



HOUSE OF LORDS

Economic Affairs Committee

3rd Report of Session 2022–23

Research and development tax relief and expenditure credit

Ordered to be printed 23 January 2023 and published 31 January 2023

Published by the Authority of the House of Lords

Select Committee on Economic Affairs Finance Bill Sub-Committee

The Economic Affairs Finance Bill Sub-Committee was appointed by the House of Lords in this session “to consider the draft Finance Bill 2022–23”.

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See Appendix 1.

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Evidence is published online at <https://committees.parliament.uk/work/6942/draft-finance-bill-202223/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

SUMMARY

This year our inquiry covered the draft Finance Bill 2022–23 Research and Development (R&D) tax relief reforms. The reforms include changes to the definition of R&D expenditure that qualifies for relief and to administrative provisions for making claims. They are due to come into effect in April.

It was evident from the start of our inquiry that investment in R&D makes an important contribution to the UK's economy and productivity. R&D relief is seen by business and sector bodies as a crucial element for supporting and promoting R&D activity in the UK. We therefore welcome the Government's continued support of the relief.

Nonetheless, we are concerned by the evidence of the loss of revenue, attributable to abuse of R&D relief, that has escalated in recent years. We were alerted to large scale organised criminal attacks and the activities of rogue advisers which involve targeting small companies, often persuading them to make invalid claims.

The draft Finance Bill proposes legislative changes to combat this abuse, including the requirement to provide His Majesty's Revenue and Customs (HMRC) with more detailed information about the nature of a claim, naming any tax adviser involved in preparing claims and requiring that claims should be endorsed by a senior officer of the company. It also introduces a requirement to give pre-notification of an intention to make a claim. We consider that legislative reforms of this nature will not be effective in isolation and that improvements to HMRC's compliance capability are also required. This includes a more focused and targeted approach to identifying suspect claims, greater expertise and potentially more resource.

Further, the Government has said that the draft Finance Bill measures are also directed at reducing the amount of error in R&D claims. Although we were told that it is not currently possible for HMRC to distinguish between the volume of fraud and error with R&D relief, we found that error could be mitigated before claims are made if HMRC can improve the support it provides to business. This should include improving both its guidance and communications to increase understanding of the scheme and expanding its existing Advance Assurance process for claims by small and medium enterprises (SMEs). HMRC should also make it clear to taxpayers that, when relief is given under the "process now, check later" approach, this does not amount to acceptance that the claim is valid—and in particular, that relief may subsequently be recovered from the taxpayer if, as a result of later checks, the relief turns out not to be due.

With regards to the other measures in the draft legislation, we welcome the extension of the range of qualifying expenditure for which R&D relief is available to include cloud computing and data licensing costs. We also welcome the Government's proposal to include pure mathematics within the scope of the definition for R&D. These changes will contribute to ensuring that the UK remains a competitive location for R&D.

Despite this, the Government's proposal to refocus R&D relief on R&D activity in the UK may undermine the UK's competitiveness by causing some UK-based R&D to relocate elsewhere. While we understand the Government considers it cannot justify unrestricted relief for R&D expenditure overseas,

it should consider introducing a form of transitional relief for expenditure on specialised resources which are not currently available in the UK, especially for R&D being carried out under contracts already entered into.

Looking forward, the Government's continuing R&D relief review provides an opportunity to undertake a wide-ranging review beyond the initial measures within the draft Bill. The Government has recently announced a consultation on merging the two existing schemes for R&D relief into a single scheme. In taking the review forward, the Government should hold an open-ended consultation with stakeholders on this potential change to the relief. It should also be transparent about the review's progress more generally and publish an outline of the areas it is considering as part of the review, no later than the Spring Budget.

The Government should continue to look for further ways in which R&D relief can be improved. In seeking to ensure value for the taxpayer, it should look to combat spurious claims, ensure its adaptability to rapidly changing technology and learn from international R&D relief approaches. This is integral for securing the UK's competitiveness as a hub of R&D activity.

Research and development tax relief and expenditure credit

CHAPTER 1: INTRODUCTION

Background

1. The Finance Bill Sub-Committee is appointed by the Economic Affairs Committee to consider the technical issues of tax administration, clarification, and simplification arising from the draft Finance Bill. In recognition of House of Commons' financial privilege, the Sub-Committee does not inquire into rates or incidence of tax.
2. The draft Finance Bill 2022–23 was published on 20 July 2022¹ and our inquiry covered its Research and Development (R&D) tax relief reforms. The reforms include changes to the definition of R&D that qualifies for relief and to administrative provisions. The Economic Affairs Committee usually publishes the report prepared by the Finance Bill Sub-Committee shortly before the Autumn Budget and the publication of the Finance Bill itself. However, the Finance Bill expected in the autumn was postponed to spring 2023.²
3. On 17 November 2022, the Autumn Statement³ announced further changes to R&D relief consisting of a change in rates, reflected in a shorter Finance Bill which was introduced to Parliament on 22 November 2022.⁴ Given both the timing of the Autumn Statement and House of Commons' financial privilege, these changes to the rates of R&D relief are not the focus of this year's inquiry.
4. We took written and oral evidence from business organisations, professional advisory firms, tax professionals, academics, and individuals. We also heard evidence from His Majesty's Revenue and Customs (HMRC), His Majesty's Treasury (HM Treasury) officials, and the Financial Secretary to the Treasury, Victoria Atkins MP. We are grateful to all our witnesses who provided written and oral evidence. We would also like to thank our two specialist advisers, Robina Dyall and Sarah Squires, for their support and assistance throughout our inquiry.
5. Chapter 2 of this report covers the role of R&D relief and recent developments. Chapter 3 discusses abuse of the relief and the proposed reforms to tackle spurious claims. Chapter 4 considers the administration of R&D relief and the experiences of small and medium enterprises (SMEs) when claiming the relief. Chapter 5 covers the changes to the definition of R&D and to the qualifying costs for which R&D relief is available. Chapter 6 discusses the proposals designed to focus relief on R&D carried out in the UK. Finally, Chapter 7 considers the direction of the ongoing Government R&D relief review.

1 HMRC and HM Treasury, 'Finance Bill 2022–23' (14 October 2022): <https://www.gov.uk/government/collections/finance-bill-2022-23> [accessed 15 December 2022]

2 HM Treasury, 'Autumn Statement 2022' (17 November 2022): <https://www.gov.uk/government/publications/autumn-statement-2022-documents/autumn-statement-2022-html> [accessed 15 December 2022]

3 *Ibid.*

4 [Finance Act 2022](#)

CHAPTER 2: RESEARCH AND DEVELOPMENT (R&D) RELIEF

What is R&D relief?

6. Research and Development tax relief is a relief for companies. First introduced in 2000, it is intended to incentivise innovative (or ‘new-to-world’) R&D that seeks to advance overall knowledge or capability in a field of science or technology. It therefore applies to projects in science and technology that research or develop new processes, products, or services, or aim to improve existing ones.⁵
7. The UK has two schemes of relief. The Small and Medium Enterprise Relief scheme currently allows small and medium sized companies (SMEs) an additional tax deduction of 130 per cent of qualifying R&D expenditure on top of the normal 100 per cent deduction. This gives a total relief of 230 per cent of their R&D spend. By way of a simple example, if a company spends £1,000 on R&D, normal corporation tax rules mean that it should be able to deduct the entire £1,000 from its income when working out its taxable profits, with the SME scheme providing additional tax relief (similar, by way of deduction) of £1,300. If a company is loss making it can claim a cash payment, currently worth up to 33.5 per cent of (in broad terms) the loss it would have made if it had claimed the relief.⁶
8. The second scheme—the Research and Development Expenditure Credit (RDEC)—is primarily for large companies.⁷ It provides relief by way of a credit, rather than as an additional tax deduction.⁸ The RDEC credit, which is itself taxable, is used by the company to offset its tax bill, reducing the amount of corporation tax it would otherwise pay to HMRC. However, in some cases, the company can have the credit paid to it in cash.⁹ Since April 2020, RDEC has been set at 13 per cent of qualifying R&D expenditure. By way of a simple example, if a company spends £1,000 on R&D, normal corporation tax rules means that it should be able to deduct that £1,000 from its income when working out its taxable profits, with the RDEC scheme then giving it a RDEC credit of £130 which can be offset against the company’s corporation tax liability on those profits.
9. Further information on the two schemes, including an overview of their history, is set out in Appendix 4.
10. The definition of R&D for the reliefs is based on accounting principles,¹⁰ but supplemented by guidance originally published by the Department of

5 HM Treasury and HMRC, *R&D Tax Reliefs: consultation* (March 2021), para 2.2: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965501/Condoc_-_RD_review_.pdf [accessed 5 December 2022]

6 For a simple example of how SME relief works, see ‘How to calculate your claim’ in HMRC, *Research and Development Tax Relief: Making R&D easier for small companies* (November 2016): <https://www.hmrc.gov.uk/gds/cird/attachments/rdsimpleguide.pdf> [accessed 5 December 2022]

7 In some situations, SMEs can only access the RDEC scheme.

8 A comparison of the impact of the SME and RDEC schemes, using a worked example (and referencing the rates of relief available in 2016), is set out in ‘Why is RDEC important to SMEs?’ in HMRC, *Research and Development Tax Relief: Making R&D easier for small companies*

9 For simple examples of how SME and RDEC reliefs work, see ‘How to calculate your claim’ in HMRC, *Research and Development Tax Relief: Making R&D easier for small companies* and also see examples in the HMRC, ‘Corporate Intangibles Research and Development Manual’ (1 November 2022) : <https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird89910> [accessed 13 January 2023]

10 Corporation Tax Act 2010, [section 1138](#)

Trade and Industry, now the Department for Business, Energy & Industrial Strategy (BEIS).¹¹

11. R&D relief is available only for expenditure that is revenue (income)¹² in nature and that falls within one of a number of specified categories of expense linked to the R&D activity. This includes staff costs, consumable items,¹³ software, and third-party contractors (referred to as “externally provided workers”).¹⁴ Special rules apply where a company subcontracts R&D to another person—the rules here differ depending on which scheme applies to the company.¹⁵

The role of R&D relief

12. The introduction of R&D relief in 2000 was part of a broader Government strategy to increase innovation by UK businesses in response to evidence showing the UK’s R&D spend falling behind that of its competitors. For the Government, innovation was “a major source of a means of growth in the economy.”¹⁶ In 2004, the Government set what it described as an ambitious target for UK spending on R&D of 2.5 per cent of GDP by 2014.¹⁷ This was not achieved. Instead, R&D spending averaged around 1.7 per cent of GDP. A new target of 2.4 per cent of GDP by 2027 was set in 2017¹⁸ and remains the current target.¹⁹
13. Nonetheless, witnesses told us that even if the UK achieves its target of 2.4 per cent of GDP, R&D spending in the UK would still be below the current Organisation for Economic Co-operation and Development (OECD) average of 2.7 per cent.²⁰ The Confederation of British Industry (CBI) said the Government should “reconsider whether spending 2.4 per cent of GDP is a truly ambitious target when the OECD average is now higher than this, and world-leading international competitors achieve as much as 5%.”²¹ Dr Joe Marshall, Chief Executive at the National Council for Universities and Business (NCUB) said “we should not lose sight of the fact that the UK wants to do, and should be doing, more business-led R&D.”²²

11 HMRC, ‘Corporate Intangibles Research and Development Manual’ (1 November 2022): <https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81900> [accessed 5 December 2022]

12 For capital expenditure, Research Development Allowances, a special form of capital allowance, may be available.

13 For example, chemicals used when experimenting: some other examples of consumable items are listed in HMRC, ‘Corporate Intangibles Research and Development Manual’ (1 November 2022): <https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird82400> [accessed 16 January 2023]

14 *Ibid.*

15 *Ibid.*

16 HM Treasury, *Stability and Steady Growth For Britain, Pre Budget Report November 1999*, Cm 4479 (9 November 1999), paras 3.8 and 3.60: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/260769/cm4479.pdf [accessed 5 December 2022]

17 HM Treasury, *Science and Innovation Investment Framework 2004–2014: Annual Report 2007* (July 2007): <https://ras.ac.uk/sites/default/files/2018-06/Science%20%20Innovation%20Investment%20Framework%202004-14%20Annual%20Report%202007.pdf> [accessed 9 December 2022]

18 HM Government, *Industrial Strategy Building a Britain fit for the future* (November 2017), p 66: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf [accessed 5 December 2022]

19 HM Government, *UK Research and Development Roadmap* (July 2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896799/UK_Research_and_Development_Roadmap.pdf [accessed 5 December 2022]

20 [Q 44](#) (Dr Joe Marshall), written evidence from AAT ([DFG0007](#)) and the CBI ([DFG0024](#))

21 Written evidence from the CBI ([DFG0024](#))

22 [Q 47](#) (Dr Joe Marshall)

14. In its Autumn Budget Spending Review 2021, the Government said that the UK's low level of R&D as compared to other OECD members is "primarily driven by low business investment in R&D."²³ Victoria Atkins MP, Financial Secretary to the Treasury, emphasised the role that R&D tax relief plays in business investment in R&D and told us that recent evaluations of R&D tax relief commissioned by HMRC in 2019 and 2020 have found that "for every £1 of support, the RDEC [scheme]... incentivised £2.40 to £2.70 of research and development. The SME scheme had lower additionality of between 60p and £1.28 per £1 invested."²⁴

The increasing cost of R&D tax relief

15. HMRC publishes annual Research and Development Tax Credits Statistics (R&D Statistics) which set out the number of claims for R&D relief made under each scheme and the resulting cost of the two schemes.²⁵ These statistics show significant growth in the number of R&D relief claims made, and consequently the cost of the relief, in the last ten years which HMRC has attributed to the reliefs having become more generous over time.²⁶
16. In relation to claims for R&D tax relief, HMRC's R&D Statistics show that in 2014–15 a total of 35,565 claims were made but by 2018–19 this had more than doubled to 74,535 claims.²⁷ The most recent R&D Statistics relating to 2020–21 estimate a total of 89,300 claims being made in that year. Figure 1 and Table 1 below illustrate the number of claims made in each of financial years 2014–15 to 2020–21, based on the actual number of claims received by HMRC up to 31 May 2021²⁸ under each R&D relief scheme.

23 In 2018, for example, private investment in R&D was 0.9 per cent, compared to the OECD average of 1.5 per cent see HM Treasury, *Autumn Budget and Spending Review 2021* (27 October 2021), paras 2.34 and 2.39: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1043688/Budget_AB2021_Print.pdf [accessed 5 December 2022]

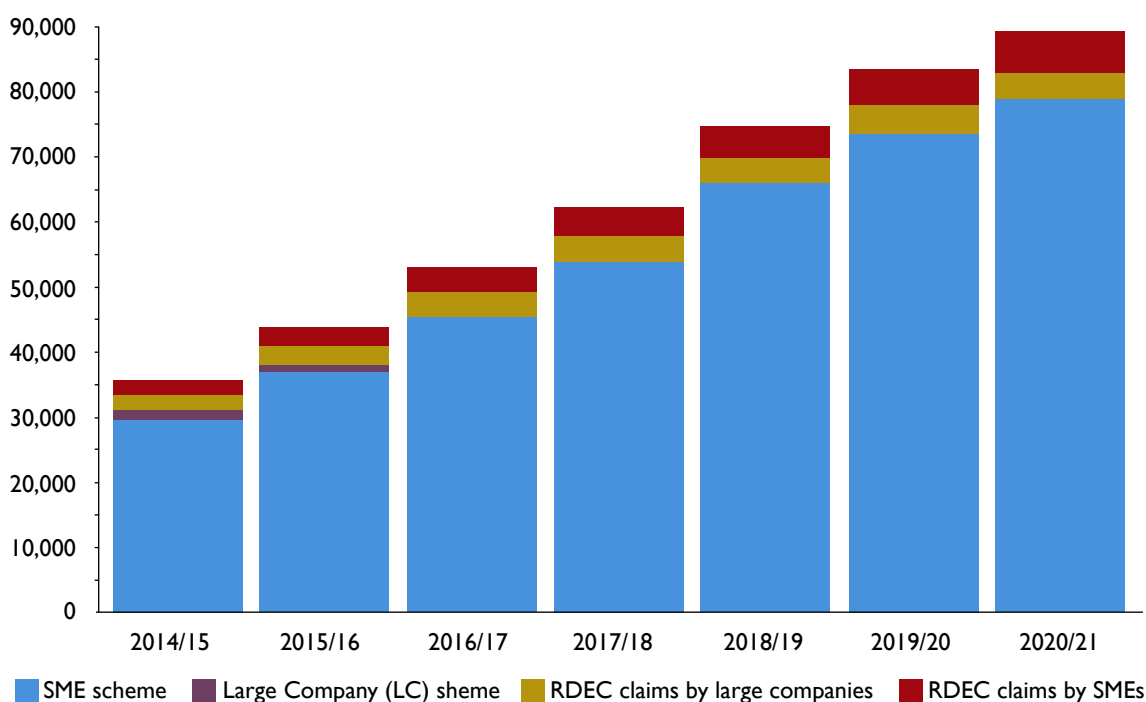
24 Q 65 (Victoria Atkins MP)

25 Note that HMRC's R&D Statistics relating to a particular financial year estimate the cost of R&D relief by reference to information then available to HMRC: these estimates are then revised as and when further information about actual claims made in that year is available.

26 HMRC, 'Research and Development Tax Credits Statistics' (22 April 2021): <https://webarchive.nationalarchives.gov.uk/ukgwa/20210702225423/https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit> [accessed 6 December 2022]

27 HMRC 'Research and Development Tax Credits Statistics: September 2022' (29 September 2022): Figure 1: Number of claims for R&D tax credits by scheme, 2014–15 to 2020–21: <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit/research-and-development-tax-credits-statistics-september-2022> [accessed 13 January 2023]

28 HMRC, 'Background information and quality report: Research and Development Tax Credits' (29 September 2022): <https://www.gov.uk/government/statistics/background-information-and-quality-report-research-and-development-tax-credits/background-information-and-quality-report-research-and-development-tax-credits> [accessed 13 January 2023]. Note that Figure 1 is based on the actual number of claims, not estimates.

Figure 1: Number of claims for R&D tax credits by scheme

Source: HMRC, 'Research and Development Tax Credits Statistics September 2022: <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit/research-and-development-tax-credits-statistics-september-2022> [accessed 12 December]

Table 1: Total number of claims for R&D relief, by scheme and overall

Financial year	Claims for SME scheme	Claims for Large Company/ RDEC scheme	Total claims
2014/15	29,775	5,785	35,565
2015/16	37,105	6,560	43,665
2016/17	45,440	7,575	53,015
2017/18	53,910	8,380	62,290
2018/19	65,940	8,595	74,535
2019/20	73,605	9,805	83,410
2020/21	78,825	10,475	89,300

Source: HMRC, 'Corporate tax: Research and Development Tax Credits Statistics: Main tables 2022—RD1' (14 September 2016): <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit> [accessed 13 January 2023]. Figures for 2019–20 and 2020–21 are provisional (with those for 2020/21 uplifted to include estimates for claims not yet received) and so may be subject to revision.

17. HMRC has highlighted the growth in SME claims as a driver of the increased cost of the reliefs in recent years.²⁹ HMRC's R&D Statistics show that the proportion of the cost of the relief attributable to SMEs has been increasing

29 HMRC, 'Research and Development Tax Credits Statistics September 2021' (29 September 2022): <https://www.gov.uk/government/statistics/background-information-and-quality-report-research-and-development-tax-credits/background-information-and-quality-report-research-and-development-tax-credits> [accessed 13 January 2023]

steadily, based on the actual number of claims received by HMRC up to 31 May 2021 (see Table 2).³⁰

Table 2: Total cost of R&D relief vs total cost of SME scheme (£ billion)

Financial year	Total cost of R&D relief	Total cost of SME scheme	Percentage of total cost represented by SME scheme
2014/15	3.025	1.315	43.4%
2015/16	3.975	1.760	44.3%
2016/17	4.490	2.265	50.4%
2017/18	5.150	2.740	53.2%
2018/19	6.310	3.510	55.6%
2019/20	6.865	4.150	60.5%
2020/21	6.590	4.230	64.1%

Source: HMRC, ‘Research and Development Tax Credits Statistics’, Main tables 2022—RD2 (14 September 2016): <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit> [accessed 13 January 2023]. Note that figures for 2019–20 and 2020–21 are provisional and so may be subject to revision (as claims for the relevant financial year could continue to be made and/or be processed after that cut-off date for this publication (31 May 2021)).

18. As a result, the overall cost of R&D tax relief since it was first introduced in 2000 continues to increase. In HMRC’s R&D Statistics for 2014–15, HMRC reported that between 2000–01 and 2014–15, almost £14 billion in tax relief had been claimed.³¹ In its R&D Statistics for 2018–19, HMRC estimated that the total cost since R&D relief was introduced had risen to £33.3 billion.³² Based on HMRC’s R&D Statistics 2020–21³³ in which the cost of claims in each of 2019–20 and 2020–21 is estimated at £6.9 billion and £6.6 billion respectively, this suggests a total cost for R&D relief since it was first introduced of at least £46.8 billion.³⁴
19. This total cost includes an amount representing the cost of R&D claims where there has been either error or fraud. In its accounts for 2021–22, HMRC estimated the amount of error and fraud in both R&D schemes at £469 million (or 4.5 per cent of total cost), an increase on HMRC’s estimate of 3.6 per cent in each of the preceding two years. HMRC stated in its annual reports for each of 2019–20, 2020–21, and 2021–22 that the majority of the

30 HMRC, ‘Background information and quality report: Research and Development Tax Credits’ (29 September 2022): <https://www.gov.uk/government/statistics/background-information-and-quality-report-research-and-development-tax-credits/background-information-and-quality-report-research-and-development-tax-credits> [accessed 13 January 2023]. Note that Figure 1 is based on the actual number of claims, not estimates.

31 HMRC, ‘Research and Development Tax Credits Statistics September 2016’, (May 2019): <https://webarchive.nationalarchives.gov.uk/ukgwa/20190903083250/https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit> [accessed 13 January 2023]

32 HMRC, ‘Research and Development Tax Credits Statistics September 2022’ (29 September 2022): <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit/research-and-development-tax-credits-statistics-september-2022> [accessed 13 January 2023]

33 *Ibid.*

34 This is likely to underestimate the total cost given that the Government told us that the latest cost estimate for 2020–21 had been revised upwards to £6.9bn. See letter from Victoria Atkins MP, to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>.

error and fraud relates to the SME scheme.³⁵ Since 2019–20, the National Audit Office has qualified its audit of HMRC’s annual accounts as a result of its concerns about the level of error and fraud in relation to R&D relief.³⁶

Underlying investment in R&D

20. The growth in the number of claims nevertheless reflects an increase in the amount of underlying R&D expenditure for which R&D relief has been claimed. For example, HMRC estimated that in 2020–21 the amount of qualifying R&D expenditure, in relation to which claims would be made, was £38.1 billion (as seen above in Table 2, R&D claims in that year cost the Exchequer £6.59 billion). In comparison, HMRC estimated that in 2014–15 the amount of qualifying R&D expenditure was £27.3 billion, with R&D relief then costing the Exchequer £3.02 billion.³⁷
21. Victoria Atkins MP told us that by the end of 2027–28, the Government estimates that qualifying R&D expenditure will have risen further to £60 billion, with R&D relief claims in 2027–28 then estimated to cost the Exchequer £9.2 billion.³⁸
22. HMRC’s R&D Statistics measure only the amount of expenditure on R&D that qualifies for R&D tax relief. The Office of National Statistics (ONS) publishes the official UK measure of R&D expenditure in the economy using data from its Business Enterprise Research and Development (BERD) survey. Until recently, the ONS’s data had shown a much lower level of R&D investment in the UK than suggested by HMRC’s R&D Statistics, despite using the broader OECD ‘Frascati manual’ definition of R&D.³⁹ For example, the ONS data “includes capital expenditure, and expenditure on arts, humanities, and social sciences innovations, whereas these do not qualify for R&D tax reliefs, and so are not included in the HMRC statistics.”⁴⁰

35 HMRC, *Annual Report and Accounts 2019 to 2020* (5 November 2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932874/HMRC_Annual_Report_and_Accounts_2019_to_2020_Print.pdf [accessed 6 December 2022], HMRC, *Annual Report and Accounts 2020 to 2021* (4 November 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1035550/HMRC_Annual_Report_and_Accounts_2020_to_2021_Print.pdf [accessed 6 December 2022] and HMRC, *Annual Report and Accounts 2021 to 2022* (18 July 2022): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125182/HMRC_Annual_Report_and_Accounts_2021_to_2022_Print.pdf [accessed 6 December 2022]

36 National Audit Office ‘HM Revenue & Customs annual accounts 2019–20’ (5 November 2020): <https://www.nao.org.uk/reports/hm-revenue-customs-annual-accounts-2019-20/> [accessed 13 January 2023], HM Revenue & Customs 2020–21 Accounts (4 November 2021): <https://www.nao.org.uk/reports/hm-revenue-amp-customs-2020-21-accounts/> [accessed 13 January 2023] and HM Revenue & Customs 2021–22 Accounts (18 July 2022): <https://www.nao.org.uk/reports/hm-revenue-customs-2021-22-accounts/> [accessed 13 January 2023]

37 HMRC, ‘Corporate tax Research and Development Tax Credits’: Research and Development Tax Credits Main tables 2022—RD2 and RD4’: <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit> [accessed 13 January 2023] These figures relate to all R&D schemes and so include vaccine research relief.

38 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/> answer to Q 7: the estimated cost of relief for 2027/28 takes account of the changes made to the rate of relief available under the two schemes in Finance Act 2023.

39 HMRC, ‘Research and Development Tax Credits Statistics September 2021’ (29 September 2022), section 10: <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit/research-and-development-tax-credits-statistics-september-2021> [accessed 13 January 2023]

40 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

For this reason HMRC say that the differences between its statistics and the ONS BERD statistics mean the two measures are not directly comparable.⁴¹

23. Working with HMRC, the ONS has recently reviewed its methodology for calculating its BERD survey data and, in September 2022, announced that it would be making changes.⁴² In particular, the ONS said that it had identified that its BERD estimates “could be changed to better represent smaller UK businesses, which have accounted for a growing amount of R&D activity in the HMRC statistics in recent years.”⁴³ David O’Keeffe, R&D specialist and member of the Corporate Tax Technical Committee at the Chartered Institute of Taxation (CIOT) told us that this change “reduces significantly the gap between its measure of R&D spend in the economy and HMRC’s measure of the expenditure claimed on R&D relief.”⁴⁴ CIOT told us that the revised ONS figures may mean “the amount spent on R&D in the UK is greater than previously thought, and may ... be meeting the government’s target.”⁴⁵
24. When the ONS announced that it would be making changes to its BERD methodology in September 2022, it set out various factors that explained the difference between BERD and HMRC’s measure of R&D investment. These included the under coverage of smaller businesses, as referenced above, and differing recognition of R&D carried out overseas, but also referenced the inclusion within HMRC’s statistics of erroneous or fraudulent R&D claims which the ONS said contributed to a higher HMRC estimate.⁴⁶
25. The CBI told us that “the government has referred to the gap between ONS estimates of UK private business R&D investment and HMRC calculations based on R&D tax credit claims in its narrative on compliance and conversations with businesses, as evidence of the need to address potentially substantial fraud in the system”, and that in light of the revisions to the ONS statistics on R&D investment, “the CBI invites government to reconsider their approach to compliance and estimates of fraud in the R&D tax credits system”.⁴⁷ Victoria Atkins MP told us that the changes to the ONS BERD data would not impact the proposals set out in the Finance Bill as there “is still significant error and fraud in the SME scheme” and that the analysis underlying the proposals “did not depend on the ONS BERD data”.⁴⁸
26. In November 2022, the ONS published BERD survey data using the revised methodology and said that what it described as “interim” changes to its methodology. Its measure of R&D investment for each of 2018, 2019 and 2020 has, as a result of the changes, been increased by £15.8 billion,

41 HMRC, ‘Research and Development Tax Credits Statistics September 2021’ (29 September 2022): <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit-research-and-development-tax-credits-statistics-september-2021> [accessed 13 January 2023]

42 ONS, ‘Comparison of ONS business enterprise research and development statistics with HMRC research and development tax credit statistics’, (29 Sept 2022): <https://www.ons.gov.uk/economy/governmentpublicsectorandtaxes/researchanddevelopmentexpenditure/articles/> [accessed 6 December 2022]

43 *Ibid.*

44 Q 7 (David O’Keeffe)

45 Written evidence from CIOT (DFG0008)

46 ONS, ‘*Comparison of ONS business enterprise research and development statistics with HMRC research and development tax credit statistics*’

47 Written evidence from the CBI (DFG0024)

48 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

£16.1 billion and £17.1 billion respectively which the ONS said “brings the ONS estimates closer to HMRC statistics”⁴⁹ (see Table 3 below).

Table 3: R&D expenditure—Impact of ONS revisions to BERD methodology (£ billion)

Year of comparison	Total R&D expenditure as per ONS BERD survey (prior to 2022 revisions) current prices	R&D expenditure used to claim tax credits	Total R&D expenditure as per ONS BERD survey (after 2022 revisions) current prices
2014/2014–15	20.0	24.4	31.5
2015/2015–16	21.0	28.4	33.2
2016/2016–17	22.6	32.3	35.6
2017/2017–18	23.7	36.8	37.4
2018/2018–19	25.1	41.4	41.0
2019/2019–20	25.9	47.5	42.2

Source: HMRC, ‘Research and Development Tax Credits Statistics September 2021’: section 10: <https://www.gov.uk/government/statistics/corporate-tax-research-and-development-tax-credit/research-and-development-tax-credits-statistics-september-2021> [accessed 6 December 2022]. Revised ONS data (in final column).

ONS, ‘Business enterprise research and development UK’: Current edition of this dataset (22 November 2022): <https://www.ons.gov.uk/economy/governmentpublicsectorandtaxes/researchanddevelopmentexpenditure/datasets/ukbusinessenterpriseresearchanddevelopment> [accessed 13 January 2023]

Recent developments and the draft Finance Bill 2022–23

27. On 1 July 2020 the Government published a R&D Roadmap setting out its policy on R&D.⁵⁰ Following this, in March 2021 the Government launched a review of R&D tax relief—the first in its history—together with a consultation on possible changes aimed at both modernising the relief and stemming the loss of tax from spurious claims.⁵¹ HM Treasury’s R&D Tax Reliefs Report was published at the time of the Autumn Budget in November 2021.⁵² It set out the Government’s proposals, as well as measures to correct anomalies in the existing legislation to ensure the reliefs operated as intended. The report also included a summary of responses to the consultation and posed some additional questions relating to the detail of the proposed changes. The Government announced its intention to legislate the changes in the Finance Bill 2022–23 and to issue draft legislation in the summer of 2022.
28. Following stakeholder feedback, the Government announced further detail on these measures in the Spring Statement 2022.⁵³ It also made clear that the

49 ONS, ‘Business enterprise research and development, UK: 2021’ (22 November 2022): <https://www.ons.gov.uk/economy/governmentpublicsectorandtaxes/researchanddevelopmentexpenditure/bulletins/businessenterpriseresearchanddevelopment/2021#business-enterprise-research-and-development-data> [accessed 13 January 2023]

50 BEIS, ‘UK Research and Development Roadmap’ (21 January 2021): <https://www.gov.uk/government/publications/uk-research-and-development-roadmap> [accessed 6 December 2022]

51 HM Treasury, ‘R&D Tax Reliefs: consultation’ (30 November 2021): <https://www.gov.uk/government/consultations/rd-tax-reliefs-consultation> [accessed 6 December 2022]

52 *Ibid.*

53 HM Treasury, ‘Spring Statement 2022: documents’ (23 March 2022): <https://www.gov.uk/government/publications/spring-statement-2022-documents> [accessed 6 December 2022]

review of R&D relief was continuing and further announcements would be made in autumn 2022.

29. The draft legislation on R&D relief was published on 20 July 2022⁵⁴ followed by a period of consultation. In the Autumn Statement on 17 November 2022⁵⁵ the Government announced that the proposals would be included in a spring 2023 Finance Bill.
30. The main proposals are to amend the definition of R&D to make it clear that it includes pure mathematics. It also extends relief to include the cost of data set licence payments, staff costs of creating data sets, cloud computing costs and software and to focus relief more strongly on R&D activity carried out in the UK. There are also administrative proposals concerning claims which are partly modernising but primarily designed to help counter error and fraud. These include making claims digital and increasing the information that must be supplied to support the claim, requiring tax advisers involved in a claim to be named, requiring a senior officer of the company to endorse claims and pre-notifying an intention to claim within six months after the end of the company's accounting period.⁵⁶
31. In the Autumn Statement 2022 the Government announced that it was reducing the rates of R&D relief for SMEs and increasing them for larger companies.⁵⁷
32. The Statement explained that the Government was:

“reforming the reliefs to ensure taxpayers’ money is spent as effectively as possible. There is significant error and fraud in the small and medium enterprises (SME) scheme, with the generosity of the relief making it a target for fraud. By contrast the separate R&D expenditure credit is better value but has a rate which is less internationally competitive.”
33. The Government described these reforms as “rebalancing the reliefs.”⁵⁸
34. Legislation to achieve this was published on 22 November 2022 in the Autumn 2022 Finance Bill,⁵⁹ which received Royal Assent on 10 January 2023.⁶⁰ The Autumn Statement described this as “a step towards a single RDEC-like scheme for all. It also said it will “consult on the design of a single scheme, and ahead of the Budget work with industry to understand whether further support is necessary for R&D intensive SMEs without significant change to the overall cost envelope for supporting R&D.”⁶¹

54 HM Treasury, ‘Research and Development (R&D) Tax reliefs - Reform’ (21 November 2022): <https://www.gov.uk/government/publications/research-and-development-rd-tax-reliefs-reform> [accessed 6 December 2022]

55 HM Treasury, ‘Autumn Statement 2022: documents’ (21 November 2022): <https://www.gov.uk/government/publications/autumn-statement-2022-documents> [accessed 6 December 2022]

56 HMRC, ‘Research and Development Tax Relief reform’ (21 July 2022): <https://www.gov.uk/government/publications/research-and-development-tax-relief-changes/research-and-development-tax-relief-reform> [accessed 6 December 2022]

57 The RDEC rate is to be increased from 13 per cent to 20 per cent and the SME additional deduction rate reduced from 130 per cent to 86 per cent and the credit rate from 14.5 per cent to 10 per cent with effect from 1 April 2023.

58 HM Treasury, ‘Autumn Statement 2022: documents’ (21 November 2022): <https://www.gov.uk/government/publications/autumn-statement-2022-documents> [accessed 6 December 2022]

59 HM Treasury, ‘Autumn Statement 2022’ (17 November 2022): <https://www.gov.uk/government/news/autumn-finance-bill-2022-published> [accessed 6 December 2022]

60 [Finance Act 2023](#)

61 *Ibid.*

35. This consultation *R&D Tax Reliefs Review: Consultation on a single scheme* was published on 13 January with a consultation period running to 13 March 2023. The Government stated that if it decides to introduce a single scheme it intends to implement it for accounting periods beginning on or after 1 April 2024.⁶²

Government and business perspectives

36. The Government told us that it remains committed to supporting R&D and that these “forms of tax reliefs play a really important part in enabling small but also large businesses to innovate and thrive.”⁶³ It said that, even taking account of the changes announced at the Autumn Statement, “we will still spend the most as a percentage of GDP and have the highest number of claims of any country in the OECD”.⁶⁴
37. The CBI told us that “R&D tax credits do play an important role” and that “they provide stability ... Unlike grants, for many businesses they are certain ... Overall we think that R&D relief is hugely effective in increasing private business investment”.⁶⁵ The UK BioIndustry Association (BIA) also emphasised the certainty that the reliefs offer as compared to other forms of R&D funding: “The great thing about R&D tax credits is that if you meet the criteria, you will get the R&D tax credit.”⁶⁶ The Federation of Small Businesses (FSB) considered that “R&D tax credits are also responsive and flexible to business need.”⁶⁷
38. The Institute of Directors (IoD) agreed that R&D tax reliefs “are an important part of the investment ecosystem. They are understood and for those companies that are at the cutting edge of some kind of advance they are known and used.”⁶⁸ Kitty Ussher, Chief Economist at the IoD, explained that although there are often very good commercial incentives to invest in R&D, sometimes “they need sharpening” and that this is where R&D reliefs came in.⁶⁹
39. techUK said that “the R&D tax credit system has been an important constant, and one that is seen as very attractive by our members.”⁷⁰ The BIA told us that “the ability to claim R&D tax credits is one reason why people set up, found and grow companies here. It also helps to leverage in venture capital investment, delivering huge value of money.”⁷¹ Their view was:

“Overall, we believe the SME and large company tax relief regimes work very well and are a highly effective policy lever through which the Government can incentivise private sector investment in R&D. The UK’s R&D tax reliefs regime help to make it a competitive location

62 HM Treasury, ‘R&D Tax Reliefs Review: Consultation on a single scheme’ (13 January 2023): <https://www.gov.uk/government/consultations/rd-tax-reliefs-review-consultation-on-a-single-scheme> [accessed 16 January 2023]

63 [Q 81](#) (Victoria Atkins MP)

64 [Q 69](#) (Victoria Atkins MP)

65 [Q 22](#) (Alice Jeffries)

66 [Q 42](#) (Colin Hailey)

67 [Q 22](#) (Chris McDonald)

68 [Q 22](#) (Kitty Usher)

69 [Q 30](#) (Kitty Ussher)

70 [Q 41](#) (Neil Ross)

71 [Q 41](#) (Colin Hailey)

for new internationally mobile businesses to start and grow, and for established global businesses to make R&D investments.”⁷²

40. **R&D makes an important contribution to the UK’s economy, and we agree that it is right for the Government to support it. We welcome the Government’s commitment to continuing R&D relief.**
41. **R&D relief is seen by business as an important element for supporting and promoting R&D activity in the UK. HMRC data indicates that the reliefs do promote spending on R&D although the return on the SME relief is disappointing.**
42. **It is right that, taking account of the rising cost of the schemes, the Government keeps them under review and ensures that they not only meet the needs of the modern economy but also represent value for money for the taxpayer.**
43. **We are concerned at the evidence of how the cost of fraud and error has increased. We note that the Government sees the rebalancing of the reliefs it announced at the Autumn Statement 2022 as a means of reducing the number of spurious claims.**

72 Written evidence from UK BioIndustry Association ([DFG0016](#))

CHAPTER 3: ABUSE OF R&D RELIEF

HMRC compliance activity concerning spurious claims

44. Chapter 2 discussed the increase in error and fraud within R&D tax relief in recent years, with HMRC stating in its annual reports that the majority of the fraud relates to the SME scheme.⁷³
45. HMRC told us it operates an approach to claims known as “process now, check later”.⁷⁴ The purpose of this approach is to expedite claims and give taxpayers the benefits of relief sooner. However, if it subsequently transpires that the taxpayer is not entitled to R&D relief, it is recovered from the taxpayer. The BIA considered that the matter had been made worse by the COVID-19 pandemic. It said: “During Covid, no inquiries were running at all; HMRC just let everything through.”⁷⁵
46. We heard that R&D relief has been abused in two main ways.⁷⁶ Victoria Atkins MP told us that criminal gangs had been found to be making fraudulent claims leading to a serious threat to revenue: “A recent operation, which is the subject of recent media coverage, has resulted in nine arrests ... and involves over 100 R&D relief claims, totalling over £16 million.”⁷⁷ CIOT also noted that there had been “a high-profile prosecution for fraud.”⁷⁸
47. Nicole Newbury, Director of Wealthy and Mid-sized Business Compliance at HMRC, told us that “[HMRC] spotted a scaled organised criminal attack on the R&D regime in April. We therefore paused payments for two weeks while we strengthened our perimeter checks”.⁷⁹ CIOT understood the reasons for the suspension, but felt it had been “very disruptive” with “poor communication from HMRC”. It said although the processing of claims resumed, HMRC is still operating with “an extended target of 40 days turnaround (rather than 28 days as previously).”⁸⁰
48. Tessa Robins, Deputy Director of Corporate Tax (CT) Innovation and Growth, Business, Assets and International at HMRC, told us that the second area of concern was the activities of rogue advisers who approach small companies pro-actively with a view to persuading them to make R&D claims typically on a contingency fee basis.⁸¹ The companies may not be aware that the claims being made are not allowable, especially as they may initially be successful under the “process now, check later” approach. Richard Jones,

73 HMRC, *Annual Report and Accounts 2019 to 2020* (5 November 2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932874/HMRC_Annual_Report_and_Accounts_2019_to_2020_Print.pdf [accessed 6 December 2022], HMRC, *Annual Report and Accounts 2020 to 2021* (4 November 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1035550/HMRC_Annual_Report_and_Accounts_2020_to_2021_Print.pdf [accessed 6 December 2022] and HMRC, *Annual Report and Accounts 2021 to 2022* (18 July 2022): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125182/HMRC_Annual_Report_and_Accounts_2021_to_2022_Print.pdf [accessed 6 December 2022]

74 Q 77 (Nicole Newbury) The “process now, check later” approach is not unique to R&D claims.

75 Q 43 (Colin Hailey)

76 Q 71 (Nicole Newbury)

77 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

78 Written evidence from CIOT (DFG0008)

79 Q 79 (Nicole Newbury)

80 Supplementary written evidence from CIOT (DFG0051)

81 Q 74 (Tessa Robins)

Technical Manager in Business Tax at the Institute for Chartered Accounts in England and Wales (ICAEW) said that “a lot of these claims are smaller in volume, in the size of the claim. It is not in HMRC’s interests, or not efficient for it necessarily to inquire into all of them.”⁸² However, he felt that HMRC “could divert more of its resources ... to investigating agents it has identified as issuing non-genuine claims.”⁸³

49. ForrestBrown told us about various compliance activities HMRC is undertaking to combat spurious claims. These include:
- Randomly selected enquiries (which are instigated in response to comments raised by the NAO on HMRC’s annual accounts and are aimed at helping “HMRC better understand the level of error and fraud”; and
 - Targeted compliance checks where HMRC has identified a specific risk, although “it is not always clear what specific risks HMRC has identified”.⁸⁴
50. In addition, HMRC uses “One-to-many”⁸⁵ letters which have to date taken two forms:
- Nudge letters, where there are “typically 2,000 to 3,000 businesses in each issue ... targeted to sectors or types of claim where HMRC has identified common errors” inviting companies to review their claims and make amendments if necessary; and
 - Fraud Investigation Service (FIS) letters stating: “The claim triggered an alert on our systems and has caused HMRC to believe that you have fraudulently claimed money to which you are not entitled.” The taxpayer can either “provide further information to support but risk a fraud investigation” or “take no action and HMRC will delete its claim”.⁸⁶
51. Crowe U.K. LLP pointed out that because the letters are sent from HMRC’s fraud department, companies may not be able to recover fees paid to respond to the FIS under the terms of any insurance they have taken out to protect them in the event of an HMRC enquiry.⁸⁷
52. Referring to a campaign launched by HMRC on 15 June 2022, following the discovery of the criminal attack on R&D relief, where such letters were issued to “many claimants”, EmpowerRD pointed to adverse criticism of it in the press in September 2022.⁸⁸ Victoria Atkins MP told us that 1,685 letters had been issued between June and September 2022, of which 80 per cent had received no response within the specified 30-day response window and a further 15 per cent where a response had been received that appeared to

82 Q 4 (Richard Jones)

83 Q 6 (Richard Jones)

84 Written evidence from ForrestBrown Limited (DFG0036)

85 HMRC’s ‘One to Many’ approach “is where HMRC sends one standard message to many customers. The aim is to influence customers’ behaviour, so they are more likely to comply with their tax obligation. HMRC ‘HMRC internal manual Compliance Handbook’ (11 March 2016): <https://www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch600110> [accessed 10 January 2023]

86 Written evidence from ForrestBrown Limited (DFG0036)

87 Written evidence from Crowe U.K. LLP (DFG0028)

88 Written evidence from EmpowerRD (DFG0018)

warrant further investigation.⁸⁹ On that basis, HMRC “felt that the wording of the letter and the approach was proportionate and justified”.⁹⁰ However, it was clear from the evidence we received that many letters had been sent to witnesses’ clients with genuine claims and had caused alarm and offence.⁹¹

53. Mr O’Keeffe of CIOT told us “that the problem with the compliance process, in my view, is that it is ineffective ... too many claims are getting through that, frankly, should not get through.”⁹² A general criticism of HMRC’s compliance activities was that they are poorly targeted. Aiglon Consulting said: “My experience over very many years is that HMRC’s approach to R&D claim compliance is haphazard.”⁹³ Nigel Holmes, Director of Tax at CATAX, and the R&D Community, both referred to the approach as “scattergun”.⁹⁴ Mr O’Keeffe said that “it feels as if what is happening is a lucky dip”, saying that a more effective system of risk-assessment was needed.⁹⁵
54. Victoria Atkins MP told us that so far in 2022–23, claims had been “determined to be inaccurate in 84 per cent of closed 1-2-1 enquiry cases in the SME R&D scheme.” Of those R&D claims challenged and closed in 2022–23, the average additional amount of tax due was £128,000.⁹⁶ She said the FIS currently had eight live R&D criminal investigations covering 1,300 claims.
55. Many witnesses were also critical of the way HMRC officers handle investigations.⁹⁷ Crowe U.K. LLP felt “it would be helpful if HMRC inspectors read all the information provided to them as part of the claim, including the attached report, before asking questions”.⁹⁸ CIOT reported experience of “HMRC asking for information which had already been provided”,⁹⁹ while Ayming UK complained about inspectors using a formulaic “checklist of questions, many of which are irrelevant to the claim under inquiry”.¹⁰⁰ ABGi-UK Limited noted “a significant lack of consistency” on the part of HMRC officers “with regards to both application of guidelines and compliance check process”.¹⁰¹

89 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

90 Q 79 (Nicole Newbury)

91 Written evidence from EmpowerRD (DFG0018), Ayming UK (DFG0019), the R&D Community Ltd (DFG0 026), Crowe U.K. LLP (DFG0028), Wobbegong Technology Ltd (DFG0029), Terry Toms and Partners Limited (DFG0032), ABGi-UK Limited (DFG0033) and Plan it Tax (DFG0044)

92 Q 3 (David O’Keeffe)

93 Written evidence from Aiglon Consulting (DFG0017)

94 Q 55 (Nigel Holmes) and written evidence from the R&D Community Ltd (DFG0026)

95 Q 8 (David O’Keeffe)

96 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>. These statistics excluded the Mandatory Random Enquiry Programme.

97 Written evidence from CATAX (DFG0004), Ayming UK (DFG0019), Crowe U.K. LLP (DFG0028), Cooper Parry (DFG0031), Terry Toms and Partners Limited (DFG0032), ABGi-UK Limited (DFG0033), ForrestBrown Limited (DFG0036), Evelyn Partners (DFG0037), GrantTree Ltd (DFG0039) and Grant Thornton UK LLP (DFG0041)

98 Written evidence from Crowe U.K. LLP (DFG0028)

99 Written evidence from CIOT (DFG0008), CATAX (DFG0004) and Evelyn Partners (DFG0037)

100 Written evidence Ayming UK (DFG0019), CATAX (DFG0004), Crowe U.K. LLP (DFG0028), UK BioIndustry Association (DFG0016), MCS Corporate Strategies Ltd (DFG0014) and Q 56 (Nigel Holmes)

101 Written evidence ABGi-UK Limited (DFG0033), ICAEW (DFG0010), the R&D Community Ltd (DFG0026), GrantTree Ltd (DFG0039) and Q 38 (Alice Jeffries)

56. On interactions with taxpayers and their advisers, CATAX drew attention to “unreasonable delays by HMRC in replying yet being draconian with time given for us to respond”.¹⁰² ABGi-UK Limited were concerned about the frequent changes of personnel handling cases, leading to “an unprecedented number of caseworker and/or inspector changes on each compliance check”.¹⁰³ ForrestBrown criticised HMRC’s apparent preference for conducting enquiries “largely or entirely by letter” rather than meeting with taxpayers and advisers,¹⁰⁴ while CIOT reported that advisers were “unable to speak to anyone at HMRC” about claims.¹⁰⁵

HMRC Resources

57. The CBI told us: “Businesses of all sizes have expressed a concern about resourcing levels within HMRC, including the R&D teams ... these constraints are causing a negative shift in HMRC’s engagement with taxpayers.”¹⁰⁶ The R&D Community said: “Our overall experience is that HMRC is grossly under-resourced to adequately police the R&D scheme.”¹⁰⁷
58. ela8 Limited warned:
- “the new legislation will add significantly to HMRC’s workload in processing claims, HMRC must be confident that it has the resources, technology and technical acumen (including a panel of technologists) to utilise the information gathered in a timely, efficient and effective manner such that it can be used to inform the direction of compliance checks and further tackle abuse.”¹⁰⁸
59. Victoria Atkins MP told us that the specialist R&D team focused on SME compliance has more than doubled in recent years in response to the growing levels of error and fraud. This was part of a wider team of 245 full time equivalent staff of all grades working across a range of incentives and reliefs.¹⁰⁹ When we asked if she was satisfied that HMRC is dedicating the right amount of compliance resource to R&D claims, she said: “At the moment, yes ... At the moment we have enough.”¹¹⁰
60. ForrestBrown acknowledged that HMRC had increased resourcing in recent years but said that “questions remain over whether the R&D team had the quantity of trained and experienced specialist resource needed”.¹¹¹ Terry Toms and Partners Limited stated that “people in HMRC involved in compliance check lack experience”.¹¹² The BIA said that “there is no substitute for having enough Inspectors, and having them properly trained, to scrutinise claims.”¹¹³

102 Written evidence from CATAX (DFG0004), BDO LLP (DFG0015), the R&D Community Ltd (DFG0026) and ela8 Limited (DFG0034)

103 Written evidence from ABGi-UK Limited (DFG0033) and the R&D Community Ltd (DFG0026)

104 Written evidence from ForrestBrown Limited (DFG0036) and ABGi-UK Limited (DFG0033)

105 Written evidence from CIOT (DFG0008)

106 Written evidence from the CBI (DFG0024)

107 Written evidence from the R&D Community Ltd (DFG0026)

108 Written evidence from ela8 Limited (DFG0034)

109 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

110 Q 80 (Victoria Atkins MP)

111 Written evidence from ForrestBrown Limited (DFG0036)

112 Written evidence from Terry Toms and Partners Limited (DFG0032)

113 Written evidence from UK BioIndustry Association (DFG0016)

61. Victoria Atkins MP told us that “HMRC is increasing its resource on R&D and has training programmes in place to help new staff develop their knowledge and understanding as R&D specialists.”¹¹⁴
62. **HMRC should address the criticisms witnesses made of the way its compliance activities are conducted. These included an inconsistency of approach, failing to take account of information already received from claimants when making enquiries, poorly focused questions and a reluctance to engage constructively with taxpayers and their agents.**
63. **Witnesses considered that HMRC is not sufficiently resourced for its current compliance activities in relation to R&D claims. The new legislation may put greater pressure on resources if HMRC is to use the additional information it will generate effectively. This is a matter both of the amount of resource available and its quality.**
64. **While we note that the Minister responsible believes that the current resources are adequate for dealing with R&D relief, we recommend that the Government keeps the resource available to HMRC for dealing with R&D relief under review. If it is insufficient to combat the abuse of R&D relief effectively, the Government should consider whether additional resources can be made available within HMRC and, if necessary, provide additional resource.**
65. **HMRC’s Charter requires HMRC to ensure that officers dealing with a taxpayer have the right level of expertise, but our evidence suggests that this is not always the case in relation to R&D relief. We recommend that HMRC review its current training programme for its R&D teams to ensure it is providing officers with the skills and knowledge they need to work effectively and appropriately with businesses on R&D relief.**

The draft Finance Bill proposals for tackling abuse

66. The proposals in the draft Finance Bill 2022–23 include a number of changes to the way in which claims to R&D relief are made, aimed at helping HMRC combat the abuse of the relief. With effect from 1 April, claims:
- are to be made digitally;
 - are to include more detailed information about the nature of the claim;
 - are to name any tax adviser(s) involved in preparing the claim;
 - are to be endorsed by a senior officer of the company; and
 - [the intention to claim] must be pre-notified within six months of the end of the company’s accounting period to which it relates.¹¹⁵

114 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

115 HM Treasury and HMRC, ‘Finance Bill 2022–23’ (20 July 2022): <https://www.gov.uk/government/collections/finance-bill-2022-23> [accessed 15 December 2022]

Digital claims and need for guidance

67. Digital claims and the requirement to provide more detailed information were generally welcomed by witnesses.¹¹⁶ EmpowerRD commented: “The proposal to mandate the provision of additional information with an R&D claim is long overdue”.¹¹⁷ The Association of Taxation Technicians (ATT) said it supported “the proposed requirement for claims to include more information” but felt that “clear guidance will be needed”¹¹⁸ on exactly what was required.
68. Charlotte Barbour, Director at the Institute of Chartered Accounts of Scotland (ICAS), said “some of these changes may be quite helpful if they give HMRC better tools to do risk analysis on who should and should not get R&D paid out.”¹¹⁹ The Association of Chartered Certified Accountants (ACCA) supported this view, stating “once HMRC is getting all claims digitally, it should be easier for it to analyse and compare them, but ... there is the issue of whether it has the resource and will actually do that.”¹²⁰
69. Ms Barbour of ICAS also commented on the need for HMRC to have the staff and capacity to use the additional information. CIOT said that collecting “information is a great first step, but it is utterly useless if nothing is done with it.”¹²¹
70. On the mechanics of digital claims, CIOT feared that “there could still be multiple forms to complete”¹²² and ICAEW wanted to see “more integration into the company’s tax account”.¹²³ Aiglon Consulting described this as “unwanted complexity” and argued that “it would make far more sense for information to be provided in the CT600L (company tax return supplementary pages).”¹²⁴
71. Victoria Atkins MP told us that “HMRC is developing a new service via gov.uk which will require a simple form, including details of the R&D project ... a breakdown of the expenditure in each category... and details of the company senior officer and any agent involved. This is alongside and in addition to the current online CT (corporation tax) process, which most companies already use.”¹²⁵ She subsequently explained that HMRC had been undertaking user research on the new digital forms and that this would continue in the New Year before the forms went live in April.¹²⁶

Naming tax advisers and the senior officer requirement

72. The requirement for tax advisers to be named also commanded general support. Aiglon Consulting considered “no reputable adviser could possibly have any objection to being identified in this way.”¹²⁷ However, it asked

116 Written evidence from ICAS ([DFG0011](#)) and the R&D Community Ltd ([DFG0026](#))

117 Written evidence from EmpowerRD ([DFG0018](#))

118 Written evidence from ATT ([DFG0006](#))

119 [Q 3](#) (Charlotte Barbour)

120 [Q 15](#) (Jason Piper)

121 [Q 9](#) (David O’Keeffe)

122 [Q 8](#) (David O’Keeffe)

123 [Q 8](#) (Richard Jones)

124 Written evidence from Aiglon Consulting ([DFG0017](#))

125 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

126 *Ibid.*

127 Written evidence from Aiglon Consulting ([DFG0017](#))

“whether HMRC actually has a plan as to what it will do with this information and how it will use it to tackle rogue advisers.¹²⁸ CIOT described it as “a fantastic idea as long as something is done with that information.”¹²⁹

73. On the requirement for a senior officer of the company to endorse a claim. Ms Newbury of HMRC told us that HMRC saw “rogue agents go in at quite a junior level in a business and get the business to agree that they can act on its behalf in an R&D claim.”¹³⁰ EmpowerRD took the view “that the proposal for sign-off by a senior officer of the company will rightly focus the attention of the signatory on ensuring that the claim is correct”.¹³¹
74. On the other hand, Aiglon Consulting pointed out: “For any claim filed online either in the original CT600 (the company tax return) ... or as part of an amended CT600 ... the company already has to complete a declaration of completeness and correctness. It is not possible to complete this declaration properly without being aware of the R&D claim.”¹³² Others agreed with this point and queried what additional benefit the requirement was adding.”¹³³

Pre-notification requirement

75. There was almost universal opposition to the pre-notification requirement. Emma Rawson, Technical Officer at ATT, said that “the minority of agents who are pushing for inappropriate claims using high-pressured sales techniques will just factor it into their business processes. We do not think it will be enough to put them off”.¹³⁴ CIOT considered it “will prevent genuine claimants from accessing the relief to which they are entitled, while not necessarily leading to any significant reduction in abuse”.¹³⁵ It added that “it will disproportionately hurt smaller and newer companies”¹³⁶ ATT said: “It does not seem at all equitable that a company carrying out genuine R&D activity and incurring qualifying expenditure should be excluded from relief solely on the grounds of whether they are practically able to notify HMRC within an arbitrary window of time.”¹³⁷ Aiglon Consulting considered that the proposal “seems designed only to reduce the number of claims, regardless of their quality.”¹³⁸
76. ATT said: “It feels as though we are introducing more hurdles for genuine claimants without getting to the root cause and tackling the abuse.”¹³⁹ The BIA stated: “For genuine claimants, this just increases the compliance burden ... they are being made to suffer for the sins of others.”¹⁴⁰
77. Ms Robins of HMRC said: “We recognise that this constitutes an additional admin burden for legitimate traders, but we consider that it is justified in light of the levels of abuse that we see in the regime. That is why it can be

128 Written evidence from Aiglon Consulting (DFG0017)

129 Q 9 (David O’Keeffe)

130 Q 75 (Nicole Newbury)

131 Written evidence from EmpowerRD (DFG0018)

132 Written evidence from Aiglon Consulting (DFG0017)

133 Written evidence from CIOT (DFG0008), ICAS (DFG0011), Wilson Wright LLP (DFG0020) and ForrestBrown Limited (DFG0036)

134 Q 16 (Emma Rawson)

135 Written evidence from CIOT (DFG0008)

136 *Ibid.*

137 Written evidence from ATT (DFG0006)

138 Written evidence from Aiglon Consulting (DFG0017)

139 Q 16 (Emma Rawson)

140 Written evidence from UK BioIndustry Association (DFG0016)

justified to take this step in regard to this particular scheme when perhaps that is not necessary in other areas of the tax code, which are not currently directly under attack or open to abuse in quite the same way.”¹⁴¹

78. CIOT warned that the advance notification requirement could “increase HMRC’s workload, by encouraging taxpayers to make “protective advance notifications”¹⁴²—in other words, to make notifications that may not lead to claims. Wilson Wright LLP warned that “this may result in an unworkable number of applications to HMRC.”¹⁴³ Crowe U.K. LLP said it “would be concerned that HMRC would not be resourced to deal with the volume of such notifications it could receive.”¹⁴⁴
79. ICAEW said that if the Government was determined to press ahead with pre-notification, the time limit should be extended to 12 months, notification should be on a group rather than company by company basis, and the form of the notification should be agreed and publicised as soon as possible.¹⁴⁵ EmpowerRD suggested a nine-month deadline.¹⁴⁶
80. Mr O’ Keeffe of CIOT said: “I honestly do not think they will be of huge help in tackling abuse.”¹⁴⁷ BDO LLP considered that “it would be wrong to assume that the new reporting requirements as currently proposed, would on their own, have a substantial impact in countering error and fraud resulting from spurious R&D claims.”¹⁴⁸
81. **We accept that, in principle, the proposed new requirements for R&D claims should help HMRC to counter abuse, mainly by providing more information about the claims and the advisers who prepare them. This should enable HMRC to make a more effective risk assessment of which claims to investigate.**
82. **We agree with witnesses that the new rules will only be successful in improving risk assessment if HMRC uses the new information it will receive timeously and effectively. We are concerned that it may not be sufficiently resourced to do this. The Government must ensure that adequate resources are in place within HMRC’s R&D teams, otherwise the policy objective of the new rules may not be achieved.**
83. **We recommend that HMRC monitors whether compliance with the requirement for a senior officer of a company to endorse an R&D claim, as well as the company’s own tax return, achieves the policy aim of this measure. If it proves necessary, HMRC should consider what other options might be available to ensure senior officers of companies take appropriate responsibility for claims.**
84. **The new requirements increase the compliance burden on all claimants, including those meeting their obligations and making genuine claims. In the case of most of the requirements, we consider**

141 [Q 74](#) (Tessa Robins)

142 Written evidence from CIOT ([DFG0008](#))

143 Written evidence from Wilson Wright LLP ([DFG0020](#))

144 Written evidence from Crowe U.K. LLP ([DFG0028](#))

145 Written evidence from ICAEW ([DFG0010](#))

146 Written evidence from EmpowerRD ([DFG0018](#))

147 [Q 6](#) (David O’Keeffe)

148 Written evidence from BDO LLP ([DFG0015](#))

that this strikes a reasonable balance, taking account of the benefit of equipping HMRC to combat abuse more effectively.

85. **The requirement for pre-notification of claims, however, appears to be uniquely onerous, without any direct precedent within the tax system. It risks companies being unable to make legitimate claims, while its benefits in countering abuse are questionable.**
86. **We recommend that the requirement that companies give notice of claims within six months after the end of their accounting period is dropped from the draft Finance Bill 2022–23 before it is introduced into Parliament.**

Preparation for implementation

87. When the draft Finance Bill 2022–23 was published in July 2022 the accompanying policy paper on R&D tax relief reform said that secondary legislation would be introduced with effect from April. This would mandate digital claims, set out the additional information to be provided with a claim, and set out the information to be provided with the pre-notification and the form. It would also detail the manner in which that notification is to be made.¹⁴⁹ The rules in the draft Finance Bill 2022–23 also take effect from April.
88. ATT were “disappointed that the majority of the detail surrounding these [measures] was not included in the draft Finance Bill, and will instead be set out in secondary legislation at a later date”.¹⁵⁰ ICAEW said that it was “concerning that the form of the notification has not yet been decided. It is important that this is agreed and publicised as soon as possible so that companies have plenty of time in which to comply.”¹⁵¹
89. While the relevant secondary legislation has not yet been published, HMRC did publish draft guidance on 20 December 2022.¹⁵² This set out the additional information which will be required to make a claim for R&D relief and the information which will need to be included as part of a notification of an intention to claim. It also included guidance on the definition of R&D and qualifying expenditure, referred to in Chapter 5, and on the rules relating to overseas expenditure, referred to in Chapter 6. The draft guidance does not include the new forms for making claims or notifying an intention to claim but said that these will be available in April when the legislation takes effect. The draft guidance is subject to a consultation period ending on 28 February.
90. **It is disappointing that secondary legislation setting out the detail of the new compliance measures has not yet been published in draft given the proximity of the rules taking effect. Draft regulations should be published as soon as possible to give businesses adequate time to prepare for implementation in April.**

149 HMRC, ‘Research and Development Tax Relief changes’ (21 July 2022): <https://www.gov.uk/government/publications/research-and-development-tax-relief-changes> [accessed 15 December 2022]

150 Written evidence from ATT (DFG0006)

151 Written evidence from ICAEW (DFG0010)

152 HMRC, ‘Draft guidance: Research and Development (R&D) tax reliefs’ (20 December 2022): <https://www.gov.uk/government/consultations/draft-guidance-research-and-development-rd-tax-reliefs> [accessed 10 January 2023]

91. **Draft guidance has been published and this is welcome. However, while we commend HMRC for a consulting on the draft guidance, we note that since the consultation period continues until the end of February, it will be March at the very earliest before a final version can become available. This would only be shortly before the new rules take effect from 1 April. In the meantime there remains an element of uncertainty—indeed the draft guidance specifically states that no action should be taken based on it. It is not clear to us why it has taken HMRC five months from the publication of the draft Finance Bill in July 2022 to draft and publish less than 10 pages of guidance.**

The role of agents and advisers

92. Witnesses from the tax professional bodies considered that unregulated advisers were responsible for the majority of spurious claims. Ms Barbour of ICAS said: “We feel strongly that all agents should belong to professional bodies ... it is my understanding, from looking at the websites of those that do cold calling—the rogue ones—that they are not members of any of the professional bodies.”¹⁵³ CIOT said: “The UK does not regulate tax advice and, as a result, there are agents in the R&D market that do not adhere to the strict professional standards such as Professional Conduct in Relation to Taxation (PCRT).¹⁵⁴ Adam Harper, Director of Professional Standards and Policy at the Association of Accounting Technicians (AAT) told us that “it is actually about consumer protection.”¹⁵⁵
93. Ms Newbury of HMRC stated that HMRC’s approach to dealing with rogue advisers was “either to suspend their access to HMRC accounts or report them to the relevant professional body.”¹⁵⁶ However, ICAEW considered HMRC could “do more to highlight those agents that are making fraudulent and spurious claims. If its powers do not currently allow them to name these agents then these could be extended to do so.”¹⁵⁷ It also recommended that “more effort is put into investigating claims made by agents which HMRC suspects are fraudulent or spurious.”¹⁵⁸
94. CIOT highlighted that “the problems in the R&D market are very much a reflection of the need to pursue the raising standards agenda more vigorously.”¹⁵⁹ Such issues were the subject of a consultation published in 2021 *Raising standards in the tax advice market*.¹⁶⁰ A subsequent proposal to require tax advisers to hold professional liability insurance was not pursued, but in the summary of responses to a consultation on that proposal the Government said it would “continue to explore options to improve the wider regulatory framework that supports standards in tax advice in consultation with stakeholders ... [and] will publish a consultation on this in 2022.”¹⁶¹ Victoria Atkins MP told us that “in relation to the regulation of agents, I am

153 [Q 5](#) (Charlotte Barbour)

154 Written evidence from CIOT ([DFG0008](#))

155 [Q 18](#) (Adam Harper)

156 [Q 81](#) (Nicole Newbury)

157 Written evidence from ICAEW ([DFG0010](#))

158 *Ibid.*

159 Written evidence from CIOT ([DFG0008](#))

160 HMRC, ‘Raising standards in the tax advice market’(30 November 2021): <https://www.gov.uk/government/consultations/raising-standards-in-the-tax-advice-market> [accessed 15 December 2022]

161 *Ibid.*

considering that actively. I hope, in due course, I will be able to come back to the committee with an answer to that.”¹⁶²

95. **We consider that the issue of who should be able to advise on R&D claims is part of the wider consideration of the regulation of tax advice, which the Government is pursuing separately. We therefore consider that this is outside the scope of this inquiry.**

CHAPTER 4: THE ADMINISTRATION OF R&D RELIEF AND SMES

96. The Government’s R&D tax credit statistics show a large number of claims for R&D relief are made by SMEs (see Chapter 2). This Chapter discusses various matters relating to the administration of the relief relevant to SMEs, though some may equally apply to large companies.

Awareness of R&D relief among SMEs

97. Ms Robins of HMRC told us: “The relief is designed to incentivise additional R&D that otherwise would not have taken place”.¹⁶³ Chris McDonald, Policy Chair for Innovation and Enterprise at the FSB, and Chief Executive Officer at the Materials Processing Institute, made the same point: “It is to stimulate innovation in business” and “the important bit about the tax credit is to incentivise that extra bit of R&D that would not happen otherwise”.¹⁶⁴ According to Ms Ussher of the IoD, the reliefs need to have “an impact at the point of decision” on whether to carry out R&D.¹⁶⁵
98. Aiglon Consulting told us: “Awareness of the relief has been an issue from the start”.¹⁶⁶ Jenny Tragner, Director and Head of Policy at ForrestBrown, said that in the past HMRC had set up R&D specialist units that “had an enabling role as well as a compliance one. They were there to raise awareness of R&D taxes and support and educate businesses in how to access the incentive” but that now HMRC was more focused on compliance.¹⁶⁷ EmpowerRD told us:
- “We have heard HMRC express the view (at [Research and Development Communication Forum]¹⁶⁸ meetings) that they believe most eligible businesses have now heard about R&D reliefs because of extensive marketing campaigns by R&D advisers. As a result, the impression given is that HMRC does not feel the need to publicise the scheme.”¹⁶⁹
99. AAT’s view was that “there is still an insufficient level of awareness of R&D relief amongst smaller businesses.”¹⁷⁰ The FSB referred to a survey it had carried out for the purposes of its report *A Duty to Reform*¹⁷¹ where only 41 per cent of businesses surveyed said they were aware of R&D relief.¹⁷² In contrast, GrantTree described SME awareness as “excellent”¹⁷³ and GovGrant said that it thought small businesses were “very aware of the relief as there is lots of information readily available through lots of sources including their accountants”.¹⁷⁴

163 Q 74 (Tessa Robins)

164 QQ 23 and 36 (Chris McDonald)

165 Q 26 (Kitty Ussher)

166 Written evidence from Aiglon Consulting (DFG0017)

167 Q 56 (Jenny Tragner)

168 The Research and Development Communication Forum meets twice a year to discuss the operational delivery of the Research and Development (R&D) tax relief schemes. HMRC, ‘Research and Development Communication Forum’: <https://www.gov.uk/government/groups/research-development-consultative-committee> [accessed 15 December 2022]

169 Written evidence from EmpowerRD (DFG0018)

170 Written evidence from AAT (DFG0007)

171 The FSB, ‘A Duty to Reform’ (October 2021): <https://www.fsb.org.uk/resource-report/a-duty-to-reform.html> [accessed 15 December 2022]

172 Written evidence from the FSB (DFG0005)

173 Written evidence from GrantTree Ltd (DFG0039)

174 Written evidence from GovGrant (DFG0003) and UK BioIndustry Association (DFG0016)

100. ATT considered that there was “a range of awareness among smaller businesses”, telling us that “those who have a tax agent ... [are] more likely to be aware than those who handle their own affairs”.¹⁷⁵ We note that HMRC’s recent research on how businesses interact with R&D relief found that businesses mainly became aware of R&D relief from their existing accountants or as a result of being contacted by specialist advisers (although “word-of-mouth” from other businesses that had claimed relief was also cited as a way that companies learnt of the relief).¹⁷⁶
101. ICAS told us that “the number of R&D agents cold calling companies has raised the profile and awareness of the relief significantly in recent years”.¹⁷⁷ Similarly, BDO LLP referenced “blanket marketing by R&D boutique firms” as resulting in SMEs having awareness of the relief. However, it noted this could lead to businesses having “a misleading impression about the relief”.¹⁷⁸
102. EmpowerRD said: “HMRC should not be relying on agents and advisers ... Such messaging may not always be framed in a way that HMRC would desire ... Our experience is that there isn’t currently universal awareness and understanding about the R&D scheme, and in some regards, HMRC has lost control of the narrative around this, leading to some advisers encouraging claiming within areas not likely to qualify.”¹⁷⁹
103. The R&D Community told us that some of its members had the “feeling that awareness of the R&D scheme has spread well beyond those companies that should be claiming, and into the many companies that should not.”¹⁸⁰ Wobbegong Technology Ltd also told us that cold-calling and similar marketing activity was potentially deterring companies who were genuinely carrying on R&D from making claims with “many believing that it is not a legitimate form of tax relief,”¹⁸¹ or as Jason Piper, Head of Tax and Business Law at ACCA put it, because it “sounds too good to be true.”¹⁸² Mr McDonald of the FSB explained:
- “when they hear—and possibly for the first time they hear of it is from their accountant or cold call from an agent—that there is this marvellous scheme, they can be very nervous about engaging with it for fear of ending up on the wrong side of a discussion with HMRC.”¹⁸³
104. Some witnesses, including Leyton UK, said that increased awareness among SMEs did not mean “there is a good understanding of the rules”.¹⁸⁴ Again, we note HMRC’s customer research found that “Business’ understanding of R&D was generally surface level”, even among those that had claimed R&D relief over a number of years. The research noted that businesses said they

175 Written evidence from ATT (DFG0006)

176 HMRC, *Customer experience in claiming Research and Development tax reliefs* (November 2021), section 4: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1036749/Customer_experience_in_claiming_Research_and_Development_tax_reliefs.pdf [accessed 15 December 2022]

177 Written evidence of ICAS (DFG0011), several of the R&D advisory firms that provided evidence referred to the level of cold-calling other clients were receiving and HMRC’s research reported that “nearly all businesses reported being contacted by specialist agents at some time” .

178 Written evidence from BDO LLP (DFG0015)

179 Written evidence from EmpowerRD (DFG0018)

180 Written evidence from the R&D Community Ltd(DFG0026)

181 Written evidence from Wobbegong Technology Ltd (DFG0029)

182 Q 18 (Jason Piper)

183 Q 26 (Chris McDonald), written evidence from AAT (DFG0007) and the CBI (DFG0024)

184 Written evidence from Leyton UK (DFG0025)

“generally wanted more contact from HMRC ... and that this would help to ensure accuracy in business’ understanding of the reliefs”.¹⁸⁵

Increasing awareness

105. ATT told us it supported efforts to raise awareness, which could include “advertising campaigns, sector specific activities and [closer working] with trade bodies”.¹⁸⁶ Mr McDonald of the FSB said that “getting out to talk to business, going through regular business networks ... and using those channels to engage with businesses and increase awareness would be positive activity.”¹⁸⁷ The CBI suggested a series of webinars including live Q&A, each dealing with a specific sector, “aimed at non-tax specialist business managers who are involved in making R&D investment decisions.” The CBI felt that this “would allow HMRC to control the narrative on when a business is eligible for R&D tax credits rather than leaving it to unregulated advisers”.¹⁸⁸
106. BDO LLP wanted HMRC to “find better ways to communicate with early-stage business” about R&D. Both BDO LLP and Wilson Wright LLP suggested that HMRC provide R&D information packs to companies when they first register for tax purposes.¹⁸⁹ We were told a 2016 (simple) guide, “Making R&D easier for small companies” had been “well-received”¹⁹⁰ but was now out of date.¹⁹¹ Cooper Parry suggested that this be updated, with more case studies and cross-sectoral examples.¹⁹² Wobbegong Technology Ltd suggested that BEIS should be more involved in promoting the tax relief.¹⁹³ Both ATT and ForrestBrown stated that improving awareness of SMEs around R&D (and in particular what was and was not R&D) could also mean they were “less vulnerable to poor advice and rogue agents”.¹⁹⁴
107. Victoria Atkins MP told us that the Government needed “to do better at showing legitimate small businesses that this is out there for them, should they require it and should they meet the criteria.” Ms Atkins also stated that she was “really interested to see whether there are other ways [than HMRC’s guidance] we can get these quite powerful messages across about how, if you are doing interesting work in research and development as defined through the BEIS definition, you might be eligible for support”.¹⁹⁵
108. **For R&D relief to work as an incentive of R&D activity, businesses need to know not only that it exists, but what it covers. The Government needs to ensure that SMEs have access to information about R&D relief. This information should be clear, accurate and simple to understand so that SMEs can easily identify whether R&D relief is**

185 HMRC, ‘Customer experience in claiming Research and Development tax reliefs’ (November 2021): <https://www.gov.uk/government/publications/customer-experience-in-claiming-research-and-development-tax-reliefs> [accessed 15 December 2022]

186 Written evidence from ATT (DFG0006)

187 Q 36 (Chris McDonald)

188 Written evidence from the CBI (DFG0024)

189 Written evidence from BDO LLP (DFG0015), Wilson Wright LLP (DFG0020) and ela8 Limited (DFG0034)

190 Written evidence from Ayming UK (DFG0019) and Crowe U.K. LLP (DFG0028)

191 Written evidence from Cooper Parry (DFG0031), Ayming UK (DFG0019), Leyton UK (DFG0025), and Research and Development Consulting Limited (DFG0030)

192 Written evidence from Cooper Parry (DFG0031), Ayming UK (DFG0019), Crowe U.K. LLP (DFG0028), Leyton UK (DFG0025) and Research and Development Consulting Limited (DFG0030)

193 Written evidence from Wobbegong Technology Ltd (DFG0029) and Q 39 (Chris McDonald)

194 Q 52 (Jenny Tragner) and written evidence from ATT (DFG0006)

195 Q 81 (Victoria Atkins MP)

relevant to what they do and, if it is, work out what steps they need to take to claim it. We agree with our witnesses that the Government needs to take control of the narrative of what qualifies as eligible R&D.

109. **We recommend that, as a minimum, HMRC and BEIS work together on a new awareness campaign aimed at providing SMEs with accurate information about what is, and as importantly, what is not R&D.**

Complexity of R&D reliefs and the role of agents and other intermediaries

110. Even if SME awareness of R&D relief has improved in recent years, Adam Harper of AAT told us that there was nevertheless an “insufficient understanding of the complexity relating to [R&D] reliefs.”¹⁹⁶ Emma Rawson of ATT said that the complexity links in part to “what is meant by R&D—it is a very broad definition.”¹⁹⁷ Richard Jones, Technical Manager in Business Tax at ICAEW, explained that applying the definition requires an “understanding of the tax rules and the scientific area that the claim is being made for.”¹⁹⁸
111. Mr O’Keeffe of CIOT considered that the process of applying for relief also contributed to the complexity: “The biggest issue that we and our members see is in the compliance process itself, and the complexity sometimes of that process”.¹⁹⁹ Witnesses also highlighted that there can be complications around deciding which R&D scheme applies, particularly where the SME is receiving grant funding or, more recently, because of HMRC’s current interpretation of when R&D is being subsidised (which we discuss below in paragraph 151).²⁰⁰

Role of agents and other intermediaries

112. The perception of SMEs that R&D relief is complex means that some businesses consider “that the only way that they can engage with [R&D relief] is through some third party agent”.²⁰¹ Ms Barbour of ICAS explained that “in a lot of smaller businesses, individuals ... are broadly frightened of tax ... If you are in a smaller business, presumably you have quite a bit to do making the whole thing run. You are quite content to go to an adviser”.²⁰² Ms Ussher of the IoD said that R&D is one of those areas where “intermediaries are extremely common”.²⁰³ Ms Robins of HMRC told us that around 90 per cent of R&D claims were made by an agent, but noted that this was broadly in keeping with corporation tax compliance generally.²⁰⁴
113. Research by the FSB estimated that, on average, intermediaries take around 16.1 per cent of the value of the tax relief as fees, with at least one in ten

196 [Q 12](#) (Adam Harper)

197 [Q 12](#) (Emma Rawson)

198 [Q 3](#) (Richard Jones)

199 [Q 3](#) (David O’Keeffe) and written evidence from ForrestBrown Limited ([DFG0036](#))

200 Supplementary written evidence from AAT ([DFG0049](#)) and ATT ([DFG0050](#))

201 [Q 26](#) (Chris McDonald). Mr McDonald added that this can be enough to put some off making a claim at all, given concerns about some agents in this area (see Chapter 4) and written evidence from the FSB ([DFG0005](#))

202 [Q 3](#) (Charlotte Barbour).

203 [Q 26](#) (Kitty Ussher)

204 [Q 84](#) (Tessa Robins).

in agents charging fees of at least 25 per cent of the relief.²⁰⁵ Both the IoD and the FSB were concerned about the impact of this as every pound paid to agents was a pound less spent on R&D. Ms Ussher of the IoD said that “the purpose of using taxpayers’ money is to try and encourage more of that research and development to take place”.²⁰⁶

114. Within the R&D advisory market, Ms Tragner of ForrestBrown told us that contingency (or “no win, no fee”) arrangements are popular.²⁰⁷ Ms Ussher of the IoD suggested that “no win, no fee” arrangements might mean that incentives are “quite well aligned”,²⁰⁸ but for the BIA, this type of arrangement was linked to “spurious claims” and “should be outlawed”.²⁰⁹ The FSB said there needed to be a cap on the level of fee charged on a contingency basis.²¹⁰ However, whilst recognising that contingency fees could affect an advisers’ objectivity, other witnesses saw contingency fees as “just a way of pricing for a piece of work”²¹¹ and that they could be appropriate in some cases.²¹²
115. ICAEW said: “HMRC could certainly do more to explain the complexities of making a claim” which could include clearer guidance on this aspect of the relief”.²¹³ Crowe U.K. LLP suggested HMRC provide a “standardised information template for R&D claims—ensuring that the minimal threshold for technical information is reached”.²¹⁴ Wilson Wright LLP suggested sample R&D technical narratives, showing cases that qualified as well as those that did not.²¹⁵ Ms Ussher of the IoD said that there were “very simple things that can be fixed through market research ... such as worked examples, better language and easier to fill out processes, so you understand as completely as possible whether your proposed spend will be eligible or not right at the get-go.”²¹⁶
116. However, Mr McDonald of the FSB suggested that HMRC could help small businesses more if it “engaged differently around [R&D relief].” He said:
- “Having had experience of filling in R&D tax credit applications, this is not a tick-box exercise. You need to carefully go through each project ... identify the innovation potential, which is naturally subjective and then agree that with HMRC ... HMRC needs to have capability ... [to] engage in that way direct with business.”²¹⁷
117. The CBI told us that large businesses can often have that type of engagement with HMRC given they have customer compliance managers (CCMs) and

205 Written evidence from the FSB (DFG0005)

206 Q 26 (Kitty Ussher) and QQ 24 and 26 (Chris McDonald)

207 Q 63 (Jenny Tragner), see also HMRC, ‘Customer experience in claiming Research and Development tax reliefs’ (30 November 2021): <https://www.gov.uk/government/publications/customer-experience-in-claiming-research-and-development-tax-reliefs> [accessed 15 December 2022]

208 Q 31 (Kitty Ussher)

209 Q 41 and 43 (Colin Hailey) and written evidence from the FSB (DFG0005). See also Chapter 4.

210 Written evidence from the FSB (DFG0005)

211 QQ 62 and 63 (Jenny Tragner and Nigel Holmes)

212 Q 18 (Jason Piper, Adam Harper and Emma Rawson)

213 Written evidence from ICAEW (DFG0010)

214 Written evidence from Crowe U.K. LLP (DFG0028)

215 Written evidence from Wilson Wright LLP (DFG0020)

216 Q 26 (Kitty Ussher)

217 Q 26 (Chris McDonald)

so it is very much the smaller companies, and their advisers, that can find themselves unsure as to whether an application is possible.²¹⁸

118. When asked whether complexity meant SMEs felt compelled to use advisers, Victoria Atkins MP told us: “The process is pretty straightforward”.²¹⁹ Ms Robins of HMRC said:

“It is important to make a distinction between the complexity of the process itself, which, as outlined, we currently think is quite straightforward but for justifiable reasons we will be making a little more difficult for claimants, and the underlying issue of what categories of expenditure qualify as R&D.”²²⁰

119. **We are concerned at the disconnect between what HMRC describes as a straightforward process for claiming R&D relief and what our witnesses told us about the perceived complexity of this process.**
120. **We recommend that HMRC work with stakeholders, for example, through its Research and Development Communication Forum, to understand better the concerns raised with us relating to the complexity of R&D reliefs and try to identify solutions.**
121. **Businesses should feel that they are able to claim R&D relief themselves without needing an agent. The Government should work with small business organisations to identify the changes needed to the claims process and related guidance to give smaller businesses the confidence to do it themselves.**

Helping SMEs: Reducing error, guidance, and the Advance Assurance Process

122. As noted above, witnesses told us that one of the challenges for SMEs is identifying whether the activity they carry out constitutes R&D for tax purposes. The IoD told us of the importance of the “definition of what is and what is not in scope [being] clear in everyday business language.”²²¹
123. Ms Tragner of ForrestBrown said that there was “work to be done to make [the definition] clear and more accessible to business.”²²² She noted that as corporation tax operates by way of self-assessment, “businesses are self-assessing what is due to them.”²²³ She added: “Generally, the corporates’ approach to corporate tax is getting it right and not abusing it or being seen to be aggressive in any way.”²²⁴
124. HMRC’s accounts show, however, that not all companies are “getting it right”. The National Audit Office (NAO) have qualified HMRC’s accounts because of uncertainty as to the level of error in the R&D schemes, as well as fraud risk, and asked HMRC to undertake some checking of claims

218 [Q 26](#) (Alice Jeffries). Ayming UK also said that some large businesses have productive engagement with HMRC although overall experience is mixed. Written evidence from Ayming UK ([DFG0019](#))

219 [Q 84](#) (Victoria Atkins MP and Tessa Robins) and letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

220 *Ibid.*

221 [Q 26](#) (Kitty Ussher)

222 [Q 57](#) (Jenny Tragner)

223 [Q 53](#) (Jenny Tragner)

224 *Ibid.*

based on random samples, to provide comparisons with the results from risk assessments.²²⁵ Ms Robins of HMRC told us that it was not currently possible to gauge the level of error in R&D relief claims: “At this point in time we have an estimate of error and fraud, but it is not broken down into different customer behaviours ... we do not have a clear division of our estimate.”²²⁶

125. Nonetheless, Victoria Atkins MP said that this is likely to change, at least in relation to the SME scheme, as HMRC “is developing a new methodology ... which will enable HMRC to provide indicative breakdowns between error and fraud for small and medium sized businesses only.”²²⁷
126. **We welcome the work that HMRC is doing to develop a new methodology which will enable it to distinguish between error and fraud. We would like to see the results of the random sampling exercise when these are available.**

Reasons for error

127. The Government has been clear that the compliance-related measures in the draft Finance Bill 2022–23 are aimed at tacking error, and not just fraud.²²⁸
128. Ms Tragner of ForrestBrown highlighted that “error and fraud are two different things. They are driven by different behaviours, and when we are looking for solutions to each, the solutions may be different”.²²⁹ This view was also shared by Aiglon Consulting and CIOT.²³⁰
129. ForrestBrown told us: “Errors occur due to lack of understanding or awareness of the rule.”²³¹ Mr O’Keeffe of CIOT explained that “there are two types of error ... the simple “I’ve included something I shouldn’t have done and it was a genuine mistake ... The other error is a difference of interpretation between the taxpayer and adviser and HMRC, and that is not uncommon”.²³² Mr O’Keeffe pointed out that there is only an error if the taxpayer’s view is incorrect, and so their claim is adjusted.²³³ However, we note that where the rules are capable of having different meanings, there is likely to be an increased risk of a taxpayer taking an erroneous view of what it is entitled to claim.²³⁴
130. ForrestBrown told us: “For HMRC, resolving error during compliance checks is far less cost effective than preventing such errors in the first place”.²³⁵ Ms Robins of HMRC said that intervention “downstream” after a claim has

225 HMRC, ‘HMRC Annual Report and accounts 2021/22’ (18 July 2022): <https://www.gov.uk/government/publications/hmrc-annual-report-and-accounts-2021-to-2022> [accessed 10 January 2023]. Issues relating to fraud are discussed in Chapter 4.

226 [Q 72](#) (Tessa Robins)

227 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

228 *Ibid.*

229 [Q 52](#) (Jenny Tragner)

230 Written evidence from Aiglon Consulting ([DFG0017](#)) and CIOT ([DFG0008](#))

231 Written evidence from ForrestBrown Limited ([DFG0036](#))

232 [Q 8](#) David O’Keeffe

233 *Ibid.*

234 An example here is the difference of view (between advisers and HMRC) on the meaning of “subsidised expenditure” which is discussed later in this Chapter. As for HMRC, a claim (based on advice that *Quinn* gives the right answer) would be erroneous.

235 Written evidence from ForrestBrown Limited ([DFG0036](#))

been made “costs not only HMRC and the public purse but businesses as well”.²³⁶

131. For businesses, we were told that, because of HMRC’s “process now, check later” policy (see Chapter 3), the cost of an error can easily compound. Ms Barbour of ICAS said that:
- “a small-start up business claims R&D, but it is not an awful lot. It gets paid out, so it has been approved. That is a licence to put the next one in ... you are third year or fourth year down the line before it has become bigger ... [HMRC] start to police it, and then it might start to unravel.”²³⁷
132. Ms Tragner of ForrestBrown told us that where a company had received money for a claim, which was later challenged, “there is every chance that this would cause some distress—potentially serious financial distress—particularly if it is a smaller business”.²³⁸
133. In terms of what might help businesses to get R&D claims right, Ms Tragner said that although better risk-assessing by HMRC at the time a claim was made would help, “there is a lot that could be done around looking at the definition of R&D, improving guidance and educating businesses.”²³⁹ CIOT agreed, stating that “errors that may arise from ignorance rather than intentional abuse will be reduced by focussing on assistance from HMRC to businesses and improving HMRC guidance”.²⁴⁰
134. Ms Newbury of HMRC told us that, by being able to risk-assess more effectively because of the draft Finance Bill 2022–23 changes, the Government “will be able to support businesses at an earlier stage to not make errors”.²⁴¹
135. **Error and fraud are two different things. We are concerned that, although the draft Finance Bill 2022–23 measures are said to be directed at helping to reduce error, they have primarily been aimed at tackling the increasing number of spurious claims. HMRC needs to enhance its education and support to taxpayers to help them understand the scheme better and avoid errors.**
136. **While we understand the reasons why HMRC has adopted the “process now, check later” approach, we consider that it may not be sufficiently clear to claimants that giving relief in response to a claim does not mean that HMRC has accepted it as valid. There remains a possibility that action may be taken to recover the relief if later checks show that the claim did not meet the requirements for R&D relief.**
137. **We recommend that when relief is given it is accompanied by a warning about the possibility of later recovery.**

236 [Q 71](#) (Tessa Robins)

237 [Q 7](#) (Charlotte Barbour)

238 [Q 59](#) (Jenny Tragner)

239 [QQ 52 and 59](#) (Jenny Tragner)

240 Written evidence from CIOT ([DFG0008](#))

241 [Q 71](#) (Nicole Newbury)

The definition of R&D: the BEIS guidelines

138. The meaning of R&D is explained in the BEIS Guidelines.²⁴² The BEIS Guidelines are supplemented by published HMRC guidance to its inspectors—the HMRC Corporate Intangible Research and Development Manual (CIRD Manual).²⁴³ The BEIS Guidelines were first published in 2004, and last updated in 2010.
139. Ayming UK described the BEIS Guidelines as “fundamental to the functioning of the scheme” but told us that “they can be difficult to interpret in a specific field of science or technology due to their breadth.”²⁴⁴
140. Both ATT and CIOT considered that, overall, the BEIS Guidelines were “helpful”²⁴⁵ but both had suggestions for improvement. ATT said that “more practical examples would be welcome” and CIOT thought that BEIS should consider adding “some more supplementary sections, in particular around some of the newer areas in the rules like the expenditure categories of cloud computing and data and also around digital and technology sectors, and the modern economy more generally”.²⁴⁶ The need for examples was referenced by a number of witnesses, with Research and Development Consulting Limited commenting that it was as helpful to have case studies that showed what did not qualify as it was to know what did.²⁴⁷
141. Alice Jeffries, Head of Tax Policy at the CBI, referred to the BEIS Guidelines as “the kind of thing that everyone can access on an individual business level before they engage with HMRC” but told us that “it seems to be not comprehensible or not up to date”.²⁴⁸ She told us that “some of the examples in it are seriously out of date” and referred to a specific example of a DVD player by way of illustration.²⁴⁹
142. Ms Robins of HMRC responded: “It is important to remember that DVD technology is used as an example ... Sometimes in those examples it is easier to use something people are very familiar with than cutting-edge technology” but that she would “take that away and discuss that with BEIS”.²⁵⁰
143. **We agree with our witnesses that the BEIS Guidelines, which explain the meaning of R&D, are in need of updating. It is not appropriate that a document intended to explain innovation has not been revised since 2010.**

242 BEIS, ‘Guidelines on the meaning of research and development for tax purposes’ (6 December 2010): <https://www.gov.uk/government/publications/guidelines-on-the-meaning-of-research-and-development-for-tax-purposes> [accessed 10 January 2023]

243 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/> in response to Q14. HMRC, ‘Corporate Intangibles Research and Development Manual’ (12 January 2023): <https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird44300> [accessed 12 January 2023] designed to provide guidance to HMRC officers on particular topics, HMRC’s manuals are not strictly guidance for taxpayers (although they can provide insight into HMRC’s views).

244 Written evidence from Ayming UK (DFG0019)

245 Written evidence from ATT (DFG0006) and supplementary written evidence from CIOT (DFG0051)

246 *Ibid.*

247 Written evidence from Research and Development Consulting Limited (DFG0030), BDO LLP (DFG0015)

248 Q 26 (Alice Jeffries)

249 Q 18 (Adam Harper)

250 Q 85 (Tessa Robins)

144. **We recommend that, in updating the BEIS Guidelines, BEIS works with HMRC to agree additional “real-world” examples, particularly in relation to R&D within the digital and technology sectors, for inclusion in revised Guidelines.**
145. **We recommend that BEIS commit to reviewing its Guidelines at least every five years.**

HMRC Guidance

146. Feedback from witnesses on HMRC’s CIRDS Manual was less positive: CIOT described it as “less consistently good” than the BEIS Guidelines and “in places, ambiguous and unclear”.²⁵¹ Mr Harper of AAT agreed, saying there was “scope for improvement” as “HMRC’s guidance is... at one end, too complex and at the other end too brief”.²⁵² *ela8 Limited* said it could be “difficult to navigate”.²⁵³
147. ICAS said: “There are many grey areas in the R&D tax rules and, in relation to these, HMRC tend to give examples that focus on either end of the spectrum, where it is more black and white, rather than giving more helpful examples to deal with the more challenging areas in between”.²⁵⁴ In addition, according to *Wilson Wright LLP*, the examples used are often “fairly basic”.²⁵⁵ AAT stated: “HMRC’s guidance is not sufficiently clear and therefore does not support smaller businesses in helping to avoid errors”.²⁵⁶
148. Mr Piper of ACCA said that “elements of the base guidance are very useful and easy to interpret but other areas are far more ambiguous”.²⁵⁷ He explained that this could cause issues for HMRC officials having to use the guidance in relation to a particular claim, as well as for taxpayers:
- “For example, the guidance on software is considered to be particularly ambiguous. Some offices have had no interaction with it and are therefore coming to it fresh ... and inevitably come up with a potentially different subjective interpretation from another HMRC office. That inconsistency can cause issues for agents, let alone taxpayers.”²⁵⁸
149. On the same theme, Neil Ross, Associate Director at *techUK*, told us that “some of our members, particularly in the software development space, keep running up against HMRC when it comes to making claims. Clearer guidance and a better approach would generally be welcome on their side.”²⁵⁹ Mr Holmes of *CATAX* agreed: “It is all about improving the guidance, making it clearer and simpler”.²⁶⁰
150. Referencing the evidence we had heard on the current guidance, Ms Robins of HMRC told us: “We will definitely take that forward as part of the next stage of the review. We will first be producing guidance on the changes that are being introduced, but then we will be doing a more comprehensive

251 Written evidence from CIOT ([DFG0008](#))

252 [Q 14](#) (Adam Harper)

253 Written evidence from *ela8 Limited* ([DFG0034](#))

254 Written evidence from ICAS ([DFG0011](#)) and *Ayming UK* ([DFG0019](#))

255 Written evidence from *Wilson Wright LLP* ([DFG0020](#))

256 Written evidence from AAT ([DFG0007](#))

257 [Q 14](#) (Jason Piper)

258 *Ibid.*

259 [Q 49](#) (Neil Ross)

260 [Q 55](#) (Nigel Holmes)

review of the guidance overall to make it as accessible and user friendly as it can be.”²⁶¹

151. CIOT told us that, as the CIRD manual sets out HMRC’s own view of the law, it “is not necessarily always correct”.²⁶² Several witnesses referenced a specific example concerning the rules relating to “subcontracted” and “subsidised” expenditure (broadly, subsidised expenditure is not eligible for R&D relief).²⁶³ We were told that not only do many advisers disagree with HMRC’s view on when a company has benefitted from a subsidy, but that, in a recent tribunal case *Quinn (London) Limited v HMRC*,²⁶⁴ HMRC was told its view was wrong. Despite that, HMRC has not changed its view and is not intending to appeal the case.²⁶⁵
152. MCS Corporate Strategies Ltd told us: “This remains a contentious issue and source of uncertainty and confusion for SMEs and their advisers”.²⁶⁶ CIOT stated that “the current position is detrimental to HMRC’s overall efforts to ... encourage compliance, because HMRC are permitting a situation of uncertainty to continue and are not taking any of the steps available to government to resolve the uncertainty.”²⁶⁷
153. We were also told that “there is an issue with the consistency with which tax inspectors apply the scheme’s rules”.²⁶⁸ ForrestBrown added: “Neither the BEIS examples, nor the CIRD manual case studies appear to be used in practice to aid HMRC in reviewing projects during compliance checks”.²⁶⁹
154. **We welcome confirmation from HMRC that it plans to undertake a comprehensive review of its published guidance covering R&D tax relief, as set out in its CIRD Manual, to make it more accessible and user-friendly.**
155. **We recommend that, in embarking on this review, HMRC consults with representative bodies from accountancy, tax, and business, and works with them to improve the accuracy and user-friendliness of its published guidance on R&D relief.**

261 Q 84 (Tessa Robins)

262 Written evidence from CIOT (DFG0008) and ela8 Limited (DFG0034)

263 This was referred to by many witnesses in their written evidence, including CIOT (DFG0008), CATAX (DFG0004), BDO LLP (DFG0015), Aiglon Consulting (DFG0017), the CBI (DFG0024), EmpowerRD (DFG0018), Ayiming UK (DFG0019) and Leyton UK (DFG0025)

264 First Tier Tribunal, (*Quinn (London) Ltd v HMRC* [2021] UKFTT 437 (TC))

265 Written evidence from CIOT (DFG0008)

266 Written evidence from MCS Corporate Strategies Ltd (DFG0014). As the case in question, *Quinn*, was in the First Tier Tribunal, the decision of the judge does not represent “law” as such and so HMRC can continue to argue its view is correct: it is only if the case is appealed to the Upper Tribunal that the judge’s decision would be “law” (that is, binding precedent).

267 Written evidence from CIOT (DFG0008), see also CIOT, ‘Time to stop harrying honest small businesses over R&D credits, say tax experts’ (17 November 2022): <https://www.tax.org.uk/time-to-stop-harrying-honest-small-businesses-over-r-d-credits-say-tax-experts> [accessed 10 January 2023]. We note that BDO LLP provided an example of a similar issue concerning HMRC’s interpretation of the law (as reflected in the then guidance) concerning “reimbursable expenditure” from 2014 where eventually (two years later) HMRC accepted their view was incorrect. Written evidence from BDO LLP (DFG0015)

268 Written evidence from GrantTree Ltd (DFG0039) and the CBI (DFG0024)

269 Written evidence from ForrestBrown Limited (DFG0036), Terry Toms and Partners Limited (DFG0032) and ABGi-UK Limited (DFG0033). MCS Corporate Strategies Ltd made a similar point in relation to the application of the BEIS Guidelines by HMRC. Written evidence from MCS Corporate Strategies Ltd (DFG0014)

156. **We agree with our witnesses that HMRC’s CIRD Manual is not an ideal resource for SMEs considering whether to claim R&D relief. We recommend that HMRC, as a minimum, updates its 2016 guide for SMEs to provide SMEs with helpful information about how the relief works.**
157. **We are concerned about the uncertainty that has arisen as to the meaning of “subsidised expenditure” following the decision in the Quinn (London) Limited tribunal case. HMRC should consider what steps it can take to help resolve this uncertainty and address the concerns raised with us in evidence.**

Advance Assurance

158. HMRC operates an Advance Assurance process for SMEs which is intended to provide a guarantee that a claim for R&D relief will be accepted.²⁷⁰ The assurance provided by HMRC after reviewing the R&D activity effectively lasts three years (as the process requires the “assured” R&D claim to be made within the next three accounting periods of the company). Companies can apply directly or through an agent, and where assurance is given, the company should know that relief will be available, which the IoD told us was an “essential”.²⁷¹
159. The CBI stated: “[The Advance Assurance process] is not well known or understood, and once a company has engaged with it once they are not allowed to do so again. This means it is of limited benefit to innovative SMEs with multiple projects.”²⁷²
160. There has been a low take up to date of this process with several witnesses suggesting that this could be because of low awareness among businesses.²⁷³ The FSB told us that its research had found that “only 13 per cent of claimants were aware of Advance Assurance and of these only 7 per cent had applied.”²⁷⁴ Several witnesses suggested the scheme should be publicised more widely.²⁷⁵
161. ATT suggested that another reason for low take up might be that a start-up company “may be unlikely to have a clear picture of their R&D plans ... there could be concerns about going through the advanced assurance process, and providing significant amounts of detailed information up front, when changes to project plans, expenses etc. could mean the assurance is withdrawn” and suggested HMRC should look at making the process “more flexible to recognise the changing nature of SME activities in the three year time scale”.²⁷⁶
162. Wilson Wright LLP suggested that the condition that only first-time claimants could apply for assurance should be removed so that a company could seek assurance for a new R&D project, even if it had applied previously

270 HMRC, ‘Research and Development tax relief: Advance Assurance’ (30 November 2015): <https://www.gov.uk/guidance/research-and-development-tax-relief-advance-assurance> [accessed 11 January 2023]

271 *Q 26* (Kitty Ussher)

272 Written evidence from the CBI (*DFG0024*). A RDEC assurance scheme for larger business had been piloted by HMRC in 2020 but no results had yet been published.

273 Written evidence from ATT (*DFG0006*), the FSB (*DFG0005*) and Ayming UK (*DFG0019*)

274 Written evidence from the FSB (*DFG0005*)

275 *Ibid.*, written evidence from ICAS (*DFG0011*)

276 Written evidence from ATT (*DFG0006*)

albeit for a different project.²⁷⁷ Ms Jeffries of the CBI agreed: “We do not understand why this is the case if HMRC wants more engagement with taxpayers to understand their projects ... there is this option to have a much better engagement level and HMRC has tried it, but designed it in such a way that not does not work for the businesses that wants to use it”.²⁷⁸ The possibility of extending the scheme to larger companies was also raised,²⁷⁹ with the CBI telling us a pilot RDEC assurance scheme had been run by HMRC in 2020 (but that as yet HMRC had not published any report on how it went).²⁸⁰

163. Mr Piper of ACCA told us that both France and the Netherlands operate a “sort of voluntary pre-approval process”. He said: “Early genuine engagement between taxpayer and tax authority enables the tax authority to understand better what a good claim looks like and give the taxpayer more confidence that they will get their claim”.²⁸¹
164. **We recommend that HMRC re-launch the Advance Assurance Process for SMEs. We consider that providing a means for a business to obtain certainty as to whether its claim is eligible should be an essential part of the overall R&D scheme.**
165. **We recommend that HMRC revisit the conditions for being able to apply under the Advance Assurance Process, and in particular, remove the requirement that a company cannot have used the process before.**
166. **We can see merit in extending the Advance Assurance Scheme to claims for RDEC. HMRC should therefore publish its report on the success, or otherwise, of its pilot RDEC assurance scheme no later than Spring Budget 2023. It should also confirm whether or not a permanent RDEC assurance scheme for all companies, regardless of size, will be introduced.**

Interactions with HMRC

167. Mr McDonald of the FSB highlighted that from “a small company perspective, HMRC is quite an intimidating organisation and you do not really want to get on the wrong side of it.”²⁸²
168. CIOT told us that “the approach by HMRC to compliance with R&D relief can be unnecessarily aggressive and err towards apparently assuming errors have been made”.²⁸³ Ayming UK agreed: “Taxpayers have often felt that the inspectors are working from the assumption that the claim is incorrect, and selectively interpret facts to support this position,”²⁸⁴ an approach which ABGi-UK Limited described as “guilty until proven innocent”.²⁸⁵ Mr Piper of ACCA said his members had “reported that HMRC is generally very reluctant to agree claims. There have been some very poor experiences where claims that the adviser clearly thought were 100 per cent legitimate took

277 Written evidence from Wilson Wright LLP ([DFG0020](#))

278 *Ibid.*, [Q 26](#) (Alice Jeffries)

279 Written evidence from Wilson Wright LLP ([DFG0020](#))

280 [Q 26](#) (Alice Jeffries), written evidence from the CBI ([DFG0024](#)) and Wilson Wright LLP ([DFG0020](#))

281 [Q 17](#) (Jason Piper)

282 [Q 26](#) (Chris McDonald)

283 Written evidence from CIOT ([DFG0008](#))

284 Written evidence from Ayming UK ([DFG0019](#))

285 Written evidence from ABGi-UK Limited ([DFG0033](#))

three years and alternative dispute resolution for the client to get 80 per cent, at which point they just gave up.”²⁸⁶

169. CATAX also told us of the difficulty of being able to have “constructive communications” with HMRC because of changes to caseworkers. CATAX said that their Canadian colleagues were able “to call the relevant caseworker at any time during normal working hours” whereas equivalent “opportunities were rare with HMRC”.²⁸⁷ The CBI described the approach of the Canadian tax authority as “positive and preemptive” and said: “Businesses would welcome the greater certainty and reduced administrative time if a similar approach was taken by HMRC”.²⁸⁸
170. Wobbegong Technology Ltd told us that HMRC’s approach had “of late, changed significantly”, having previously been collaborative.²⁸⁹ GrantTree similarly stated that “the quality of our interactions has fallen notably over the last year.”²⁹⁰ Other witnesses expressed still generally having a relatively positive experience of working with HMRC, particularly when dealing with “experienced inspectors”,²⁹¹ but nevertheless they too had at times experienced difficulties when dealing with HMRC.²⁹² The CBI told us: “This [HMRC] approach threatens to put businesses off claiming R&D credits for fear of HMRC denying and investigating the claim, and so undermine support for legitimate UK innovation.”²⁹³

Ability to determine “innovation”

171. Ms Tragner of ForrestBrown told us that “a large part of reviewing an R&D claim is looking at the activities ... and deciding whether they meet the criteria”.²⁹⁴ Mr Jones of ICAEW said that R&D relief means “you need to have an understanding of the tax rules and the scientific area that the claim is being made for.”²⁹⁵
172. Mr McDonald of the FSB told us that in other countries there “is an intellectual capability around innovation located within the tax body that understands ... how innovation works in business and is able to engage” on technical issues.²⁹⁶ In terms of the UK, Mr Piper of ACCA told us there was a “spectrum of knowledge” in HMRC on technical matters.²⁹⁷ MCS Corporate Strategies Ltd said that the limited technical knowledge of HMRC officers can result in a “sort of catch 22 position” of HMRC concluding there was no R&D because the officer did not understand the technical explanation.²⁹⁸

286 [Q 19](#) (Jason Piper)

287 Written evidence from CATAX ([DFG0004](#))

288 *Ibid.* and written evidence from the CBI ([DFG0024](#))

289 Written evidence from Wobbegong Technology Ltd ([DFG0029](#))

290 Written evidence from GrantTree Ltd ([DFG0039](#))

291 Written evidence from ABGi-UK Limited ([DFG0033](#))

292 Written evidence from BDO LLP ([DFG0015](#)), Wilson Wright LLP ([DFG0020](#)) and ela8 Limited ([DFG0034](#))

293 Written evidence from the CBI ([DFG0024](#))

294 [Q 56](#) (Jenny Tragner)

295 [Q 3](#) (Richard Jones)

296 [QQ 26 and 38](#) (Chris McDonald)

297 [Q 14](#) (Jason Piper)

298 Written evidence from MCS Corporate Strategies Ltd ([DFG0014](#))

173. Ms Tragner of ForrestBrown stated:

“There is more work to be done on the expertise available to HMRC ... with the exception of software, HMRC does not have its own in-house technical expertise. BEIS does not have a role at the moment in supporting ... the interpretation of the legislation. For me, it is not necessarily just about the resources but the right resources and expertise.”²⁹⁹

174. Mr Holmes of CATAX agreed and told us of his concern that HMRC’s “scattergun approach” would “turn off genuine claimants who are doing good R&D” from making further claims.³⁰⁰

175. In relation to software, Crowe U.K. LLP told us that HMRC officers are supported by the HMRC Chief Digital Information Office (CDIO) in relation to R&D compliance.³⁰¹ Although this means that technical knowledge is available, Grant Thornton said: “There can be a tendency for CDIO to direct interactions towards certain fields of software technology and to narrow the definition into the field of their particular expertise and therefore away from the specific field to which the claim relates”.³⁰²

176. EmpowerRD told us that in Australia, a specialist unit has been set up to review the technical aspects of R&D claims, which had appeared to improve compliance.³⁰³ Both Brunel University London and Evelyn Partners suggested bringing in external technical experts to assess the technical innovation of claims.³⁰⁴ Mr McDonald of the FSB said that HMRC could consider linking up with BEIS for input on questions about whether something was innovative or not.³⁰⁵ He said: “My experience of working with BEIS is that there are some good technology experts in the various sector teams there”.³⁰⁶

177. Mr Holmes of CATAX contrasted the current position with that of a few years ago when “HMRC used to run R&D units. They had officers who had really good knowledge”.³⁰⁷ ForrestBrown said that these units, originally set up in 2006, no longer existed, and that the demise of specialist R&D units appeared “to have resulted in increased inconsistencies, with similar concerns being raised to those which led to the creation of the units in the first place”.³⁰⁸

178. Victoria Atkins MP told us that the specialist units had not been shut down, “rather HMRC now has a national team instead of separate groups in different locations”.³⁰⁹ Nevertheless, ForrestBrown was not the only witness to think they had been disbanded.³¹⁰ Ms Atkins also told us: “HMRC is increasing

299 [Q 56](#) (Jenny Tragner)

300 [Q 57](#) (Nigel Holmes)

301 Written evidence from Crowe U.K. LLP ([DFG0028](#)), ABGi-UK Limited ([DFG0033](#)), Grant Thornton UK LLP ([DFG0041](#)) and ICAEW ([DFG0010](#))

302 Written evidence from Grant Thornton UK LLP ([DFG0041](#)) and ICAEW ([DFG0010](#))

303 Written evidence from EmpowerRD ([DFG0018](#))

304 Written evidence from Brunel University ([DFG0022](#)) and Evelyn Partners ([DFG0037](#))

305 [QQ 36 and 39](#) (Chris McDonald)

306 [Q 38](#) (Chris McDonald)

307 [Q 55](#) (Nigel Holmes)

308 Written evidence from ForrestBrown Limited ([DFG0036](#))

309 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

310 [Q 38](#) (Alice Jeffries)

its resource on R&D and has training programmes in place to help new staff develop their knowledge and understanding as R&D specialists”.³¹¹

179. **We were concerned to learn that HMRC was perceived as adopting a confrontational approach to R&D claimants. We agree with our witnesses that a confrontational approach could lead to companies, particularly those smaller companies new to the relief, giving up on future claims. The Charter requirement that HMRC deal with taxpayers fairly should underpin its work in R&D relief cases as much as other areas of HMRC’s work.**
180. **We are concerned about the evidence we heard that suggested HMRC staff dealing with R&D claims are not sufficiently knowledgeable to assess what qualifies as R&D, and are therefore not well equipped to help claimants in this respect.**
181. **We recommend that HMRC liaise with BEIS to consider how it can enhance its access to scientific expertise when assessing whether a particular activity represents an advance in science or technology.**

³¹¹ Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

CHAPTER 5: THE DEFINITION OF R&D

Background

182. The draft Finance Bill 2022–23 extends the categories of qualifying expenditure for which R&D relief is available to include cloud computing and data licensing costs.³¹² The changes are due to take effect from April. The Government announced in the Spring Statement 2022 that it would be expanding the definition of R&D to make it clear that pure mathematics was included. This is not in the draft legislation, but the Government has recently confirmed that it will be amending the BEIS guidelines to provide for the expansion.³¹³
183. The Government stated that the purpose of these changes is to support modern research methods.³¹⁴ HM Treasury’s R&D Tax Reliefs report, published in November 2021,³¹⁵ said that data licensing is being included as qualifying expenditure as the Government had been told by companies in many sectors that “datasets are an essential R&D input ... particularly where the most cutting-edge computational R&D techniques are being used.”³¹⁶ Similarly the R&D Tax Reliefs report explained that cloud computing costs are being brought into the scope of R&D relief in response to businesses telling the Government that they require access to the internet or “the cloud” to interrogate data relevant to their research.³¹⁷

Perspectives on the new measures

184. Most witnesses welcomed the proposed change in the definition and the extension of the range of qualifying expenditure. The BIA stated that proposed changes to R&D relief “including data and cloud computing, and pure mathematics, are welcome and help bring the definition into the 21st century.”³¹⁸ A similar view was expressed by EmpowerRD who noted that the reforms represent a modernisation of the scheme that “reflects the way in which companies undertake R&D has changed significantly since the R&D scheme was introduced in 2000.”³¹⁹
185. Wilson Wright LLP told us that the expansion of the definition to include pure mathematics “is a positive step forward as pure mathematics can often constitute a substantive proportion of the technical demands integral to achieving scientific or technological advancement”.³²⁰ The Protect Pure Maths campaign agreed, referencing the role that mathematics played in areas such as artificial intelligence (AI) and security of renewable energy supply.³²¹ However the R&D Community described the expansion of the

312 HMRC, ‘Research and Development Tax Relief reform’ (21 July 2022): <https://www.gov.uk/government/publications/research-and-development-tax-relief-changes/research-and-development-tax-relief-reform> [accessed 16 January 2023]

313 HMRC, ‘Draft-guidance: Research and Development (R&D) tax reliefs’ (20 December 2022): <https://www.gov.uk/government/consultations/draft-guidance-research-and-development-rd-tax-reliefs> [accessed 10 January 2023]

314 HM Treasury, *R&D Tax Reliefs Report*, (November 2021): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037348/RD_Tax_Reliefs.pdf [accessed 10 January 2023]

315 *Ibid.*

316 *Ibid.*

317 *Ibid.*

318 Written evidence from UK BioIndustry Association (DFG0016)

319 Written evidence from EmpowerRD (DFG0018)

320 Written evidence from Wilson Wright LLP (DFG0020)

321 Written evidence from Protect Pure Mathematics campaign (DFG0053)

definition as “the correction of a small anomaly, rather than a significant change.”³²²

186. One view, as stated by AAT, was that the reforms “appear to be driven by a reaction to an increase in the number of businesses experiencing these types of costs rather than as a result of a wider review of the definition of R&D.”³²³ Several witnesses told us that a wider review of the definition was needed, particularly from a modernisation perspective (see Chapter 7).
187. Crowe U.K. LLP stated that while the changes in the definition to enable mathematical elements of an R&D project to qualify for the relief are welcome, “they are insufficient to fully modernise the relief given the pace of change in cutting-edge sectors.”³²⁴ They also said that HMRC had taken too long to clarify the terms around the relief for cloud computing costs.³²⁵
188. Neil Ross, Associate Director at techUK, said their members were:
- “Very keen on the expansion to cover cloud data and other computing costs, mainly because for a very long time the [technology] sector has had the ask that the expansion keeps up with modern R&D activities.”³²⁶
189. He told us that “it is very useful for the sector because, often some of the biggest expenditure is the staff and talent costs of ... software engineers”.³²⁷ AAT welcomed the expansion, telling us that they had “previously commented that there was a strong case for bringing data and cloud computing costs within the definition of qualifying expenditure” and that it “will help ensure that the relief is more reflective of modern business practice.”³²⁸ Ayming UK said that the exclusion of such costs until now had been “a source of frustration for many claimants”.³²⁹
190. **We welcome the Government’s proposal to include pure mathematics within the scope of the definition of R&D. We also welcome the expansion to the definition of qualifying expenditures to include data licensing and cloud computing costs. As both of these changes to R&D relief will help to ensure R&D relief reflects modern R&D activity, we believe that they will help the UK to remain a competitive location for R&D.**
191. **We agree with our witnesses, however, that these changes fall short of a wholesale review of the definition of R&D and qualifying expenditure.**
192. **For R&D relief to be effective, it must be able to keep up with the pace of scientific and technological developments. We are concerned at the time it has taken for these changes, some of which were originally consulted on in 2020, to be introduced.**

322 Written evidence from the R&D Community Ltd ([DFG0026](#))

323 Written evidence from AAT ([DFG0007](#))

324 Written evidence from Crowe U.K. LLP ([DFG0028](#))

325 Written from Crowe U.K. LLP ([DFG0028](#)) and ela8 Limited ([DFG0034](#))

326 [Q 41](#) (Neil Ross)

327 *Ibid.*

328 Written evidence from AAT ([DFG0007](#)) and CIOT ([DFG0008](#))

329 Written evidence from Ayming UK ([DFG0019](#))

Clarity and remit of the additions to qualifying expenditure

193. The draft Finance Bill 2022–23 defines a “data licence” as “a licence to access and use a collection of digital data”³³⁰ and “cloud computing services” as “the provision of access to, and maintenance of remote data storage, operating systems, software platforms, hardware facilities.”³³¹ Although HM Treasury’s R&D Tax Reliefs Report³³² included some commentary on what expenditure would be eligible for relief (as referenced below), witnesses told us they were concerned as to the current lack of clarity around the definitions.
194. For example, although the R&D Tax Reliefs report said that “expenditure via licence payments on purchasing datasets which are used directly for R&D in a qualifying R&D project will qualify for relief”,³³³ it also stated that companies will not be able to claim relief for the cost of datasets that can be resold or that “have a lasting value to the business beyond the duration of the project.”³³⁴ The report explained that this was to ensure that the relief was provided solely where the dataset was used for R&D purposes.
195. In relation to cloud computing costs, the R&D Tax Reliefs report said that businesses will be able to “claim relief for the cost of cloud computing services which are used directly for R&D.”³³⁵ These include costs attributed to “computation, data processing, analytics, and software.”³³⁶ The report also, however, said that the relief is not available for “general overheads, such as rental costs and therefore intends to exclude any similar costs incurred as part of a cloud computing package.”³³⁷
196. Leyton UK said that it would welcome “further HMRC guidance on when datasets will be considered “used directly for R&D in a qualifying R&D project” and on when a dataset is considered to have a lasting value to a business.”³³⁸ Crowe U.K. LLP told us that it had experienced differing views in HMRC on cloud computing costs in the past and so considered that the changes provided “some immediate clarification but will not make a substantial additionality impact.”³³⁹ This was because “technology and systems that are used in this area have changed so rapidly.” It added:
- “the tight definition around the types of cloud and hosting costs that can be included in section 1125 of CTA09 and section 1126ZA CTA09 will restrict these costs further. Specifically, ambiguity around the transfer

330 HMRC, ‘Research and Development (R&D) tax reliefs - draft guidance’ (20 December 2022): <https://www.gov.uk/government/consultations/draft-guidance-research-and-development-rd-tax-reliefs/research-and-development-rd-tax-reliefs-draft-guidance> [accessed 10 January 2023]

331 *Ibid.*

332 HM Treasury, *R&D Tax Reliefs Report*

333 *Ibid.*

334 *Ibid.*

335 *Ibid.*

336 *Ibid.*

337 *Ibid.*

338 Written evidence from Leyton UK (DFG0025)

339 Written evidence from Crowe U.K. LLP (DFG0028)

of licensed data mentioned within S1126ZA CTA09 and the restriction to exclude costs related to qualifying indirect activities (QIA).”³⁴⁰

197. Crowe U.K. LLP also emphasised the need for clarification of the rules to avoid repeating the issues that had arisen under existing HMRC guidelines for software in R&D claims given that “a large degree of ambiguity exists when interpreting these guidelines especially for businesses which do not seek outside advice”.³⁴¹
198. The CBI highlighted “an urgent need for more clarity from Government on how this will work in practice” and said, “it is important for businesses to have clarity on when they can claim and when they cannot.”³⁴² It said that “in some cases the position is unclear ... one example is the exclusion for data costs if the licence gives the user the right to share, communicate, or otherwise publish the data to third parties other than for purposes “reasonably necessary for, or incidental to, the purposes of the relevant research and development.”³⁴³ Given the importance of being able to share or publish data (for example, in academic journals) to further research, the CBI said: “It is therefore important for HMRC to publish guidance that makes clear that sharing information for academic or regulatory processes is clearly reasonably necessary for, or incidental to, the purposes of the relevant R&D” (and, as a result, permitted without prejudicing the availability of relief).³⁴⁴
199. The CBI also highlighted concerns raised by businesses about an exclusion in the relief for expenditure on data and cloud computing “so far as it is attributable to a qualifying indirect activity (QIA).”³⁴⁵ It said that:
- “the definition of QIAs includes several elements that businesses would expect to be included in cloud computing costs, including research to devise new scientific or technological testing, survey, or sampling methods.”³⁴⁶
- Further, it stated that the exclusion of QIAs has the “potential to undermine the extension of the R&D tax credits to cloud computing costs.”³⁴⁷ In addition, Leyton UK asked for guidance on “how we draw the distinction between collecting data for R&D purposes and market research”.³⁴⁸
200. Witnesses told us more clarity was also needed to explain how to apportion costs where some of the data costs related to non-qualifying activities. Leyton UK explained that “where an end user access agreement covers multiple data sets, not all of which are to be used in the qualifying R&D project

340 Written evidence from Crowe U.K. LLP (DFG0028). Qualifying indirect activities are activities which form part of a project but do not directly contribute to the resolution of the scientific or technological uncertainty. They are indirect supporting activities such as maintenance, security, administration and clerical activities, and finance and personnel activities. See: HMRC Internal Manual, ‘Corporate Intangibles Research and Development Manual (1 November 2022): <https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird81900> [accessed 5 December 2022]

341 Written evidence from Crowe U.K. LLP (DFG0028)

342 Written evidence from the CBI (DFG0024)

343 *Ibid.*

344 *Ibid.*

345 *Ibid.*

346 *Ibid.*

347 *Ibid.*

348 Written evidence from Leyton UK (DFG0025)

or where access to data is granted as part of a wider package of services, the claimant will be required to apportion costs”. Leyton UK added that it would “welcome HMRC guidance on how this apportionment can be made”, especially when “the service provider has not provided an itemised bill”.³⁴⁹

201. Similarly, Leyton UK said guidance was needed on how to apportion cloud computing and software costs between qualifying and non-qualifying expenditure. It stated that “uncertainty in this area could ... mean the government’s changes have a limited impact in practice”³⁵⁰ as it would make claiming relief difficult in practice. Leyton UK considered “published guidance, including worked examples, will be important in ensuring that the new rules are applied appropriately and consistently”.³⁵¹
202. The draft guidance which was published for consultation on 20 December 2022³⁵² contains some clarification of how the extended definition of R&D and qualifying expenditure will be applied by HMRC. It includes sections on data licensing and cloud computing services, excluded expenditure, data licences and cloud computing. On apportionment it says only that this must be on a “reasonable basis” and gives some indication of what evidence would be necessary to support any apportionment. The draft guidance amounts to just over two pages and contains only two specific examples.
203. **Our witnesses are clear that the changes to the definition of R&D cannot be fully understood without guidance on how the new rules are to be interpreted, with examples showing how they apply in practice. We acknowledge the concerns of witnesses that these provisions may be interpreted in an overly restrictive manner and so limit their usefulness and, as a result, their value.**
204. **We recommend that when the draft guidance, published on 20 December 2022, is finalised to take account of comments received during consultation, additional examples are added to aid understanding of how the new rules will apply.**
205. **We recommend that the Government should use the consultation period on the draft guidance to ensure that HMRC’s interpretation does not inadvertently result in the changes being less useful than intended.**

349 Written evidence from Leyton UK ([DFG0025](#))

350 *Ibid.*

351 *Ibid.*

352 HMRC, ‘Draft guidance: Research and Development (R&D) tax reliefs’ (20 December 2022): <https://www.gov.uk/government/consultations/draft-guidance-research-and-development-rd-tax-reliefs> [accessed 10 January 2023]

CHAPTER 6: REFOCUSING RELIEF ON R&D CARRIED OUT IN THE UK

206. Under the current R&D rules, a company can claim tax relief for R&D regardless of where in the world it is carried out. In the draft Finance Bill 2022–23, the Government proposes to focus relief on R&D carried out in the UK. The draft legislation limits relief for R&D carried out overseas so that it is only available in very restricted circumstances. These are where the “conditions necessary for the R&D” are not present in the UK but are present in the location where the R&D is taking place, and it would be “wholly unreasonable” for the company to replicate those conditions in the UK. The conditions include geographical, environmental and social conditions, and legal and regulatory requirements. They specifically do not include the cost of the R&D or the availability of workers to carry out the R&D.³⁵³
207. Victoria Atkins MP told us:
- “we do have to focus on encouraging productivity and growth here in the UK. In fairness other countries take that approach ... even with these changes, we will still spend the most as a percentage of GDP and have the highest number of claims of any country in the OECD, so we are, internationally, very attractive with these rates.”³⁵⁴

Lack of clarity and guidance

208. Witnesses understood the policy behind this proposal and were broadly supportive of it. However, they were concerned about the subjectivity of the “wholly unreasonable” test and about how it would be applied in practice. The CBI stated: “Businesses are concerned that the word “wholly” will be interpreted literally by the courts, which would render this flexible exclusion practically ineffective. They would appreciate HMRC guidance sooner rather than later.”³⁵⁵
209. The BIA said: “Our key concern now is how the overseas expenditure restriction will be implemented in practice by HMRC. The legislation is high level and guidance will be required to allow inspectors and claimants to understand how it applies to their specific circumstances.”³⁵⁶ ICAEW also said: “Introducing subjective tests limiting the availability of relief for overseas costs only adds to uncertainty.”³⁵⁷ It suggested: “An alternative to HMRC writing detailed guidance would be to provide a clearance process”³⁵⁸ similar to the one in Australia.
210. Draft guidance covering the new rules was published on 20 December 2022.³⁵⁹ This includes sections on what is qualifying overseas expenditure, what it would be “wholly unreasonable” to expect to do in the UK and the conditions which would make R&D carried out abroad qualify for relief (including legal

353 HM Treasury, ‘Finance Bill 2022–23’ (14 October 2022): <https://www.gov.uk/government/collections/finance-bill-2022-23> [accessed 15 December 2022]

354 [Q 69](#) (Victoria Atkins MP)

355 Written evidence from the CBI ([DFG0024](#))

356 Written evidence from UK BioIndustry Association ([DFG0016](#))

357 Written evidence from ICAEW ([DFG0010](#))

358 *Ibid.*

359 HMRC, ‘Draft-guidance: Research and Development (R&D) tax reliefs’ (20 December 2022): <https://www.gov.uk/government/consultations/draft-guidance-research-and-development-rd-tax-reliefs%20> [accessed 10 January 2023]

and regulatory requirements which are relevant to where R&D needs to be carried on) and also confirms that work carried out overseas due to issues of cost and availability of workers will not be eligible for relief. The draft guidance includes a number of examples, one of which refers to the presence of a volcano as a legitimate reason for R&D to be carried out abroad.

211. **While the draft guidance is welcome it is very limited in both length and detail. Again, we consider that more examples would help and that those examples should be ones to which businesses can readily relate. We note that the example given that the location of a volcano can be a legitimate reason for R&D to be carried out abroad is extremely unlikely to be useful to many businesses.**
212. **We recommend that when the guidance is revised after the consultation period more examples are included.**

Impact on the UK's international competitiveness

213. ICAEW said: "These new restrictions are likely to lead to less R&D being done in the UK, rather than more, if they deter multinational businesses from using the UK as the location for their global R&D hub."³⁶⁰ The CBI referred to the "spillover benefits" for the UK, highlighting:

"global collaboration in terms of technological advances, access to data and the speed with which something can be done, but also the economic benefits in the longer term. The UK being a global hub for R&D means that you do not only do specific R&D activities here but headquarter your company here and register your intellectual property here after you have finished projects, so that the UK benefits from the capitalisation and commercialisation of those projects after they are done. Those are all benefits to the UK economy as well."³⁶¹

214. The BIA said that "we expect significant harm could be done to the competitiveness of the [life sciences] sector and its ability to do R&D in the UK."³⁶² Ayming UK told us that "companies are actively considering whether to relocate entirely to a more favourable jurisdiction; such have historically located their headquarters and IP (and, by extension, revenue and profits) in the UK due to the favourable treatments available, but are now questioning whether that is a good long-term strategy."³⁶³ ForrestBrown identified that the "adverse consequences of the current proposals include making the UK a less attractive environment for R&D investment, thus making the UK less competitive in an increasingly global market."³⁶⁴
215. Matthew Henty, Deputy Director of Enterprise and Property Tax at HM Treasury, told us: "The overall package of reform is designed to ensure that the UK position is as competitive as possible, given the taxpayer money that is going in there." He added that "most countries do not have unfettered overseas subcontracting supported by taxpayers."³⁶⁵

360 Written evidence from ICAEW ([DFG0010](#))

361 [Q 34](#) (Alice Jeffries)

362 Written evidence from UK BioIndustry Association ([DFG0016](#))

363 Written evidence from Ayming UK ([DFG0019](#))

364 Written evidence from ForrestBrown Limited ([DFG0036](#))

365 [Q 69](#) (Matthew Henty)

Impact of no transitional provisions

216. CIOT highlighted that “a lot of work is currently carried out overseas because of the availability of skilled resource which may not be available, (or not at a similar cost) in the UK.”³⁶⁶ The BIA stated: “If you can use people in the UK you do ... You use people overseas because they are the world-wide experts you need”.³⁶⁷
217. EmpowerRD suggested that “many innovative UK businesses undertaking R&D work overseas will need time to adapt supply chains and restructure to accommodate these proposals and refocus innovation towards the UK.” It estimated that “businesses might need to find around ¼ million new workers in the UK”.³⁶⁸ CIOT told us that if “there is a cliff edge cut off, however, it is possible that R&D activity will simply move offshore (to the detriment of the UK economy) rather than expertise being developed in the UK.”³⁶⁹
218. Witnesses suggested a number of different approaches to address these problems. The most common was to provide some sort of transitional relief to allow relief to continue for a period until the necessary skilled resources could be grown in the UK or contracts expired. Colin Hailey, Chair of the Finance and Tax Advisory Committee at the BIA, asked “can we have some measure that says that if we have already signed the contract, we’re not caught by the new rules, because we entered into it before the Treasury moved the goalposts?”³⁷⁰ CIOT said: “It would be sensible if companies were to be allowed time to develop equivalent expertise and resource in the UK.”³⁷¹ ela8 Limited favoured “a phased approach” to allow “strategic consideration of the consequences and sensible planning activities to take place.”³⁷² EmpowerRD supported delaying the restriction of relief for overseas R&D for at least a year until April 2024.³⁷³

The case for further exceptions

219. Leyton UK drew attention to the Australian approach which was to “explicitly allow R&D relief where no domestic labour is available”³⁷⁴ and proposed that “the exceptions are widened, such that EPWs (externally provided workers) outside the UK will qualify for tax relief or credit as long as there was a demonstrable commercial reason for using them.”³⁷⁵ EmpowerRD similarly suggested that the draft legislation be modified to provide an exception for “lack of a suitable technical skill set in the UK”.³⁷⁶
220. Victoria Atkins MP told us: “I fully accept that there may be restricted circumstances where it is impossible for business to perform otherwise, we do have to focus on encouraging productivity and growth here in the UK.”³⁷⁷

366 Written evidence from CIOT ([DFG0008](#))

367 [Q 44](#) (Colin Hailey)

368 Written evidence from EmpowerRD ([DFG0018](#))

369 Written evidence from CIOT ([DFG0008](#))

370 [Q 44](#) (Colin Hailey)

371 Written evidence from CIOT ([DFG0008](#))

372 Written evidence from ela8 Limited ([DFG0034](#))

373 Written evidence from EmpowerRD ([DFG0018](#))

374 Written evidence from Leyton UK ([DFG0025](#))

375 *Ibid.*

376 Written evidence from EmpowerRD ([DFG0018](#))

377 [Q 69](#) (Victoria Atkins MP)

Alternative policy approaches

221. ForrestBrown considered that “it is highly unlikely that the proposed measures will trigger a large scale move among UK businesses to onshore R&D activities.”³⁷⁸ ela8 Limited said “a more effective way of achieving the desired outcome would be to apply a differential rate to onshore versus offshore resources, incentivising businesses to move resources onshore whilst allowing strategic and commercial flexibility.”³⁷⁹ Other ideas were a cap on the amount of overseas expenditure that qualifies for relief (Evelyn Partners)³⁸⁰ or a *de minimis* amount to qualify (Grant Thornton UK LLP).³⁸¹
222. **We understand that the Government believes it cannot justify giving unrestricted relief for R&D expenditure overseas. However, if it also hoped to bring more R&D activity currently offshore into the UK, the evidence we received suggests that the proposed restriction may not be successful in this respect, at least in the short term. Witnesses suggested that it could even result in some R&D activities which currently take place in the UK being relocated to other countries. We also acknowledge the concerns of our witnesses related to the shortage of some specialised skills in the UK, and the nature of timescales involved in R&D projects.**
223. **We recommend that the Government considers introducing some form of transitional relief for expenditure on specialised resource which is not available in the UK, especially for contracts already entered into. This would give companies time to adjust to the new rules.**

378 Written evidence from ForrestBrown Limited ([DFG0036](#))

379 Written evidence from ela8 Ltd ([DFG0034](#))

380 Written evidence from Evelyn Partners ([DFG0037](#))

381 Written evidence from Grant Thornton UK LLP ([DFG0041](#))

CHAPTER 7: THE CONTINUING R&D RELIEF REVIEW

224. The Government’s March 2021 consultation on R&D tax reliefs was presented as a response to a call by stakeholders for a wide review of R&D relief.³⁸² The draft Finance Bill 2022–23 measures follow on from that consultation but address only a limited number of the issues raised by it. ForrestBrown told us that they “fall short of the ‘root and branch’ review promised at the outset” and that “more remains to be done to provide a clear statement of intent to innovative businesses”. It expressed concern that the changes placed “more emphasis on reducing the cost ... than encouraging investment in R&D”.³⁸³ BDO LLP told us that, at the moment, it was commenting on the “few” announced changes without any “overall sense of policy direction”.³⁸⁴
225. At the Spring Statement 2022, the Government described the draft Finance Bill 2022–23 measures as “initial reforms” and said it was continuing its review of R&D relief, with further announcements to be made in the autumn of 2022.³⁸⁵ Mr Henty of HM Treasury told us: “The review is carrying on”.³⁸⁶ The CBI welcomed the Government’s commitment to continue the review, and said: “There is still more work to do to ensure that the UK R&D tax credit system is truly world-leading.”³⁸⁷
226. In terms of the areas to be considered next as part of the ongoing review, Neil Ross, Associate Director at tech UK, stated: “I am not sure what is in the Treasury’s mind at the moment. I suspect it is being driven mainly by saving costs.”³⁸⁸ BDO LLP cautioned that if “there are to be strategic changes in the direction of R&D policy, they are likely to need a significant transitional period”³⁸⁹ to allow businesses to adapt.
227. The Autumn Statement 2022 provided some information on what might be coming next. The Government said, following the announced reduction in the rate of relief under the SME scheme, it would be looking to work with “R&D intensive SMEs ... to look at whether the support is right for them”.³⁹⁰ It also referenced a future consultation on a possible merger of the two schemes into a single RDEC based scheme.³⁹¹ This consultation—*R&D Tax Reliefs Review: Consultation on a single scheme*—was published on 13 January.³⁹²

382 HM Treasury, ‘R&D Tax Reliefs: consultation’ (30 November 2021) paras 1.4 and 1.5: <https://www.gov.uk/government/consultations/rd-tax-reliefs-consultation> [accessed 6 December 2022]

383 Written evidence from ForrestBrown Limited (DFG0036)

384 Written evidence from BDO LLP (DFG0015)

385 HM Treasury, ‘Spring Statement 2022: documents’ (23 March 2022), paras 4.56 and 4.59: <https://www.gov.uk/government/publications/spring-statement-2022-documents> [accessed 6 December 2022]

386 Q 67 (Matthew Henty)

387 Written evidence from the CBI (DFG0024)

388 Q 46 (Neil Ross)

389 Written evidence from BDO LLP (DFG0015)

390 HMRC, ‘Reforms to R&D Tax relief’ (21 November 2022): <https://www.gov.uk/government/publications/research-and-development-rd-tax-reliefs-reform/reforms-to-rd-tax-reliefs> [accessed 7 December 2022] and QQ 67, 68, 70 and 82 (Matthew Henty)

391 *Ibid.*, and QQ 67, 68, 70 and 82 (Matthew Henty)

392 HM Treasury, “R&D Tax Reliefs Review: Consultation on a single scheme” (13 January 2023): <https://www.gov.uk/government/consultations/rd-tax-reliefs-review-consultation-on-a-single-scheme> [accessed 16 January 2023] and HM Treasury, ‘R&D Tax Relief Reform Consultation Launched’ (13 January 2023): <https://www.gov.uk/government/news/rd-tax-relief-reform-consultation-launched> [accessed 16 January 2023]

228. The Government has emphasised that it wants to ensure that taxpayers' money on the reliefs is spent "as effectively as possible".³⁹³ Victoria Atkins MP also told us that her ask of HMRC was to "make our taxes fair, simpler but also to help our country prosper" and that R&D reliefs "played a really important part in enabling small but also large businesses innovate and thrive".³⁹⁴
229. For several witnesses involved in advising on R&D relief, there was concern that the draft Finance Bill 2022–23 measures, taken as a whole, were unlikely to boost innovation in the UK.³⁹⁵ A particular concern was how the changes might impact UK's international competitiveness. Dr Marshall of the NCUB, said "clearly the UK is in a global race to do more and more R&D activities and needs to be an attractive and competitive place for those activities."³⁹⁶ Ms Jeffries of the CBI also highlighted the importance of looking at what other countries offer by way of support, stating that "business making investment decisions will have a checklist of what is available to them under the different schemes when they are thinking about what is most beneficial to them."³⁹⁷
230. A number of witnesses made specific suggestions for changes that they considered would make the reliefs more effective and "fulfil their potential in incentivising business investment in R&D."³⁹⁸ These mainly related to the definition of R&D, the types of expenditure for which relief can be claimed, and also the possibility of using the reliefs in a more targeted way to promote growth in areas prioritised by government policy more generally. We cover these below.

Definition of R&D

231. A number of witnesses told us that the Government should undertake a wider review of the definition of R&D than that which had taken place under the R&D Review up to now.³⁹⁹ For CIOT, the proposals in the draft Finance Bill 2022–23 are simply "a response to issues raised by claimants in a particular sector" and a wider review (of the definition of R&D) was needed if the relief was to be properly modernised.⁴⁰⁰
232. Some witnesses emphasised the importance of keeping the definition under review on a regular basis—possibly annually⁴⁰¹—so that it kept up with developments in R&D.⁴⁰² We were told that it was important that the definition was not too prescriptive: this was because it had to be sufficiently flexible to keep pace with scientific and technological developments.⁴⁰³ ABGi-UK Limited advised the Government should "undertake a comparative

393 [Q 67](#) (Matthew Henty)

394 [Q 81](#) (Victoria Aitkens MP)

395 Written evidence from CATAX ([DFG0004](#)), AAT ([DFG0007](#)), ICAEW ([DFG0010](#)), Aiglon Consulting ([DFG0017](#)), Leyton UK ([DFG0025](#)), Crowe U.K. LLP ([DFG0028](#)), Wobbegong Technology Ltd ([DFG0029](#)) and Evelyn Partners ([DFG0037](#))

396 [Q 42](#) (Dr Joe Marshall)

397 [Q 34](#) (Alice Jeffries)

398 Written evidence from ForrestBrown Limited ([DFG0036](#))

399 Written evidence from CIOT ([DFG0008](#)) and ICAEW ([DFG0010](#))

400 Written evidence from CIOT ([DFG0008](#)) and AAT ([DFG0007](#))

401 Written evidence from Grant Thornton UK LLP ([DFG0041](#))

402 Written evidence from the CBI ([DFG0024](#)), Grant Thornton UK LLP ([DFG0041](#)), ICAEW ([DFG0010](#)), Leyton UK ([DFG0025](#)) and UKRI ([DFG0047](#))

403 [Q 13](#) (Emma Rawson) and written evidence from CATAX ([DFG0004](#))

analysis of the R&D tax incentive programs across other countries” when considering the definition of R&D.⁴⁰⁴

233. Overall many witnesses agreed that, whether or not a wider review of the definition of R&D was undertaken, the BEIS Guidelines (that explain what R&D is) needed to be updated.⁴⁰⁵ CIOT told us that the BEIS Guidelines, which were last updated in 2010,⁴⁰⁶ were “somewhat outdated due to the progress of time and continued technological developments.”⁴⁰⁷ (For more on the BEIS Guidelines, see Chapter 4).
234. When it came to what should be covered in any review of the definition of R&D, the evidence we received contained two specific recommendations for possible changes: the first was that the UK should adopt the broader Frascati definition of R&D⁴⁰⁸ used by the OECD; and the second was an extension of the relief to ‘new-to-firm’ innovation (namely where a business “innovates” by investing in existing technology that is new to it rather than by itself advancing science).⁴⁰⁹ We consider each of these below.

Aligning with the OECD’s Frascati definition

235. A number of witnesses, including the CBI, CIOT, and UK Research and Innovation (UKRI), recommended aligning the UK definition of R&D more closely with the OECD’s Frascati definition of R&D.⁴¹⁰ The CBI told us that although the UK definition of R&D for tax purposes is based on the Frascati definition, it is narrower because the BEIS Guidelines limit R&D relief to innovations in science and technology only.⁴¹¹ It described the UK’s approach as an “oddity”,⁴¹² telling us that the Frascati definition was used by “lots of other countries”⁴¹³ and that it was “unclear whether the difference between the UK and OECD definitions is a deliberate policy choice by government or if the original intention was for the scope to be aligned, but that the BEIS Guidelines were drafted in a way that diverged”.⁴¹⁴
236. Witnesses explained that the BEIS Guidelines exclude work in the humanities, economics, and social sciences, from benefitting from R&D relief.⁴¹⁵ ForrestBrown provided an example of what the effect of this distinction meant in practice by reference to COVID-19, explaining that R&D to improve lateral flow tests would qualify, but the costs of a behavioural study to map the spread of the virus would not.⁴¹⁶ The Creative Industries Policy and Evidence Centre (PEC) said that, although the UK was not alone in excluding these disciplines, it meant that the UK was failing to incentivise research into “new ideas that can be applied directly in the generation and

404 Written evidence from ABGi-UK Limited ([DFG0033](#))

405 For example, see written evidence from CIOT ([DFG0008](#)) and Leyton UK ([DFG0025](#))

406 Written evidence from the CBI ([DFG0024](#))

407 Written evidence from CIOT ([DFG0008](#)), also see written evidence of AAT ([DFG0007](#))

408 See Chapter 2 for more on the Frascati definition of R&D.

409 Written evidence from the FSB ([DFG0005](#))

410 [Q 47](#) (Dr Joe Marshall), [Q 57](#) (Jenny Tragner), written evidence from ATT ([DFG0006](#)), the CBI ([DFG00024](#)), CIOT ([DFG0008](#)), PEC ([DFG0046](#)), ForrestBrown Limited ([DFG0036](#)), Tom Elsbury ([DFG0043](#)) and UKRI ([DFG0047](#))

411 Written evidence from the CBI ([DFG0024](#))

412 [Q 28](#) (Alice Jeffries)

413 [Q 23](#) (Alice Jeffries)

414 Written evidence from the CBI ([DFG0024](#))

415 Written evidence from CIOT ([DFG0008](#)), PEC ([DFG0046](#)) and ForrestBrown Limited ([DFG0036](#))

416 Written evidence from ATT ([DFG0006](#))

adoption of innovations”.⁴¹⁷ However, Tom Elsbury noted that including social sciences within the definition “would open the R&D scheme to a wider interpretation than may otherwise be intended”.⁴¹⁸

New-to-firm vs new-to-world

237. The definition of R&D focuses on advances in science. Although this is not restricted to what ATT described as “lab coat and test tube activities”,⁴¹⁹ it does not include what is described as ‘new-to-firm’ innovation.⁴²⁰ Mr McDonald of the FSB told us that “allowing a greater degree of new-to-firm innovation to be included in the R&D tax credits would significantly improve [their] impact” and boost productivity and growth.⁴²¹ For Mr McDonald, this was the one change he would ask for.⁴²² Dr Marshall of the NCUB told us that some countries do incentivise ‘new-to-firm’ innovation using the tax system, but at a lower rate of relief to that available for new-to-world R&D. He added that fundamentally whether the UK should take such an approach was linked to “what are the government trying to achieve?” He questioned whether it was looking to incentivise innovation generally, or only R&D as commonly understood.⁴²³
238. However, Ms Ussher of the IoD, whilst agreeing that ‘new-to-firm’ innovation was important for driving up productivity, questioned how realistic it was to expect the Government to provide additional relief under the R&D scheme for this type of investment.⁴²⁴ Colin Hailey, Chair of the Finance and Tax Advisory Committee at the BIA, also could not see the scheme being expanded in this way “because the cost would be enormous”.⁴²⁵

Definition of qualifying expenditure

239. As discussed in Chapter 5, the draft Finance Bill 2022–23 measures provide for the inclusion of data and cloud computing costs as qualifying expenditure. Many witnesses told us that further changes were needed.⁴²⁶
240. Some witnesses suggested the addition of new categories of revenue expenditure, some (if not all) of which are likely to have been raised with the Government in responses to its March 2021 consultation.⁴²⁷ Possible new categories of expenditure included patent costs (for which we were told companies can get relief in Italy, China and Belgium);⁴²⁸ rent and costs of plant hire;⁴²⁹ and, for SMEs in particular, overheads attributable to the R&D activity.⁴³⁰ Both Evelyn Partners and the Plextek Group suggested that the Government should revisit the definition of staff costs to ensure it

417 Written evidence from PEC ([DFG0046](#)) and UKRI ([DFG0047](#))

418 Written evidence from Tom Elsbury ([DFG0043](#))

419 Written evidence from ATT ([DFG0006](#))

420 Written evidence from the FSB ([DFG0005](#))

421 [QQ 23 and 39](#) (Chris McDonald)

422 [Q 39](#) (Chris McDonald)

423 [Q 44](#) (Dr Joe Marshall)

424 [Q 23](#) (Kitty Ussher)

425 [Q 47](#) (Colin Hailey)

426 Written evidence from ICAEW ([DFG0010](#)), BDO LLP ([DFG0015](#)), EmpowerRD ([DFG0018](#)), Ayming UK ([DFG0019](#)), ABGi-UK Limited ([DFG0033](#)) and the Plextek Group ([DFG0037](#))

427 HM Treasury, ‘R&D Tax Reliefs Report’(30 November 2021), paras A40–44: <https://www.gov.uk/government/publications/rd-tax-reliefs-report> [accessed 6 December 2022]

428 Written evidence from BDO LLP ([DFG0015](#)) and ABGi-UK Limited ([DFG0033](#))

429 Written evidence from ICAEW ([DFG0010](#)), Ayming UK ([DFG0019](#)) and Evelyn Partners ([DFG0037](#))

430 [Q 23](#) (Kitty Usher)

took account of the different ways in which staff engaged in R&D can be remunerated, for example, by using share options.⁴³¹

241. Further to the draft Finance Bill 2022–23 proposals, Aiglon Consulting considered that “the balance is probably about right” (so additional categories of revenue expenditure were unnecessary) but that there was one issue “worth exploring” which was whether R&D relief should be extended to capital expenditure.⁴³² Many witnesses agreed that capital expenditure should also benefit from R&D relief, with the CBI commenting that it could have a “potentially huge benefit” on R&D in the UK.⁴³³ Although tax relief for qualifying capital expenditure is available under a specific form of capital allowance (an R&D allowance),⁴³⁴ Ayming UK told us that the UK is “relatively unusual in making such a distinction” between revenue and capital costs, and that this distinction should be removed.⁴³⁵ In comparison, the CBI said both France and Ireland provide relief for capital costs of R&D under their tax credit regimes.⁴³⁶
242. The CBI told us that R&D relief for capital expenditure was the change that was “most commonly” raised by its members.⁴³⁷ The BIA said that making capital expenditure eligible for R&D relief “would play a significant role in furthering the Government’s ambition to make the UK a life sciences hub” as business that invested significant capital in the UK were likely to stay in the UK as their business moved on to the next stage (commercial manufacturing), a point also made by Grant Thornton.⁴³⁸
243. As the R&D Review had included a specific question on capital expenditure, Victoria Atkins MP told us she was aware that businesses were keen to see a form of enhanced relief for this. Referencing the existing R&D allowance scheme, she said:
- “There is already a 100 per cent tax deduction on offer for R&D capital. Again, we would have to consider whether this proposal [of allowing R&D relief for capital expenditure] is value for money, as it would be likely to have considerable cost. We must let the review continue, but the relief of 100 per cent, as given at the moment, is pretty generous.”⁴³⁹
244. Witnesses took a different view of the existing R&D relief for capital expenditure under the R&D allowance regime. The CBI told us that R&D allowances are “mostly beneficial to companies that are making profits” and so early stage companies were “unlikely to find capital allowances particularly valuable” given that it would take some time before they became profit-making (whereas, under R&D relief schemes, such companies could get a cash payment).⁴⁴⁰ Grant Thornton agreed, saying R&D allowances were “not effective in encouraging investment in R&D infrastructure” in their current

431 Written evidence from Evelyn Partners ([DFG0037](#)) and Plextek Group ([DFG0037](#))

432 Written evidence from Aiglon Consulting ([DFG0017](#))

433 [Q 23](#) (Alice Jeffries)

434 R&D allowances provide 100 per cent tax relief for qualifying capital expenditure, which can be used to offset a company’s (taxable) profits.

435 Written evidence from Ayming UK ([DFG0019](#))

436 Written evidence from the CBI ([DFG0024](#))

437 [Q 23](#) (Alice Jeffries) and written evidence from the CBI ([DFG0024](#))

438 Written evidence from UK BioIndustry Association ([DFG0016](#)) and written evidence from Grant Thornton UK LLP ([DFG0041](#))

439 [Q 70](#) (Victoria Atkins MP)

440 [Q 23](#) (Alice Jeffries)

form.⁴⁴¹ Evelyn Partners said that in any event the R&D allowance regime “only offers a timing benefit” and so was “less impactful as an incentive for encouraging additional investment” compared to R&D reliefs.⁴⁴² Both Evelyn Partners and BDO LLP suggested that as an alternative to providing R&D relief for capital expenditure per se, the Government could introduce a special R&D depreciation allowance for capital investment in R&D facilities, which would count as an item of qualifying expenditure under the R&D schemes each year (something BDO LLP told us Australia provides).⁴⁴³

Aligning R&D relief to policy priorities

245. Some witnesses suggested that the review could be seen as an opportunity to “align R&D tax reliefs with wider macro-economic government policy”.⁴⁴⁴ According to ForrestBrown, providing a higher level of relief for projects within particular fields of research (such as green technology or artificial intelligence) could lay “the foundations for a more dynamic system that allows public funding to be targeted with more control”.⁴⁴⁵ It also said that some countries are already using R&D type reliefs to target investment in particular sectors, referencing Portugal and Italy who both provide additional incentives for types of environmental R&D.⁴⁴⁶
246. Other witnesses too saw merit in using R&D relief to help the UK achieve its “net zero by 2050” ambition.⁴⁴⁷ AAT suggested looking at Finland’s recently introduced 150 per cent “super-deduction”, suggesting that something like this could be “game-changing” and “deliver a step-change” in environmental R&D.⁴⁴⁸ The CBI described R&D reliefs in its existing form, as “essential for hitting targets like net zero”, and saw what it described as green allowances as an important modernisation of the relief, although it acknowledged that having different rates for different fields of R&D could add complexity.⁴⁴⁹
247. BDO LLP suggested one way of approaching this would be to have a (relatively low) flat rate for R&D generally, but with additional relief then available if the R&D supported particular policy aims, whether promoting particular sectors (for example, Fintech or green technology), Levelling Up, or year-on-year increases in R&D spend to “ensure that any behavioural changes by companies are driven by reliefs ... directly proportionate to overall benefits to the UK economy”.⁴⁵⁰ For some witnesses, the use of differential rates of relief to promote R&D being carried on in the UK, rather than overseas, was seen as preferable to the draft Finance Bill 2022–23 restrictions on overseas R&D (see Chapter 6).
248. The possibility of differential rates of relief for different taxpayers may be something that the Government is already considering. In its March 2021 consultation on R&D tax reliefs, when asking for views on moving to a single R&D scheme, it referenced the possibility of that single scheme

441 Written evidence from Grant Thornton UK LLP ([DFG0041](#))

442 Written evidence from Evelyn Partners ([DFG0037](#))

443 Written evidence from from BDO LLP ([DFG0015](#)) and Evelyn Partners ([DFG0037](#))

444 Written evidence from BDO LLP ([DFG0015](#)), Crowe U.K. LLP ([DFG0028](#)), ICAEW ([DFG0010](#)), UKRI ([DFG0047](#)) and GovGrant ([DFG0003](#))

445 Written evidence from ForrestBrown Limited ([DFG0036](#))

446 *Ibid.*

447 Written evidence from AAT ([DFG0007](#)) and written evidence from the CBI ([DFG0024](#))

448 Written evidence from AAT ([DFG0007](#))

449 [QQ 22 and 23–33](#) (Alice Jeffries)

450 Written evidence from BDO LLP ([DFG0015](#))

having higher rates for SMEs.⁴⁵¹ Further, in the January 2023 consultation on merging the two R&D schemes into a single scheme modelled on the RDEC scheme, the Government said that “there may be a case for additional targeted support, for example for different types of R&D, or for more R&D intensive companies within a merged scheme” and specifically asks for views on providing differentiated rates of support.⁴⁵²

Simplification by merging the two schemes

249. The Government’s announcement that it would be consulting on a merger of the two schemes of relief into a single “RDEC-for-all” scheme at the Autumn Statement 2022,⁴⁵³ and the subsequent publication of that consultation on 13 January 2023,⁴⁵⁴ came too late to be considered as part of our inquiry. Nevertheless, as the March 2021 consultation on R&D tax reliefs had asked for views on moving to a single R&D scheme, some witnesses had commented on this in their evidence to us. As was the case in relation to responses to the consultation,⁴⁵⁵ their views as to the benefits of creating what HM Treasury has referred to as a single “RDEC-for-all” scheme were mixed.
250. BDO LLP was one of those in favour of creating a single system for relief, telling us that the UK’s “two-tier” system caused “confusion and uncertainty”⁴⁵⁶ with the SME scheme effectively having “a multitude of rates ... depending on upon the [SME’s] unique tax position”.⁴⁵⁷ It told us that an “RDEC-for-all” based system should mean that “variables arising from individual company tax positions” could be avoided, such that the same rate of relief would apply to all.⁴⁵⁸ Cooper Parry also considered that all companies, whether large or SME, should be within the same scheme, benefitting from relief at the same rate.⁴⁵⁹
251. The IoD took the opposite view: it was “broadly content” with the two schemes, and was concerned that merging them could make things more complicated.⁴⁶⁰ For the CBI, it was more finely balanced. We were told that when the CBI responded to the Government’s March 2021 consultation on R&D tax relief it had been broadly in favour of merging the two schemes (provided it was indeed a simplification), subject to retaining a higher rate

451 HM Treasury, ‘R&D Tax Reliefs: consultation’ (30 November 2021): <https://www.gov.uk/government/consultations/rd-tax-reliefs-consultation> [accessed 6 December 2022]

452 HM Treasury, ‘R&D Tax Reliefs Review: Consultation on a single scheme’ (13 January 2023), paras 3.30 and 3.34: <https://www.gov.uk/government/consultations/rd-tax-reliefs-review-consultation-on-a-single-scheme> [accessed 16 January 2023]

453 HM Treasury, ‘Research and Development (R&D) Tax reliefs - Reform’ (21 November 2022): <https://www.gov.uk/government/publications/research-and-development-rd-tax-reliefs-reform> [accessed 6 December 2022]

454 HM Treasury, ‘R&D Tax Reliefs Review: Consultation on a single scheme’ (13 January 2023) at paragraphs 3.30 and 3.34: <https://www.gov.uk/government/consultations/rd-tax-reliefs-review-consultation-on-a-single-scheme> [accessed 16 January 2023]

455 HM Treasury, ‘R&D Tax Reliefs Report’ (30 November 2021), paras A4–A7: <https://www.gov.uk/government/publications/rd-tax-reliefs-report> [accessed 6 December 2022]. In summary, those in favour of consolidating the two schemes saw it as a simplification whilst those opposed referenced the disruption that would result, and questioned whether one scheme with two rates would in reality simplify the rules.

456 Written evidence from BDO LLP (DFG0015)

457 *Ibid.*

458 *Ibid.*

459 Written evidence from Cooper Parry (DFG0031)

460 Q 37 (Kitty Ussher)

of relief for SMEs. However, it also said “when we speak to SMEs in our membership, they prefer the SME scheme as it is”.⁴⁶¹

252. Other witnesses also highlighted a preference by SMEs for the current SME scheme. Referencing issues for some SMEs in working out which scheme applied to them,⁴⁶² ATT referred to “anecdotal evidence of start-up companies ... choosing not to claim R&D at all, as they do not wish to go to the extra expense and trouble of claiming under RDEC.”⁴⁶³

253. Mr Henty of HM Treasury explained that Autumn Statement 2022 represented a commitment by the Government to look further at the case for merging the schemes. He said:

“The schemes are now quite close in generosity. There is a simplification element there... We have heard quite strong messages generally that the above-the-line credit version of the RDEC scheme has a lot of value for businesses. There could be a case to bring it all together ... although that needs to be consulted on, and it may be the time to push it all together. We will be looking at that and consulting in due course.”⁴⁶⁴

254. Within two months, a consultation on merging the two R&D tax relief schemes into a single RDEC-like scheme was published. The consultation document said: “Following the Autumn Statement, the generousities of the two schemes are broadly aligned and there is now scope to simplify the system and merge schemes”.⁴⁶⁵ Although the consultation is focused only on how a single R&D relief scheme could be designed and implemented, the Government said that a “final decision on whether to merge the schemes has not been taken”.⁴⁶⁶ However, the Government stated in the consultation that its “aim is for an above the line credit which is simple and removes boundaries between company size conducting R&D in the UK” with any new merged scheme being “based on the RDEC scheme as much as possible”.⁴⁶⁷ If a single “RDEC-for-all” scheme is introduced, the Government said its current intention is that this would apply to R&D expenditure incurred from 1 April 2024.⁴⁶⁸

255. We welcome the Government’s confirmation that its review of R&D reliefs is ongoing and that the draft Finance Bill 2022–23 changes are only initial measures. Our witnesses were clear that, after over 20 years, a wide-ranging review of the reliefs is needed. We agree that

461 Q 37 (Alice Jeffries)

462 As the SME scheme counts as a state aid, an SME in receipt of grant funding may not be eligible to claim under it, with relief only available under the RDEC scheme. See also Chapter 6 in relation to subcontracted R&D.

463 Supplementary written evidence from ATT (DFG0050). In its response to the March 2021 consultation, ATT did not support merging the two schemes ATT, *R&D Tax Reliefs—Response by Association of Taxation Technicians* (1 June 2021): <https://www.att.org.uk/sites/default/files/210601%20R&D%20Tax%20Reliefs%20-%20ATT%20response.pdf> [accessed 9 December 2022]

464 Q 70 (Matthew Henty)

465 HM Treasury, ‘R&D Tax Reliefs Review: Consultation on a single scheme’ (13 January 2023), para 1.28: <https://www.gov.uk/government/consultations/rd-tax-reliefs-review-consultation-on-a-single-scheme> [accessed 16 January 2023]

466 *Ibid.*, paras 1.34 and 2.12: <https://www.gov.uk/government/consultations/rd-tax-reliefs-review-consultation-on-a-single-scheme> [accessed 16 January 2023]

467 *Ibid.*, paras 2.11 and 3.1. Because of how the RDEC scheme works, it is commonly described as an “above the line credit” scheme.

468 *Ibid.*, para 1.36

the R&D review (HM Treasury's R&D Tax Reliefs Report), published in November 2021, has fallen short of that.

256. We recommend that, no later than the Spring 2023 Budget, the Government should publish an outline of the areas that it is considering as part of the ongoing review, with an indicative timeline for consultation with stakeholders. The value of R&D relief to many businesses means that the Government needs to be as transparent as possible as to the changes it is considering.
257. Many of the suggestions for changes to the R&D schemes by witnesses would have been raised with the Government in responses to its March 2021 consultation on R&D relief. Although the Government has as yet to provide details of what the next stage of the review will cover, in our view it needs to include consideration of the issues raised with us around the definitions of R&D and qualifying expenditure, and linking R&D relief more closely to Government priorities. However, we acknowledge that changes to the definition of R&D for tax purposes or to categories of expenditure eligible for relief would be more likely to result in additional Exchequer cost. This will need to be balanced against the economic benefits that should follow from any such changes.
258. The Government should continue to look for further ways in which R&D relief could be improved, in particular to ensure the relief is able to adapt rapidly to changing technology. In this, the Government should be open to learning from the experience of other countries.
259. Whilst we agree that new-to-firm innovation has an important role into play in improving the UK's productivity, we consider that including new-to-firm innovation with the existing R&D scheme would fundamentally alter the character of the relief as well as increasing its cost significantly. We therefore could not support a change of this nature at this time.
260. We accept that the two R&D schemes are now close in generosity but they differ in other respects, and it is clear that there are different views on whether the two R&D relief schemes should merge into a single RDEC-for-all scheme. In particular, SMEs value some aspects of the SME scheme which could be lost if this were the outcome. While we acknowledge that the Government has said that no final decision has yet been made on merging the two existing R&D tax relief schemes into a single RDEC for all scheme, we are disappointed that the consultation on a possible merger has been limited to design and implementation only. This is because it is imperative that the views of those who would be affected by such a change, particularly smaller businesses for which the existing relief provides essential support for their R&D activity, are fully taken into account in determining the 'if' as well as the 'how'.
261. We recommend that, in taking other aspects of the R&D review forward, the Government should hold a more open-ended consultation on possible changes to how R&D relief works in the UK. It should invite stakeholders to provide suggestions for change rather than looking for responses to pre-determined proposals.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

1. R&D makes an important contribution to the UK's economy, and we agree that it is right for the Government to support it. We welcome the Government's commitment to continuing R&D relief. (Paragraph 40)
2. R&D relief is seen by business as an important element for supporting and promoting R&D activity in the UK. HMRC data indicates that the reliefs do promote spending on R&D although the return on the SME relief is disappointing. (Paragraph 41)
3. It is right that, taking account of the rising cost of the schemes, the Government keeps them under review and ensures that they not only meet the needs of the modern economy but also represent value for money for the taxpayer. (Paragraph 42)
4. We are concerned at the evidence of how the cost of fraud and error has increased. We note that the Government sees the rebalancing of the reliefs it announced at the Autumn Statement 2022 as a means of reducing the number of spurious claims. (Paragraph 43)
5. HMRC should address the criticisms witnesses made of the way its compliance activities are conducted. These included an inconsistency of approach, failing to take account of information already received from claimants when making enquiries, poorly focused questions and a reluctance to engage constructively with taxpayers and their agents. (Paragraph 62)
6. Witnesses considered that HMRC is not sufficiently resourced for its current compliance activities in relation to R&D claims. The new legislation may put greater pressure on resources if HMRC is to use the additional information it will generate effectively. This is a matter both of the amount of resource available and its quality. (Paragraph 63)
7. While we note that the Minister responsible believes that the current resources are adequate for dealing with R&D relief, we recommend that the Government keeps the resource available to HMRC for dealing with R&D relief under review. If it is insufficient to combat the abuse of R&D relief effectively, the Government should consider whether additional resources can be made available within HMRC and, if necessary, provide additional resource. (Paragraph 64)
8. HMRC's Charter requires HMRC to ensure that officers dealing with a taxpayer have the right level of expertise, but our evidence suggests that this is not always the case in relation to R&D relief. We recommend that HMRC review its current training programme for its R&D teams to ensure it is providing officers with the skills and knowledge they need to work effectively and appropriately with businesses on R&D relief. (Paragraph 65)
9. We accept that, in principle, the proposed new requirements for R&D claims should help HMRC to counter abuse, mainly by providing more information about the claims and the advisers who prepare them. This should enable HMRC to make a more effective risk assessment of which claims to investigate. (Paragraph 81)
10. We agree with witnesses that the new rules will only be successful in improving risk assessment if HMRC uses the new information it will receive

timeously and effectively. We are concerned that it may not be sufficiently resourced to do this. The Government must ensure that adequate resources are in place within HMRC's R&D teams, otherwise the policy objective of the new rules may not be achieved. (Paragraph 82)

11. We recommend that HMRC monitors whether compliance with the requirement for a senior officer of a company to endorse an R&D claim, as well as the company's own tax return, achieves the policy aim of this measure. If it proves necessary, HMRC should consider what other options might be available to ensure senior officers of companies take appropriate responsibility for claims. (Paragraph 83)
12. The new requirements increase the compliance burden on all claimants, including those meeting their obligations and making genuine claims. In the case of most of the requirements, we consider that this strikes a reasonable balance, taking account of the benefit of equipping HMRC to combat abuse more effectively. (Paragraph 84)
13. The requirement for pre-notification of claims, however, appears to be uniquely onerous, without any direct precedent within the tax system. It risks companies being unable to make legitimate claims, while its benefits in countering abuse are questionable. (Paragraph 85)
14. We recommend that the requirement that companies give notice of claims within six months after the end of their accounting period is dropped from the draft Finance Bill 2022–23 before it is introduced into Parliament. (Paragraph 86)
15. It is disappointing that secondary legislation setting out the detail of the new compliance measures has not yet been published in draft given the proximity of the rules taking effect. Draft regulations should be published as soon as possible to give businesses adequate time to prepare for implementation in April. (Paragraph 90)
16. Draft guidance has been published and this is welcome. However, while we commend HMRC for consulting on the draft guidance, we note that since the consultation period continues until the end of February, it will be March at the very earliest before a final version can become available. This would only be shortly before the new rules take effect from 1 April. In the meantime there remains an element of uncertainty—indeed the draft guidance specifically states that no action should be taken based on it. It is not clear to us why it has taken HMRC five months from the publication of the draft Finance Bill in July 2022 to draft and publish less than 10 pages of guidance. (Paragraph 91)
17. We consider that the issue of who should be able to advise on R&D claims is part of the wider consideration of the regulation of tax advice, which the Government is pursuing separately. We therefore consider that this is outside the scope of this inquiry. (Paragraph 95)
18. For R&D relief to work as an incentive of R&D activity, businesses need to know not only that it exists, but what it covers. The Government needs to ensure that SMEs have access to information about R&D relief. This information should be clear, accurate and simple to understand so that SMEs can easily identify whether R&D relief is relevant to what they do and, if it is, work out what steps they need to take to claim it. We agree with our

witnesses that the Government needs to take control of the narrative of what qualifies as eligible R&D. (Paragraph 108)

19. We recommend that, as a minimum, HMRC and BEIS work together on a new awareness campaign aimed at providing SMEs with accurate information about what is, and as importantly, what is not R&D. (Paragraph 109)
20. We are concerned at the disconnect between what HMRC describes as a straightforward process for claiming R&D relief and what our witnesses told us about the perceived complexity of this process. (Paragraph 119)
21. We recommend that HMRC work with stakeholders, for example, through its Research and Development Communication Forum, to understand better the concerns raised with us relating to the complexity of R&D reliefs and try to identify solutions. (Paragraph 120)
22. Businesses should feel that they are able to claim R&D relief themselves without needing an agent. The Government should work with small business organisations to identify the changes needed to the claims process and related guidance to give smaller businesses the confidence to do it themselves. (Paragraph 121)
23. We welcome the work that HMRC is doing to develop a new methodology which will enable it to distinguish between error and fraud. We would like to see the results of the random sampling exercise when these are available. (Paragraph 126)
24. Error and fraud are two different things. We are concerned that, although the draft Finance Bill 2022–23 measures are said to be directed at helping to reduce error, they have primarily been aimed at tackling the increasing number of spurious claims. HMRC needs to enhance its education and support to taxpayers to help them understand the scheme better and avoid errors. (Paragraph 135)
25. While we understand the reasons why HMRC has adopted the “process now, check later” approach, we consider that it may not be sufficiently clear to claimants that giving relief in response to a claim does not mean that HMRC has accepted it as valid. There remains a possibility that action may be taken to recover the relief if later checks show that the claim did not meet the requirements for R&D relief. (Paragraph 136)
26. We recommend that when relief is given it is accompanied by a warning about the possibility of later recovery. (Paragraph 137)
27. We agree with our witnesses that the BEIS Guidelines, which explain the meaning of R&D, are in need of updating. It is not appropriate that a document intended to explain innovation has not been revised since 2010. (Paragraph 143)
28. We recommend that, in updating the BEIS Guidelines, BEIS works with HMRC to agree additional “real-world” examples, particularly in relation to R&D within the digital and technology sectors, for inclusion in revised Guidelines. (Paragraph 144)
29. We recommend that BEIS commit to reviewing its Guidelines at least every five years. (Paragraph 145)

30. We welcome confirmation from HMRC that it plans to undertake a comprehensive review of its published guidance covering R&D tax relief, as set out in its CIRDC Manual, to make it more accessible and user-friendly. (Paragraph 154)
31. We recommend that, in embarking on this review, HMRC consults with representative bodies from accountancy, tax, and business, and works with them to improve the accuracy and user-friendliness of its published guidance on R&D relief. (Paragraph 155)
32. We agree with our witnesses that HMRC's CIRDC Manual is not an ideal resource for SMEs considering whether to claim R&D relief. We recommend that HMRC, as a minimum, updates its 2016 guide for SMEs to provide SMEs with helpful information about how the relief works. (Paragraph 156)
33. We are concerned about the uncertainty that has arisen as to the meaning of "subsidised expenditure" following the decision in the Quinn (London) Limited tribunal case. HMRC should consider what steps it can take to help resolve this uncertainty and address the concerns raised with us in evidence. (Paragraph 157)
34. We recommend that HMRC re-launch the Advance Assurance Process for SMEs. We consider that providing a means for a business to obtain certainty as to whether its claim is eligible should be an essential part of the overall R&D scheme. (Paragraph 164)
35. We recommend that HMRC revisit the conditions for being able to apply under the Advance Assurance Process, and in particular, remove the requirement that a company cannot have used the process before. (Paragraph 165)
36. We can see merit in extending the Advance Assurance Scheme to claims for RDEC. HMRC should therefore publish its report on the success, or otherwise, of its pilot RDEC assurance scheme no later than Spring Budget 2023. It should also confirm whether or not a permanent RDEC assurance scheme for all companies, regardless of size, will be introduced. (Paragraph 166)
37. We were concerned to learn that HMRC was perceived as adopting a confrontational approach to R&D claimants. We agree with our witnesses that a confrontational approach could lead to companies, particularly those smaller companies new to the relief, giving up on future claims. The Charter requirement that HMRC deal with taxpayers fairly should underpin its work in R&D relief cases as much as other areas of HMRC's work. (Paragraph 179)
38. We are concerned about the evidence we heard that suggested HMRC staff dealing with R&D claims are not sufficiently knowledgeable to assess what qualifies as R&D, and are therefore not well equipped to help claimants in this respect. (Paragraph 180)
39. We recommend that HMRC liaise with BEIS to consider how it can enhance its access to scientific expertise when assessing whether a particular activity represents an advance in science or technology. (Paragraph 181)
40. We welcome the Government's proposal to include pure mathematics within the scope of the definition of R&D. We also welcome the expansion to the definition of qualifying expenditures to include data licensing and cloud computing costs. As both of these changes to R&D relief will help to ensure

R&D relief reflects modern R&D activity, we believe that they will help the UK to remain a competitive location for R&D. (Paragraph 190)

41. We agree with our witnesses, however, that these changes fall short of a wholesale review of the definition of R&D and qualifying expenditure. (Paragraph 191)
42. For R&D relief to be effective, it must be able to keep up with the pace of scientific and technological developments. We are concerned at the time it has taken for these changes, some of which were originally consulted on in 2020, to be introduced. (Paragraph 192)
43. Our witnesses are clear that the changes to the definition of R&D cannot be fully understood without guidance on how the new rules are to be interpreted, with examples showing how they apply in practice. We acknowledge the concerns of witnesses that these provisions may be interpreted in an overly restrictive manner and so limit their usefulness and, as a result, their value. (Paragraph 203)
44. We recommend that when the draft guidance, published on 20 December 2022, is finalised to take account of comments received during consultation, additional examples are added to aid understanding of how the new rules will apply. (Paragraph 204)
45. We recommend that the Government should use the consultation period on the draft guidance to ensure that HMRC's interpretation does not inadvertently result in the changes being less useful than intended. (Paragraph 205)
46. While the draft guidance is welcome it is very limited in both length and detail. Again, we consider that more examples would help and that those examples should be ones to which businesses can readily relate. We note that the example given that the location of a volcano can be a legitimate reason for R&D to be carried out abroad is extremely unlikely to be useful to many businesses. (Paragraph 211)
47. We recommend that when the guidance is revised after the consultation period more examples are included. (Paragraph 212)
48. We understand that the Government believes it cannot justify giving unrestricted relief for R&D expenditure overseas. However, if it also hoped to bring more R&D activity currently offshore into the UK, the evidence we received suggests that the proposed restriction may not be successful in this respect, at least in the short term. Witnesses suggested that it could even result in some R&D activities which currently take place in the UK being relocated to other countries. We also acknowledge the concerns of our witnesses related to the shortage of some specialised skills in the UK, and the nature of timescales involved in R&D projects. (Paragraph 222)
49. We recommend that the Government considers introducing some form of transitional relief for expenditure on specialised resource which is not available in the UK, especially for contracts already entered into. This would give companies time to adjust to the new rules. (Paragraph 223)
50. We welcome the Government's confirmation that its review of R&D reliefs is ongoing and that the draft Finance Bill 2022–23 changes are only initial measures. Our witnesses were clear that, after over 20 years, a wide-ranging review of the reliefs is needed. We agree that the R&D review (HM Treasury's

R&D Tax Reliefs Report), published in November 2021, has fallen short of that. (Paragraph 255)

51. We recommend that, no later than the Spring 2023 Budget, the Government should publish an outline of the areas that it is considering as part of the ongoing review, with an indicative timeline for consultation with stakeholders. The value of R&D relief to many businesses means that the Government needs to be as transparent as possible as to the changes it is considering. (Paragraph 256)
52. Many of the suggestions for changes to the R&D schemes by witnesses would have been raised with the Government in responses to its March 2021 consultation on R&D relief. Although the Government has as yet to provide details of what the next stage of the review will cover, in our view it needs to include consideration of the issues raised with us around the definitions of R&D and qualifying expenditure, and linking R&D relief more closely to Government priorities. However, we acknowledge that changes to the definition of R&D for tax purposes or to categories of expenditure eligible for relief would be more likely to result in additional Exchequer cost. This will need to be balanced against the economic benefits that should follow from any such changes. (Paragraph 257)
53. The Government should continue to look for further ways in which R&D relief could be improved, in particular to ensure the relief is able to adapt rapidly to changing technology. In this, the Government should be open to learning from the experience of other countries. (Paragraph 258)
54. Whilst we agree that new-to-firm innovation has an important role into play in improving the UK's productivity, we consider that including new -to-firm innovation with the existing R&D scheme would fundamentally alter the character of the relief as well as increasing its cost significantly. We therefore could not support a change of this nature at this time. (Paragraph 259)
55. We accept that the two R&D schemes are now close in generosity but they differ in other respects, and it is clear that there are different views on whether the two R&D relief schemes should merge into a single RDEC-for-all scheme. In particular, SMEs value some aspects of the SME scheme which could be lost if this were the outcome. While we acknowledge that the Government has said that no final decision has yet been made on merging the two existing R&D tax relief schemes into a single RDEC for all scheme, we are disappointed that the consultation on a possible merger has been limited to design and implementation only. This is because it is imperative that the views of those who would be affected by such a change, particularly smaller businesses for which the existing relief provides essential support for their R&D activity, are fully taken into account in determining the 'if' as well as the 'how'. (Paragraph 260)
56. We recommend that, in taking other aspects of the R&D review forward, the Government should hold a more open-ended consultation on possible changes to how R&D relief works in the UK. It should invite stakeholders to provide suggestions for change rather than looking for responses to pre-determined proposals. (Paragraph 261)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members of the Finance Bill Sub-Committee

Viscount Chandos
 Lord Leigh of Hurley (Chair)
 Lord Monks
 Baroness Noakes
 Lord Palmer of Childs Hill
 Lord Turnbull

Declarations of interests

Viscount Chandos
Director of, and shareholder in, the following companies that have received and/or have applied for R&D tax credits: Ambia Media Limited, RSMB Limited and The Theseus Agency Limited

Lord Leigh of Hurley (Chair)
*Member of the Chartered Institute of Taxation
 Member of the Chartered Institute of Chartered Accountants
 Senior Partner of Cavendish Corporate Finance LLP
 Director of a number of private companies in the real estate sector
 Investor in a number of private companies
 Chairman of Manolete Partners plc*

Lord Palmer of Childs Hill
Fellow of the Institute of Chartered Accountants

Lord Turnbull
No relevant interests

Lord Monks
Member of The Takeover Panel

Baroness Noakes
Shares held in a wide range of listed companies as declared in the Register of Interests some of which may benefit from research and development tax reliefs.

Members of the Economic Affairs Committee

Lord Bridges of Headley (Chair)
Adviser to and shareholder in Banco Santander, Madrid, Spain Editorial Consultant, London Evening Standard

Viscount Chandos
Director of, and shareholder in, the following companies that have received and/or have applied for R&D tax credits: Ambia Media Limited, RSMB Limited and The Theseus Agency Limited

Lord Fox
No relevant interests

Lord Griffiths of Fforestfach
No relevant interests

Lord King of Lothbury
No relevant interests

Rt Hon. the Baroness Kramer
No relevant interests

Lord Layard

No relevant interests

Lord Livingston of Parkhead

No relevant interests

Lord Monks

Member of the Takeover Panel

Baroness Noakes

Shares held in a wide range of listed companies as declared in the Register of Interests some of which may benefit from research and development tax reliefs.

Rt Hon. the Lord Rooker

No relevant interests

Lord Skidelsky

No relevant interests

Lord Stern of Brentford

Climate Advisor to NatWest Group and to Citigroup

Specialist advisers

Sarah Squires

Member of the Tax Law Committee of the Law Society of England and Wales

Consultant on tax issues to the British Property Federation

Robina Dyll

No relevant interests

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at: <https://committees.parliament.uk/work/305/the-future-ukeu-relationship-on-professional-and-business-services/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

- | | | |
|----|--|---------------------------------|
| ** | Richard Jones, Technical Manager in Business Tax, Institute of Chartered Accountants England and Wales (ICAEW) | <u>QQ 1–10</u> |
| * | David O’Keeffe, R&D specialist and member of the Corporate Tax Technical Committee, Chartered Institute of Taxation (CIOT) | |
| ** | Charlotte Barbour, Director, Institute of Chartered Accountants Scotland (ICAS) | |
| * | Jason Piper, Head of Tax and Business Law, Association of Chartered Certified Accountants (ACCA) | <u>QQ 11–20</u> |
| ** | Emma Rawson, Technical Officer, Association of Taxation Technicians (ATT) | |
| ** | Adam Harper, Director of Professional Standards and Policy, Association of Accounting Technicians (AAT) | |
| ** | Chris McDonald, Policy Chair for Innovation and Enterprise, Federation of Small Businesses (FSB) and Chief Executive Officer at the Materials Processing Institute | <u>QQ 21–39</u> |
| ** | Alice Jeffries, Head of Tax Policy, Confederation of British Industry (CBI) | |
| * | Kitty Ussher, Chief Economist, Institute of Directors (IoD) (QQ 21–39) | |
| * | Neil Ross, Associate Director, techUK | <u>QQ 40–51</u> |
| ** | Colin Hailey, Chair, Finance and Tax Advisory Committee, BioIndustry Association (BIA) | |
| * | Dr Joe Marshall, CEO, National Centre for Universities and Business (NCUB) | |
| ** | Jenny Tragner, Director and Head of Policy, ForrestBrown Limited | <u>QQ 52–63</u> |
| ** | Nigel Holmes, Director of Tax, CATAx | |
| * | Victoria Atkins MP, Financial Secretary, HM Treasury | <u>QQ 64–75</u> |
| * | Matthew Henty, Deputy Director, Enterprise and Property Tax, HM Treasury | |

- * Tessa Robins, Deputy Director, CT Innovation & Growth, Business, Assets & International, HMRC
- * Nicole Newbury, Director, Wealthy and Mid-sized Business Compliance, HMRC

Alphabetical list of witnesses

	ABGi-UK Limited	DFG0033
	Aiglon Consulting	DFG0017
**	Association of Accounting Technicians (AAT) (QQ 11-20)	DFG0049 DFG0007
**	Association of Taxation Technicians (ATT) (QQ 11-20)	DFG0050 DFG0006
*	Victoria Atkins MP, Financial Secretary, HM Treasury (QQ 64-75)	
	Ayming UK	DFG0019
**	Charlotte Barbour, Director, Institute of Chartered Accountants Scotland (ICAS) (QQ 1-10)	DFG0052 DFG0011
	BDO LLP	DFG0015
	Brunel University London	DFG0022
**	CATAX (QQ 52-63)	DFG0004
	Claimer	DFG0012
**	Confederation of British Industry (CBI) (QQ 21-39)	DFG0024
	Cooper Parry	DFG0031
	Creative Industries Policy and Evidence Centre (PEC)	DFG0046
	Crowe U.K. LLP	DFG0028
	ela8 limited	DFG0034
	Tom Elsbury, Partner, Novel App	DFG0043
	EmpowerRD	DFG0018
	Evelyn Partners	DFG0037
**	Federation of Small Business (FSB) (QQ 21-39)	DFG0005
**	ForrestBrown Limited (QQ 52-63)	DFG0036
	GovGrant	DFG0003
	Grant Thornton UK LLP	DFG0041
	GrantTree Ltd	DFG0039
	Dr Irem Guceri, Associate Professor of Economics and Public Policy, Oxford University, Blavatnik School of Government	DFG0021

**	Colin Hailey, Chair, Finance and Tax Advisory Committee, UK BioIndustry Association (BIA) (QQ 40-51)	DFG0016
**	Adam Harper, Director of Professional Standards and Policy, Association of Accounting Technicians (AAT) (QQ 11-20)	DFG0049 DFG0007
	Matthew Henty, Deputy Director, Enterprise and Property Tax, HM Treasury (QQ 64-75)	
**	Nigel Holmes, Director of Tax, CATAX (QQ 52-63)	DFG0004
**	Institute of Chartered Accountants in England & Wales (ICAEW) Tax Faculty (QQ 1-10)	DFG0048 DFG0010
**	Institute of Chartered Accountants of Scotland (ICAS) (QQ 1-10)	DFG0052 DFG0011
**	Alice Jeffries, Head of Tax Policy, Confederation of British Industry (CBI) (QQ 21-39)	DFG0024
**	Richard Jones, Technical Manager in Business Tax, Institute of Chartered Accountants England and Wales (ICAEW) (QQ 1-10)	
	Leyton UK	DFG0025
*	Dr Joe Marshall, CEO, National Centre for Universities and Business (NCUB) (QQ 40-51)	
	Jon Moulton, Chairman, The Better Capital Fund Vehicles	DFG0045
**	Chris McDonald, Policy Chair for Innovation and Enterprise, Federation of Small Businesses (FSB) and Chief Executive Officer at the Materials Processing Institute (QQ 21-39)	DFG0005
	MCS Corporate Strategies Ltd	DFG0014
*	Nicole Newbury, Director, Wealthy and Mid-sized Business Compliance, HMRC (QQ 64-75)	
*	David O’Keeffe, R&D specialist and member of Corporate Tax Technical Committee, Chartered Institute of Taxation (CIOT) (QQ 1-10)	
*	Jason Piper, Head of Tax and Business Law, Association of Chartered Certified Accountants (ACCA) (QQ 11-20)	
	Plan it Tax	DFG0044
	Plextek Group	DFG0035
	Protect Pure Maths campaign	DFG0053
**	Emma Rawson, Technical Officer, Association of Taxation Technicians (ATT) (QQ 11-20)	DFG0050 DFG0006
	Research and Development Consulting Limited	DFG0030

*	Tessa Robins, Deputy Director, CT Innovation & Growth, Business, Assets & International, HMRC (QQ 64-75)	
*	Neil Ross, Associate Director, techUK (QQ 40-51)	
	Solar Productions Limited	DFG0001
	Terry Toms and Partners Limited	DFG0032
**	The Chartered Institute of Taxation (CIOT) (QQ 1-10)	DFG0051
		DFG0008
	The R&D Community Ltd	DFG0026
**	Jenny Tragner, Director and Head of Policy, ForrestBrown Limited (QQ 52-63)	DFG0036
**	UK BioIndustry Association (BIA) (QQ 40-51)	DFG0016
	UK Research and Innovation (UKRI)	DFG0047
*	Kitty Ussher, Chief Economist, Institute of Directors (IoD) (QQ 21-39)	
	Wilson Wright LLP	DFG0020
	Wobbegong Technology Ltd	DFG0029

APPENDIX 3: CALL FOR EVIDENCE

The Finance Bill Sub-Committee, chaired by Lord Leigh of Hurley, is appointed annually by the Economic Affairs Committee to consider the draft Finance Bill. The Sub-Committee focuses on issues of tax administration, clarification, and simplification rather than on rates or incidence of tax.

On 20 July 2022, draft Finance Bill clauses were published for consultation. The Sub-Committee's inquiry will focus on the provisions included in the draft Finance Bill in relation to proposed changes to research and development tax relief (R&D relief).

This is a public call for written evidence to be submitted to the Sub-Committee.

The deadline for written submissions is 2 November 2022.

After it has concluded its inquiry, the Sub-Committee will make recommendations in a report to the House of Lords.

Areas of interest

The Sub-Committee invites companies which claim R&D relief, their advisers, business and trade/sectoral organisations, and other interested parties to submit written evidence to this inquiry. It would be particularly interested in the experiences of SMEs in claiming relief and how they expect the changes set out in the draft legislation to affect them.

The Sub-Committee is happy to receive submissions on any issues related to the subject of the inquiry but would particularly welcome submissions on the questions listed below. You need not address every question.

Questions

- (1) Have the changes to the definition of R&D gone far enough in modernising R&D relief, and if not, what more needs to be included?
- (2) How effective will the changes be in countering error and fraud resulting from spurious R&D claims and is there more that can be done, or different approaches that could be adopted?
- (3) How successful is the refocusing of the relief in encouraging activity in the UK without adverse consequences?
- (4) How aware are smaller businesses of R&D relief? Is there more that HMRC could be doing in practice to help smaller businesses access relief to which they are entitled?
- (5) How helpful is HMRC and BEIS guidance in interpreting and applying the R&D relief rules?
- (6) What view do you take of the requirement to give advance notification of R&D claims? What effect would you expect it to have on genuine and spurious R&D claims respectively?
- (7) What is your experience of HMRC's approach to dealing with claims to R&D relief which it suspects to be invalid, either through misunderstanding of the rules, or fraud?

- (8) Are there lessons the UK could learn from the tax systems of other countries about how to encourage R&D
- (9) How successful are the changes in R&D relief likely to be in encouraging innovation and development?

APPENDIX 4: HISTORY OF R&D RELIEF

Introduction of an SME scheme: 2000

1. A specific tax relief for investment in R&D was first introduced by the UK Government in April 2000. It was only available to small and medium sized enterprises⁴⁶⁹ which the Government said was because smaller businesses “were less well-placed than large firms to raise finance for R&D programmes and to capture the potential spill-over benefits”.⁴⁷⁰
2. Intended to incentivise businesses to invest in R&D, the relief worked by increasing the amount of tax relief a SME could claim for qualifying R&D spend to 150 per cent (from 100 per cent under normal corporation tax rules). The scheme used a definition of “R&D” based on accounting principles, supplemented by guidance issued by the former Department of Trade and Industry. As a result, the definition of R&D used for the purpose of the UK’s tax reliefs diverges from the OECD (Frascati) definition which some other jurisdictions use to define R&D for the purposes of their own tax incentive schemes.⁴⁷¹ The OECD definition is also used by the ONS in calculating BERD (business enterprise research and development), the official measure of business investment in the UK.
3. At the time the SME scheme was first introduced, the Government forecast put the cost at around £150 million a year.⁴⁷²

Introduction of a large company scheme: 2002

4. A year later, the Government consulted on extending R&D relief to larger companies. A large company R&D credit scheme was introduced on 1 April 2002. It worked on a similar basis to the SME scheme, providing companies with enhanced tax relief of 125 per cent of qualifying R&D expenditure. At the same time, specific rules were introduced to deal with subcontracting arrangements (so that where a large company subcontracted to a SME, the SME, and not the large company, would benefit from the new 125 per cent relief, and not SME relief).⁴⁷³ At the time it was introduced, the larger company scheme was forecast to cost £400m each year.⁴⁷⁴

Changes to the two R&D schemes

5. In 2008, the scope of SME relief was expanded to include companies with up to 500 employees. At the same time, an overall cap (of €7.5 million)

469 One of the main tests for being a SME when the relief was introduced was that the country had fewer than 250 employees (there was also a balance sheet and a turnover test).

470 HM Treasury, *Budget 2000* (March 2000), paras 3.49 and 3.50: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/265498/hc346.pdf [accessed 8 December 2022]

471 Written evidence from the CBI ([DFG0024](#)), ForrestBrown Limited ([DFG0036](#)), PEC ([DFG0046](#)) and [Q 28](#) (Alice Jeffries)

472 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

473 In contrast, if a SME subcontracted to a large company, it would retain the ability to claim under the SME relief scheme. See Inland Revenue Budget Note BN16 (17 April 2022)

474 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>

on the amount of relief available was introduced to comply with state aid requirements.⁴⁷⁵

6. In 2012, the Government sought to simplify the SME scheme by removing a minimum expenditure requirement, and a PAYE/NIC-related cap, that applied where a SME claimed a cash payment of the credit.⁴⁷⁶ However, a PAYE/NIC cap for SME credit payments was re-introduced in 2021 (although at a different level).⁴⁷⁷
7. In broad terms, however, the SME scheme is generally unaltered in terms of how it operates. Nonetheless, the rate at which relief is given has varied over the years.⁴⁷⁸ The current rate of 230 per cent (with a payable credit at 33.5 per cent) has applied since 2015.⁴⁷⁹
8. For larger company R&D relief⁴⁸⁰, the introduction of RDEC (or the research and development expenditure credit) in 2013 represented a significant change to how relief was given.⁴⁸¹ The credit given by the RDEC scheme is used to offset the company's tax bill (and so works differently to the SME scheme where the effect of the relief is to reduce taxable profits)⁴⁸² but in some cases it may be paid to the company in cash (for example, where the company is loss-making). The credit is treated as income for tax purposes and so is itself taxable.
9. From 2013 to 2016, a large company could choose whether to claim R&D relief under the original scheme or RDEC; since April 2016 only RDEC has been available.
10. Like the SME scheme, although there have been various changes since the introduction of RDEC in 2013—including changes in the rate of relief—the form of the relief as it operates today is broadly unchanged. The current rate of relief of 13 per cent has applied since April 2020.⁴⁸³

475 HM Treasury, 'Budget 2008' (March 2008), para A58: <https://www.gov.uk/government/publications/budget-2008-stability-and-opportunity-building> [accessed 8 December 2022]. The nature of the SME scheme meant it qualified as a state aid under EU principles, and so changes were subject to approval by the European Commission,

476 HM Treasury, 'Budget 2012' (21 March 2012), para 2.99: <https://www.gov.uk/government/publications/budget-2012> [accessed 8 December 2022]

477 HMRC, 'Preventing abuse of Research and Development tax relief for small and medium-sized enterprises' (4 March 2021): <https://www.gov.uk/government/publications/preventing-abuse-of-research-and-development-tax-relief-for-small-and-medium-sized-enterprises/preventing-abuse-of-research-and-development-tax-relief-for-small-and-medium-sized-enterprises> [accessed 8 December 2022]

478 A summary of the changes to SME scheme rates can be found in HMRC, 'HMRC's Internal Manual, Corporate Intangibles Research and Development Manual' (11 November 2022: <https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80260> [accessed 8 December 2022]

479 *Ibid.*

480 Note that in certain situations SMEs can only claim under the larger company/RDEC scheme.

481 HM Treasury, 'Budget 2013' (20 March 2013), para 2.92: <https://www.gov.uk/government/publications/budget-2013-documents> [accessed 8 December 2022]

482 RDEC is generally referred to as an "above the line" credit, because of how it is accounted for given that it applies "after" taxable profits have been calculated.

483 Again, for a summary of the rate changes, see HMRC, 'HMRC Internal Manual, Corporate Intangibles Research and Development Manual' (1 November 2022): <https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird80150> [accessed 8 December 2022]

Changes announced at the Autumn Statement 2022

11. At the Autumn Statement, the Government announced that from April 2023:
 - the rate of relief under the SME scheme would reduce to 86 per cent (providing a total relief for qualifying R&D expenditure of 186 per cent), with the tax credit reducing to 10 per cent; and
 - the rate of relief under the RDEC scheme would increase to 20 per cent.⁴⁸⁴
12. The Government told us that these rate changes are “a step towards a simplified, single RDEC-like scheme for all.”⁴⁸⁵

484 HM Treasury, *Autumn Statement 2022* (November 2022): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1118417/CCS1022065440001_SECURE_HMT_Autumn_Statement_November_2022_Web_accessible_1.pdf [accessed 8 December 2022]

485 Letter from Victoria Atkins MP to Lord Leigh of Hurley, Chair of the Economic Affairs Finance Bill Sub-Committee (28 November 2022): <https://committees.parliament.uk/publications/31759/documents/178686/default/>