



Research & Development

Tax Credit Cap

R&D Tax Credit Cap - 1 April 2021

Research and development (R&D) tax relief can effectively reduce the cost of R&D by as much as 24.7 percent for a profit-making small or medium sized enterprise (SME) (by reduction of their corporation tax liabilities) and 33 percent for SMEs that are loss-making (via a payable tax credit).

To deter abuse of the generous R&D scheme available to loss making SMEs, HMRC have announced a restriction, from 1 April 2021, to the amount of the R&D tax credit that a company can receive in any one year. This cap is set at £20,000 plus three times the company's total PAYE and NIC liability for the period (this may include PAYE/NIC related to connected third party expenditure).

Following consultation, certain exemptions are available to minimise the impact to genuine claimants.

The cap is likely to impact SME claimants with limited UK staff presence and that subcontract substantial levels of R&D to connected or third parties. It should not impact SME claimants with substantial UK payroll costs.

Following an extended consultation that began in 2018, HMRC have confirmed the following exemptions to minimise the impact of this anti-abuse measure on genuine businesses:

- A company making a small claim for payable credit below £20,000 will not be affected by the cap.
- A company will be able to include related party PAYE and NIC liabilities attributable to the R&D project when calculating the cap and these will be subject to the 300 percent multiplier.
- A company's claim, of any size, will be uncapped if it meets two tests. These tests require that a company's employees are creating, preparing to create or actively managing intellectual property (IP) and that its expenditure on work subcontracted to, or externally provided workers provided by, a related party is less than 15 percent of its overall R&D expenditure.

Loss making SME companies that have low UK PAYE/NIC liabilities should consider if these new rules restrict the amount of R&D tax credits available under the SME scheme and consider, if potentially impacted, whether they can qualify for the above mentioned exemptions.

Draft legislation and HMRC's explanatory note have been published. The changes will be legislated in Finance Bill 2021.

To find out more information visit [elect.tax](https://www.elect.tax) or [click here](#) to book a free, no obligation consultation.

