no later than 2050, and to a 51% reduction in emissions by the end of this decade.

b. **Circular Economy:** Encourage innovations that promote recycling, waste reduction, and the reuse of materials. This can help create sustainable business models and reduce environmental impact.

c. **Digital Transition/Digital Transformation:** Invest in digital technologies such as artificial intelligence (AI), big data, cloud computing, and the Internet of Things (IoT). These technologies can enhance productivity, streamline operations, and open new market opportunities.

d. **Cybersecurity:** Ensure robust cybersecurity measures to protect digital infrastructure and data. This is crucial for maintaining trust and security in a digitally driven economy.

e. **High-Quality Employment Skills Development:** Provide training and education programmes to equip the workforce with skills in emerging technologies and green industries. This ensures that employees are prepared for high-quality, future-proof jobs.

f. **Support for SMEs:** Offer grants and assistance to SMEs to adopt digital tools and sustainable practices. This could drive innovation at the grassroots level and create diverse employment opportunities.

g. **Public-Private Partnerships:** Foster collaborations between Government, academia, and industry to leverage collective expertise and resources. This could accelerate the development and commercialisation of innovative solutions.

h. **Inclusive Innovation Regional Development:** Promote innovation in all regions, including rural and underserved areas, to ensure balanced economic growth and prevent regional disparities.

i. **Inclusive Digital Services:** Ensure that digital public services are accessible to all citizens, including those with disabilities and those in remote areas.

By targeting these objectives, the Government could create a supportive environment for innovation that not only drives economic growth but also ensures sustainability, inclusivity, and high-quality employment. It would be important that any new tax incentive would be considered a "qualified refundable tax credit" for the purposes of the OECD Pillar Two GloBE Rules and the US Foreign Tax Credit Regulations.

Examples of targeted measures to incentivise innovation in other competitor countries include:

- **France:** An Innovation Tax Credit (ITC) of 20% for SMEs, capped at €80,000 per annum, immediately refundable if not offset against current corporation tax.
- **Spain:** A Technological Innovation Tax Credit at a rate of 12% of related expenses for technological innovation activities. Different rates for some specific regions (Basque Country, Navarre, and Canary Islands) and a 25% corporate tax deduction for cost of technological innovation activities.
- **Portugal:** For product innovation, cash grants up to 50% of the qualifying expenses (mainly acquisition of productive machinery and construction) dependent of investment location and company dimension. Cash grants up to 50% of eligible expenses related to qualification and internationalisation of SMEs. A cash grant for decarbonisation of companies up to 100% of qualifying expenses.
- **Singapore:** A reduced corporation tax rate (5%, or 10% or 15%) on qualifying IP income for approved Intellectual Property Development Incentive (IDI) companies.

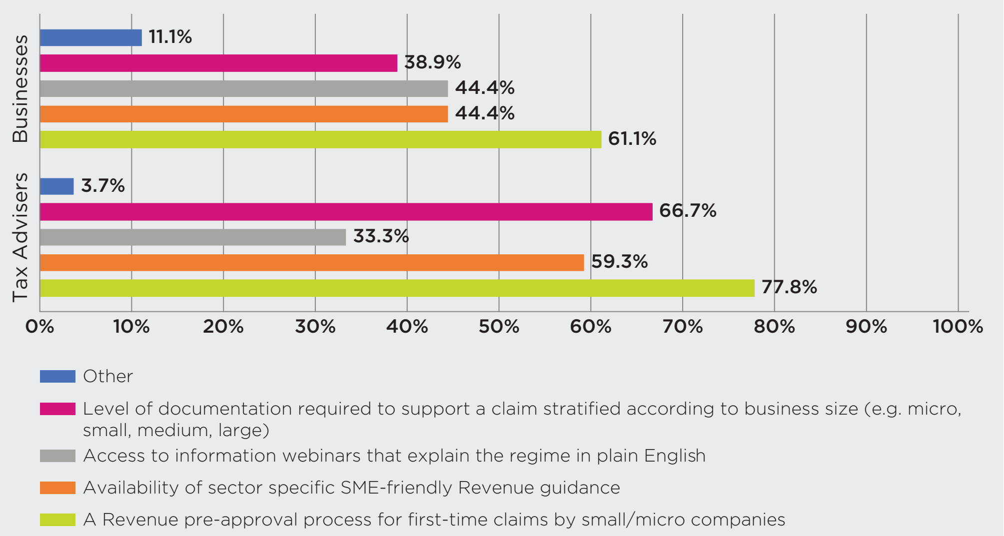
What administrative oversights do you believe would be necessary to ensure that any incentives being claimed are for true innovation?

In our survey, we asked businesses carrying on R&D and tax advisers to rank what administrative supports and requirements would be needed to ensure claims are made for true innovation.

The majority of the businesses (61.1%) and tax advisers (77.8%) surveyed selected a Revenue pre-approval process for first-time claims by small/micro companies as the support which would ensure claims are made for true innovation.

Availability of sector specific SME-friendly guidance and ensuring the level of documentation required to support a claim is stratified according to business size (e.g. micro, small, medium, large etc.) were also ranked highly by both the businesses and tax advisers.

Potential administrative supports and requirements needed to ensure claims are made for true innovation



The results from our survey indicate having a simplified process for smaller companies and Revenue adopting a pragmatic approach to documentation requirements would help to ensure claims are made for true innovation.