

**R&D Consultative Committee**  
**Minutes of meeting held on 17<sup>th</sup> October (13:30 to 15:00)**  
**Bush House, Strand, London WC2B 4RD**

**HMRC:**

Carol Johnson (CJ) (Chair), Neil Smillie (NS), Mark Neal (MN),  
Steve Harris (SH), Nalini Arora (NA) (Minutes)

**BIS**

Andrew Culley

**RDCC:**

Paul Arnold (BE Vanbuckland); Gavin Bate (KPMG); Rachel Chappell (Grant Thornton); Guang Deng (Leyton); Chris Harrison (Deloitte); Carrie Hartnell (Intellect); Remy Husein (Lowendalmasai); Rhiannon Jones (CBI); Faye Ruffles (EY)v ; Stuart Knight (Matthey); Steven Levine ( CVdfk); Richard Lewis (Pronovotech); Stuart Lisle (BDO); Alexis Marz (MMP Tax); John Moore (Kingly Brookes)); Rachel Moore (PwC); Chris Newton (NewTax); David O'Keefe (Aiglon Consulting) Peter Denison-Pender (MMP Tax); Mike Price (The MPA Group); Faye Ruffles (EY), Neil Taylor (Edwards Accountants); Jennifer Tragner (Almac)

CJ welcomed everyone to the meeting.

**1. Minutes of previous Meeting**

Minutes of previous meeting have been published. HM Revenue & Customs (HMRC) invited comments, but otherwise it was agreed that the minutes would be treated as final.

**2. Capital vs Revenue: Update on Working Group meeting**

The purpose of the Working Group (WG) meeting was to scope out the issues and to report back to the RDCC.

The discussions with the WG highlighted the need to update the CIRD guidance and potentially the BIM Manual to reflect current developments in the area of 'software' within the R&D regime. The guidance should include examples of software projects and where the capital/ revenue boundary is a particular issue and also expand on the information in the area of timing and S 1308 CTA 2009.

The RDCC was however content for Working Group to continue their review and report back at a later meeting.

CJ stressed that the subject was not specific to R&D and that any guidance within the CIRD manual would have to be agreed with the technical specialist within CTIS with responsibility for the capital /revenue divide. He had been part of the WG discussions and was aware of the general issues involved.

HMRC was however looking to the Committee to provide examples of the difficulties faced in practice with particular emphasis in the area of software development.

The differing treatment of tangible and intangible assets was discussed with HMRC commenting that it could only work within the legislation as it currently stood and that any changes were the province of Ministers.

HMRC recognised that the development of in house software caused particular problems with deciding the capital/revenue issue and could result in companies being denied for what would normally be revenue expenditure e.g. staff costs. Again HMRC could only work within the legislation as it currently stood. If staff costs for example formed part of a 'capital project' then they would not attract R&D Relief.

Accountancy practice in the form of the introduction of FRS 101 and 102 will be introduced and will add to current discussions.

### **3. RDEC Draft Guidance**

The Draft guidance will be available on the web site shortly with comments to HMRC by 31<sup>st</sup> January 2014. The CIRDC Guidance will be finalised thereafter. NA will email the RDCC the link and attachments.

### **4. Subcontracting/EPW rules**

The committee recognised that this was a difficult area with differing treatment within the SME and large schemes. NS indicated that the starting point must always be the contractual relationship between the parties with a number of factors to be considered in reaching a decision on how expenditure should be treated for R&D purposes.

CIRD84250 currently set out various examples of subcontracting relationships but it would be down to the facts of the individual case to decide the correct treatment.

The RDCC suggested that the guidance should be updated to reflect current thinking and NS stated that he was happy to consider. NS asked the RDCC for comments and agreed to add the issue to the agenda for the next meeting.

NS however emphasised again the importance of the contractual arrangements and the difficulty of accepting a claim where evidence was not available to support the position adopted and this was equally true where an EPW arrangement is being considered.

### **5. Subsidised expenditure**

NS agreed that the guidance required further review to give an indication of where the boundary lay between subsidised and non subsidised expenditure. The meaning of 'subsidised' (CTA 2009 S1308) referred to expenditure being met directly or indirectly which was not particularly helpful as all expenditure is met indirectly in some way or other.

Currently HMRC took the view that there needed to be a clear and direct link between the payment received and the qualifying expenditure.

## **6. Reimbursed Expenditure**

NS indicated that he did not consider that reimbursed expenditure would qualify for R&D relief unless that expenditure fell within one of the specific classes of qualifying expenditure. To suggest otherwise would enable any item of expenditure to potentially qualify. Comment was made that the legislation did not support such a position and that travelling costs had been accepted as qualifying in specific cases despite falling outside any of the specific categories of qualifying expenditure.

NS will review and agreed to add the subject to the agenda for the next meeting for further discussion.

With no other business to discuss, the meeting closed at 3pm.

Nalini Arora