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## TAX E-NEWS

### May 2011 - Monthly Update

Welcome to our monthly tax newsletter designed to keep you informed of the latest tax issues. We hope you enjoy reading the newsletter, and remember we are here to help, so please contact us if you need further information on any of the topics covered.

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#### Introduction

In recent times there has been much discussion in relation to the preservation of Ireland's 12.5% corporation tax rate. This of course whilst vital to our country's reputation as a good place to do business is not the only means by which the tax system can support companies in business.

In this month's briefing, we explain how additional tax relief may be obtained for expenditure incurred on research and development activities.

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#### Research & Development Expenditure - An Overview of Relief

Where a company incurs costs in relation to research and development activities, it may, in addition to claiming an expense deduction for such costs, also claim a tax credit of 25% of the expenditure incurred against its corporation tax liability in that period and in the previous accounting period.

Where the company in question does not have a corporation tax liability in the period in which the expenditure was incurred or in the previous accounting period, it may either:

- (i) Carry forward the tax credit for offset against the corporation tax liability in following years, or
- (ii) Alternatively, it may claim repayment of the tax credit from Revenue over a three year period. In this instance, there is a limit on the amount that can be repaid to the company. The limit imposed is the greater of the corporation tax paid in the 10 years prior to the year that the expenditure was incurred or the payroll liabilities for the period in which the expenditure was incurred.

The Minister for Finance announced in the Jobs Initiative that he intends to amend the R&D tax credit legislation in the upcoming Finance Bill to enhance flexibility for companies in how they account for the credit. The Minister did not give full details of the means by which this flexibility would be achieved. However, any amendment which enhances the benefit of the credit to the tax payer is a welcome move.

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#### The Main Conditions

There are, unsurprisingly, a number of conditions that need to be met in order to claim this relief and these can be summarised as follows:

1. Only expenditure in excess of that incurred by the company in 2003 will qualify for the research and development tax credit.
2. Grants received by the company towards the research and development project, for example from the IDA, Enterprise Ireland, etc. will be offset against the expenditure incurred when quantifying the claim. However, the fact that grants of such a nature have actually been received by a company will be of considerable assistance in substantiating the bona fides of a particular project should this be reviewed by Revenue.
3. To be regarded as a qualifying project, the company must spend money on either pure research, applied research or development as part of an identifiable project aimed at either furthering scientific advancement or resolving scientific uncertainty.
4. The employees must be engaged in systematic, investigative or experimental activities aimed at

securing such advances which cannot be of a nature that could easily be sourced elsewhere.

5. There is however no requirement that the research activities should be successful and additionally, while qualification for a patent will undoubtedly be of assistance in establishing the "newness" of any particular product evolving from a project of this nature, this is not essential either.
6. Any claim for tax credits must be made within 12 months of the year end in which the expenditure is incurred and will in practice be included as part of a company's corporation tax return.
7. In general, the company must carry out its research and development activities "in house" in either Ireland or another EEA State, but a certain amount of subcontracting is permitted.
8. The claims are made within the scope of the self assessment system and as a result are subject to tax audit in the normal way which will ensure that proper scientific and accounting records must be maintained for a four year period.

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### Conclusion

In a time when cash is of paramount importance to ALL businesses, it would be well worthwhile for companies to carry out a review of activities carried on to determine if a claim is possible under this heading.

If you would like any further information on any of the above issues, please call our dedicated Tax Team on 059 9137040 or email [tax@laloroshea.ie](mailto:tax@laloroshea.ie).

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