

## **Research and Development Consultative Committee Minutes**

**Friday 17 July 2017**

**Venue; Room G28, Bush House, The Strand, 1pm to 4pm**

Present; Alex Galloway(AG), Julia Neate, Karen Duffy, Nick Isherwood(NI), Philip Bray(PB), Philip Hamblin(PH), Richard Thompson(RT), Ruth Froggatt(RF), Steve Williams(SW), Susan Fawkes(SW), Andrew Culley, Dilesh Patel (DP), Adam Spriggs, Alexander Massey, Alexis Marz, Andrew England, Carol Johnson, Caroline Barrett, Chris Harrison, Dan Ellerton, David Clift, David O'Keefe(DO), David Ward, Faye Ruffles, Gavin Bate, Guang Deng, Ian Moss, James Rylatt, Jinjing Wang, John Moore, John Moxon, Julia May, Justine Stalker, Kathie Haunton, Lisa-Marie Smith, Margaret Savory, Matt Watts, Neil Taylor, Paul Arnold, Paul Barton, Rachel Moore, Remy Hussein, Richard Lewis, Richard Thorpe Manley, Richard Turner, Rob Allan, Ron Gibson, S Collins, Sheetal Sanghvi, Shima Patel, Sinead King, Steve Burgen, Steven Levine, Stuart Knight, Stuart Weekes, Terry Toms, Thomas Hayden, Vincent Walker.

### **1. Introductions**

Having welcomed the delegates AG apologised for any inconvenience caused by the need to postpone the original meeting (which was 24 April) due to the General Election.

AG introduced new members of the HMRC R&D team; Karen Duffy has taken over as Theme Lead in Large Business; Ruth Froggatt has taken over as Policy lead in Business, Assets and international and Sue Fawkes now leads the R&D Units which form a part of the Insight Understanding and Risk, part of Wealthy and Mid Size Business Compliance.

AG also introduced Dilesh Patel, who has joined HM Treasury as a part of their team who deal with the R&D reliefs, and Julia Neate who will shortly take up a secondment from HMRC to The Department of Business, Energy and Industrial Strategy, where she will be a part of that Department's team who work on supporting R&D.

### **2. Current Issues**

DP briefly spoke about the recent internal review into R&D tax credits and announcements made by the Chancellor at Spring Budget 2017. The review found that both the RDEC and SME scheme were effective at encouraging R&D and were both internationally competitive. Whilst RDEC has a lower headline rate of relief, the above-the-line credit and availability to loss makers put it in line with other countries schemes. The UK's SME scheme was found to be one of the most generous of its kind in the world. Nevertheless at Spring Budget 2017 the Chancellor announced that administrative changes would be made to improve the effectiveness of the schemes. This includes increasing the certainty around RDEC claims and increasing awareness of the SME scheme.

RF outlined the work to improve certainty in RDEC claims and the intention to consider ideas to improve awareness of R&D tax credits amongst SMEs.

There were no further updates to give on Making tax Digital.

A new flowchart has been published in guidance for Patent box [CIRD275000 - Corporate Intangibles Research and Development Manual - HMRC internal manual - GOV.UK](#)

Legislation of loss relief has been updated [Carried forward losses and counteraction of avoidance arrangements - updated legislation - GOV.UK](#)

### **3. Software Claims**

A joint presentation was made by Nick Isherwood from CTO (Chief Technology Office) and Richard Thompson (Large Business) explaining the current state of play with the software project and the interaction between CTO and compliance colleagues.

RT began by explaining the purpose of the presentation and the working relationship between compliance caseworkers and CTO-based technical advisers; CTO provide advice and consultancy, and will attend meetings where necessary. Initial contact will always be made by the caseworker and not by CTO. He also explained the risk assessment project including some information on the background, how cases will be worked in practise and illustrated some of the results since CTO became involved in claims. These results vary from claims being entirely disallowed, qualifying expenditure being reduced to being agreed in their entirety when the submission received by HMRC is very strong.

RT also shared some observations from the perspective of a Theme Specialist, these were around;

- Submissions concentrating on the commercial rationale for a claim.
- Overuse of certain terms in submissions like Agile.
- Assertions that commonly seen issues are 'different' for certain sectors.
- Claiming the platform developed is the advance rather than qualifying developments which go into the platform.

RT finished by reiterating that the HMRC software project is about ensuring consistency and is not about generating compliance yield.

Following on from this NI began by explaining who CTO were and why they had be asked to get involved in R&D Claims. NI focussed on the weaknesses in some of the submissions that CTO have helped to review. He began with the statement that "technical narratives are sometimes not well written" and followed this with an explanation that a number of points may be indicative such as complexity or difficulty, but are not necessarily diagnostic. He finished off this slide by stating that simply moving to a different technology does not mean that there has been an advance in technology.

With respect to submissions, a key point NI wanted to make was that if a statement was made in a submitted report then it would be considered as part of a risk assessment. There have been numerous occasions where, when questioned an advisor or competent professional has stated that a queried statement which appeared in the submission was solely contextual and was not being claimed as an advance or uncertainty. Clearly the statements in reports which were solely there for contextual reasons could cause delay for both customers and HMRC.

NI moved onto a discussion of some of the types of project that were common, and some of the issues CTO can have with these projects. There was some lively discussion on these points and questions were asked throughout. Topics covered included UX/ UI, algorithms, legacy integration and security. Again the main point NI made was that the technical uncertainties and technical advances must be explicit and linked.

Finally NI went through what a submission should include from the view of CTO; essentially start with an uncertainty, explain why normal approaches wouldn't work, and where an advance has been made show a clear connection to the technological uncertainty.

#### **4. Qualifying bodies**

PH provided a brief overview of Qualifying Bodies (QB). Some expenditure on R&D contracted out to QB can attract relief for claims within the RDEC scheme, although that relief is restricted to 65% of the qualifying expenditure when the relief is claimed by an SME in respect of subsidised expenditure. Large companies can also attract relief in respect of some contributions to independent R&D carried on by qualifying bodies.

QB's are defined at s1142 CTA 2009, and HM Treasury may, by order, prescribe further bodies as QBs. This power is generally used in respect of overseas bodies which are similar in nature to one of the sorts of UK bodies listed in s1142 CTA 2009.

Whilst claims in respect of overseas bodies cannot be made until that body has been prescribed the estimated figure guidance at CTM 93280 and in the ICAEW Technical Release 12/1992 apply. Custom and practice is to accept that a claim can be made once the entity in point has been accepted by HMRC for submission to HM Treasury to be considered for prescription.

If an overseas body is not shown in CIRD 82250 as having been prescribed, and has not been accepted to the list of those awaiting consideration for prescription (BAI can advise on this latter point) the claimant company can apply for that body to be prescribed. The claimant company will have to obtain and provide all the necessary information and proof to allow consideration for prescription, and HMRC have a template (which is in the process of being expanded) to assist with this. A copy of the template and an information pack can be obtained by contacting the HMRC team.

Points to bear in mind when making claims and applying for prescription are;

- Check that the claimant's contract is with the prescribed body and not, for example, a trading subsidiary or associated concern. If it is not with the prescribed body any claim would not be competent.
- When applying for prescription check that the entity is similar to a UK equivalent, for example; is it liable to the local equivalent of CT, but exempted by legislation; would it be considered as a charity or Institute of Higher Education if it was based in the UK.

## **5. Network Update- Large Business**

SW reported that LB have been working on improvements to our procedures for dealing with RDEC claims in order to make payments more quickly. Progress has been made in 2017/18 compared to 2016/17, but there remain a small number of claims where the time taken to make the payment is unacceptably long. Please do contact your Customer Relationship Manager (CRM) if your client has not received their RDEC after a reasonable time – say 40 days. This will help us to identify any outstanding RDEC claims at an earlier stage.

SW noted that there had been a number of staff changes and alterations to some internal structures within LB, and confirmed that LB continued to have dedicated R&D and PB specialists within the 7 LB regions who carry out all R&D and PB review work. SW also said that members should remember that in LB the first port of call for any issues arising is always the CRM. But if members have any particular problems within the sphere of R&D or PB with their LB clients, then they are welcome to approach SW about them, as long as they have first spoken with the CRM for the business. But RDCC members should be aware that SW will not be on the e-mail protocol initially, however the CRM can easily arrange this.

## **6. Network Update- Wealthy and Mid-sized Businesses and Companies**

SF updated the group on the recent formation of Insight, Understanding and Risk, a new business area for Wealthy and Mid-sized Business Compliance.

Incentive & Reliefs have moved into this business area and the new Deputy Director is Sara Byrne and Assistant Director, Andrew Gibson.

SF outlined the aim which is to bring clarity and purpose to work which is not primarily driven by compliance risk, such as customer –led clearances, and incentives and reliefs.

Understanding customers better and help them get their tax right first time whilst also informing and enhancing the approach to compliance work across all business areas.

SF then highlighted some of the developments since re-engineering in 2016:

- A flexible National resource has been created with a unified Management structure dedicated to I&R supported by a National management information system.
- An automated process now allows multi-user access, speeding up turnaround of claims for CT600 submitted on-line. Manual paper claims/amendments may

however sit longer within the regular systems as the automated download cannot pick these up which risk a delay for the customer.

- The E-booklet currently accessible via CIRDC giving guidance on all aspects of R&D, example calculations and case studies will shortly have a link on .Gov.uk
- Webinars for Patent Box and Creative reliefs are underway.
- October 2016 National I&R telephone helpline and Central mailbox went live. Mailbox is being impacted by duplicate emails / documents already submitted on line and manual amendments tying up processing resource.

SF noted that RDEC had received less focus than Payable Tax Credits and that a concerted piece of work is ongoing to bring claims more up to date. Providing full details following 7 steps and completed CT600 correctly will help speed up the process.

RF outlined the intention to undertake an evaluation of the advanced assurance scheme with the aims of:

- Critically examining the progress of the scheme towards achievement of its policy aim.
- Identify scope for improvement or refinement in the nature of the scheme and its administration.
- Consider increasing awareness of the scheme amongst eligible companies.

It is likely that the RDCC will have a valuable contribution to make to the evaluation and RF suggested a subcommittee of the group could be formed to consider the options in due course.

## **7. Reimbursed Expenses**

PH let the RDCC members know that a procedure to deal with companies which lost out as a result of relying on the HMRC note which was read out at the RDCC on 8 October 2014 (copied on the RDCC web site) would be implemented tomorrow (18 July) and would run until 31 January 2018. Copies of the procedure were available after the meeting. On 18 July the procedure was published in CIRDC 83200 and a copy was circulated to all members on the RDCC email contact list. It will also be published on the RDCC website pages when these notes are published.

## **8. iForm**

PB reported that;

- A form which can be submitted online is being developed to enable users to apply for R&D tax relief.

- This follows on from and integrates the work done by the RDCC on designing a widely-applicable form for users to apply for R&D tax relief.
- It aims to provide users with a regular, predictable and clear way of applying for tax relief.
- Development is planned to take a staged, iterative approach in line with Government Digital Service standards.
  - Initially, the online form will only be available to users wanting to apply under the SME scheme but will be rolled out to those wanting to apply under the RDEC scheme and agents (such as third-party accountants) later.
  - User testing with stakeholders will help guide the development of the online form.

## **9. SME test at s1120(2)qualification 2**

DO drew the members attention to a situation where, after 2 SME's become a group, one grows, they can be treated differently (one as an SME and one as Large) in the subsequent year. It was suggested that, if this is not the intent of the legislation, consideration could be given to removing this affect as a part of the current review of certainty.

## **10.Wrap up**

AG thanked the RDCC for an open and productive discussion.

## **11.Next meeting**

This will take place in The Churchill Room, 100 Parliament Street, Westminster, between 1PM and 4PM on Friday 8 December 2017