

SCHEDULES

SCHEDULE 13

Section 54

TAX RELIEF FOR EXPENDITURE ON VACCINE RESEARCH ETC

PART 1

ENTITLEMENT TO RELIEF

Entitlement to relief under this Schedule

- 1 (1) A company is entitled to relief under this Schedule for an accounting period if the company's qualifying expenditure for that period (see paragraph 2) is not less than—
- (a) £25,000, if the accounting period is a period of 12 months, or
 - (b) such amount as bears to £25,000 the same proportion as the accounting period bears to 12 months.
- (2) Relief under this Schedule in respect of any expenditure is in addition to any relief in respect of that expenditure under Schedule 20 to the Finance Act 2000 (c. 17) or Schedule 12 to this Act (tax relief for expenditure on research and development).

Qualifying expenditure

- 2 (1) For the purposes of this Schedule “qualifying expenditure” means—
- (a) qualifying expenditure on direct research and development (see paragraphs 3 to 5),
 - (b) qualifying expenditure on sub-contracted research and development (see paragraphs 6 to 11), or
 - (c) qualifying expenditure on contributions to independent research and development (see paragraph 12).
- (2) The qualifying expenditure of a company “for an accounting period” is determined as follows.
- (3) The qualifying expenditure on direct or sub-contracted research and development for an accounting period is—
- (a) in the case of company that qualifies as a small or medium-sized enterprise in that period, qualifying expenditure that—
 - (i) is deductible in computing for tax purposes the profits for that period of a trade carried on by the company, or
 - (ii) would have been so deductible had the company, at the time the expenditure was incurred, been carrying on a trade consisting of the activities in respect of which it was incurred,(disregarding for this purpose section 401 of the Taxes Act 1988 (pre-trading expenditure treated as incurred when trading begins));

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- (b) in the case of a company that does not qualify as a small or medium-sized enterprise in that period, qualifying expenditure that is deductible in computing for tax purposes the profits for that period of a trade carried on by the company (including expenditure that is so deductible by virtue of section 401 of the Taxes Act 1988).
- (4) The qualifying expenditure on contributions to independent research and development for an accounting period is the expenditure that is incurred on contributions paid in that period.

Qualifying expenditure on direct research and development

- 3 (1) Qualifying expenditure of a company on direct research and development is expenditure incurred by the company that satisfies the following conditions.
- (2) The first condition is that the expenditure is on qualifying R&D activity (see paragraph 4) directly undertaken by the company.
 - (3) The second condition is that the qualifying R&D activity on which the expenditure is incurred is relevant research and development in relation to the company.
 - (4) The third condition is that the expenditure is not of a capital nature.
 - (5) The fourth condition is that the expenditure is incurred—
 - (a) on staffing costs, or
 - (b) on consumable stores.
 - (6) The fifth condition is that the expenditure is not incurred by the company in carrying on activities the carrying on of which is contracted out to the company by any person.
 - (7) The sixth condition is that the expenditure is not subsidised.

Qualifying R&D activity

- 4 (1) For the purposes of this Schedule “qualifying R&D activity” means research and development relating to—
- (a) vaccines or medicines for the prevention or treatment of tuberculosis,
 - (b) vaccines or medicines for the prevention or treatment of malaria,
 - (c) vaccines for the prevention of infection by human immunodeficiency virus, or
 - (d) vaccines or medicines for the prevention of the onset, or for the treatment, of acquired immune deficiency syndrome resulting from infection by human immunodeficiency virus in prescribed clades only.
- (2) For the purposes of sub-paragraph (1) “prescribed clade” means clade A, C, D or E or such other clade or clades as the Treasury may by regulations prescribe.
- (3) The Treasury may make provision by regulations further defining the purposes referred to in sub-paragraph (1)(a), (b), (c) or (d).
- (4) In sub-paragraph (1) references to vaccines or medicines are to vaccines or medicines for use in humans.

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Meaning of “relevant R&D”, “small or medium-sized enterprise”, “staffing costs”, “consumable stores” and “subsidised”.

- 5 (1) For the purposes of this Schedule “relevant research and development”, in relation to a company, means research and development—
- (a) related to a trade carried on by the company, or
 - (b) from which it is intended that a trade to be carried on by the company will be derived.
- (2) For the purposes of this Schedule research and development related to a trade carried on by the company includes research and development which may lead to or facilitate an extension of that trade.
- (3) The following provisions of Schedule 20 to the Finance Act 2000 (c. 17) (tax relief for R&D expenditure of small and medium-sized companies) apply for the purposes of this Schedule as they apply for the purposes of that Schedule—
- (a) paragraph 2 (meaning of “small or medium-sized enterprise”);
 - (b) paragraph 5 (staffing costs);
 - (c) paragraph 6 (expenditure on consumable stores); and
 - (d) paragraph 8 (subsidised expenditure),
- except that in their application for the purposes of this Schedule, references in that Schedule to relevant research and development shall be construed in accordance with sub-paragraphs (1) and (2) above.

Qualifying expenditure on sub-contracted research and development

- 6 (1) Paragraphs 7 to 11 make provision for determining the qualifying expenditure of a company on sub-contracted research and development.
- This is subject to sub-paragraph (3).
- (2) For the purposes of those paragraphs a company (“the principal”) incurs expenditure on sub-contracted research and development if it makes a payment (a “sub-contractor payment”) to another person (“the sub-contractor”) in respect of research and development contracted out by the company to that person.
- (3) Where the sub-contractor is—
- (a) a charity (within the meaning of section 506(1) of the Taxes Act 1988),
 - (b) a university, or
 - (c) an Association of a description specified in section 508 of that Act (scientific research organisations),
- paragraphs 7(1) and 8 to 11 do not apply and expenditure of the principal on sub-contracted expenditure is qualifying expenditure if it satisfies the conditions of paragraph 7(2) to (6).

Conditions that must be satisfied by qualifying expenditure on sub-contracted research and development

- 7 (1) Expenditure of a company on sub-contracted research and development is not qualifying expenditure unless it satisfies the following conditions.
- (2) The first condition is that the expenditure is on research and development directly undertaken on behalf of the company by the sub-contractor.

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- (3) The second condition is that the expenditure is on qualifying R&D activity (see paragraph 4).
- (4) The third condition is that the R&D activity in respect of which the expenditure is incurred is relevant research and development in relation to the company.
- (5) The fourth condition is that the expenditure is not of a capital nature.
- (6) The fifth condition is that the expenditure is not subsidised.

Treatment of sub-contractor payment where principal and sub-contractor are connected persons

- 8 (1) Where the principal and the sub-contractor are connected persons and in accordance with generally accepted accounting practice—
- (a) the whole of the sub-contractor payment has been brought into account in determining the sub-contractor’s profit or loss for a relevant period, and
 - (b) all of the sub-contractor’s relevant expenditure has been so brought into account,
- the whole of the payment (up to the amount of the sub-contractor’s relevant expenditure) is qualifying expenditure on sub-contracted research and development.
- This is subject to paragraph 7 (conditions that must be satisfied by qualifying expenditure on sub-contracted R&D).
- (2) In sub-paragraph (1)—
- (a) “relevant expenditure” has the meaning given by paragraph 9, and
 - (b) “relevant period” means a period—
 - (i) for which accounts are drawn up by the sub-contractor, and
 - (ii) that ends not more than twelve months after the end of the principal’s period of account in which the sub-contractor payment is, in accordance with generally accepted accounting practice, brought into account in determining the principal’s profit or loss.
- (3) Any apportionment of expenditure of the principal or the sub-contractor necessary for the purposes of this paragraph shall be made on a just and reasonable basis.

Relevant expenditure of the sub-contractor

- 9 (1) For the purposes of paragraph 8 the “relevant expenditure” of the sub-contractor is expenditure that—
- (a) is incurred by the sub-contractor in carrying on, on behalf of the principal, the activities to which the sub-contractor payment relates, and
 - (b) satisfies the following conditions.
- (2) The first condition is that the expenditure is not of a capital nature as regards the sub-contractor.
- (3) The second condition is that the expenditure is incurred—
- (a) on staffing costs, or
 - (b) on consumable stores.

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In applying (by virtue of paragraph 5 above) paragraph 5 of Schedule 20 to the Finance Act 2000 (c. 17) (meaning of “staffing costs”) for the purposes of this sub-paragraph, the references to the company shall be read as references to the sub-contractor.

- (4) The third condition is that the expenditure is not subsidised.

In applying (by virtue of paragraph 5 above) paragraph 8 of that Schedule (subsidised expenditure) for the purposes of this paragraph, the references to the company shall be read as references to the sub-contractor.

Election for connected persons treatment

- 10 (1) The principal and the sub-contractor may in any case jointly elect that paragraph 8 (treatment of sub-contractor payment where principal and sub-contractor are connected) shall apply to sub-contractor payments made by the principal to the sub-contractor.
- (2) Any such election must be made in relation to all sub-contractor payments paid under the same contract or other arrangement.
- (3) The election must be made by notice in writing given to the Inland Revenue.
- (4) The notice must be given not later than two years after the end of the company’s accounting period in which the contract or other arrangement is entered into.
- (5) An election under this paragraph, once made, is irrevocable.

Treatment of sub-contractor payment in other cases

- 11 Where the principal makes a sub-contractor payment and—
- (a) the principal and the sub-contractor are not connected persons, and
 - (b) no election is made under paragraph 10 (election for connected persons treatment),
- 65% of the amount of the sub-contractor payment is treated as qualifying expenditure on sub-contracted research and development.
- This is subject to paragraph 7 (conditions that must be satisfied by qualifying expenditure on sub-contracted R&D).

Qualifying expenditure on contributions to independent research and development

- 12 (1) Expenditure of a company on contributions to independent research and development is qualifying expenditure where the following conditions are satisfied.
- (2) The first condition is that the expenditure must be incurred on payments made to—
- (a) a charity (within the meaning of section 506(1) of the Taxes Act 1988),
 - (b) a university, or
 - (c) an Association of a description specified in section 508 of that Act (scientific research organisations),
- for the purpose of funding qualifying R&D activity carried on by the body in question.

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- (3) The second condition is that the R&D activity must be research and development related to a trade carried on by the company.

PART 2

MANNER OF GIVING EFFECT TO RELIEF: SMALL AND MEDIUM-SIZED COMPANIES

Application of this Part

- 13 This Part provides for how relief under this Schedule for an accounting period is to be given in the case of a company that qualifies as a small or medium-sized company in that period.

Deduction in computing profits of trade

- 14 (1) Where a company—
- (a) is entitled to relief under this Schedule for an accounting period in respect of any qualifying expenditure, and
 - (b) is carrying on a trade in that period,
- it may (on making a claim) make the appropriate deduction in computing the profits of the trade for that period.
- (2) For this purpose the appropriate deduction is—
- (a) 50% of so much of the qualifying expenditure as is expenditure in respect of which the company is also entitled to relief under Schedule 20 to the Finance Act 2000 (c. 17), and
 - (b) 150% of so much of the qualifying expenditure as is not expenditure in respect of which the company is also entitled to relief under that Schedule.
- (3) This paragraph is without prejudice to any other deduction in respect of the qualifying expenditure.

Alternative treatment of pre-trading expenditure: deemed trading loss

- 15 (1) Where a company—
- (a) is entitled to relief under this Schedule for an accounting period in respect of any qualifying expenditure, and
 - (b) is not carrying on a trade in that period,
- it may elect to be treated as if it had incurred a trading loss in that accounting period.
- (2) The amount of the trading loss is—
- (a) 50% of so much of the qualifying expenditure as is expenditure in respect of which the company is also entitled to relief under Schedule 20 to the Finance Act 2000, and
 - (b) 150% of so much of the qualifying expenditure as is not expenditure in respect of which the company is also entitled to relief under that Schedule.
- (3) Section 401 of the Taxes Act 1988 (relief for pre-trading expenditure) does not apply to qualifying expenditure in respect of which an election is made under this paragraph.

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- (4) An election under this paragraph must—
 - (a) specify the accounting period in respect of which it is made, and
 - (b) be made by notice in writing to the Inland Revenue given not later than two years after the end of the accounting period to which the election relates.
- (5) Where a company is treated under this paragraph as incurring a trading loss in an accounting period, the trading loss may not be set off against profits of a preceding accounting period under section 393A(1)(b) of the Taxes Act 1988 unless the company is entitled to tax relief under this paragraph for that earlier period.
- (6) Where a company is treated under this paragraph as incurring a trading loss in an accounting period and the company begins, in that accounting period or a later accounting period, to carry on a trade derived from the research and development in relation to which the tax relief in question was obtained under this paragraph, then—
 - (a) subject to paragraph 19 (restriction on losses carried forward), and
 - (b) to the extent that—
 - (i) the company has not obtained relief in respect of the trading loss under any other provision, and
 - (ii) the loss has not been surrendered under section 403(1) of the Taxes Act 1988 (surrender of relief to group or consortium members),the loss shall be treated as if it were a loss of that trade brought forward under section 393 of that Act (relief of trading losses against future trading profits).

Entitlement to tax credit

- 16 (1) A company may claim a tax credit for an accounting period in which it has a surrenderable loss.
- (2) A company has a “surrenderable loss” for an accounting period—
 - (a) if paragraph 14 applies and the company incurs a trading loss in that period in the trade mentioned in sub-paragraph (1)(b) of that paragraph;
 - (b) if paragraph 15 applies and the company is treated under that paragraph as incurring a trading loss.
- (3) The amount of the surrenderable loss is equal to the lower of—
 - (a) so much of the trading loss referred to in sub-paragraph (2) above as is unrelieved, and
 - (b) the total amount deductible under paragraph 14 or, as the case may be, the total deemed trading loss under paragraph 15.
- (4) For this purpose the amount of a trading loss that is “unrelieved” means the amount of that loss reduced by—
 - (a) any relief that was or could have been obtained by the company making a claim under section 393A(1)(a) of the Taxes Act 1988 to set the loss against profits of whatever description of the same accounting period,
 - (b) any other relief obtained by the company in respect of the loss, including relief under section 393A(1)(b) of that Act (losses set against profits of an earlier accounting period),
 - (c) any loss surrendered under section 403(1) of that Act (surrender of relief to group or consortium members), or

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- (d) any loss surrendered under paragraph 15 of Schedule 20 to the Finance Act 2000 (c. 17) (entitlement to R&D tax credit).
- (5) No account shall be taken for this purpose of any losses—
 - (a) brought forward from an earlier accounting period under section 393(1) of the Taxes Act 1988, or
 - (b) carried back from a later accounting period under section 393A(1)(b) of that Act.

Amount of credit

- 17 (1) The amount of the tax credit to which a company is entitled for an accounting period is 16% of the surrenderable loss for the period, subject to the following limit.
- (2) The limit is that the total of the tax credits to which the company is entitled for an accounting period under this Schedule and under Schedule 20 to the Finance Act 2000 (c. 17) may not exceed the total of the company's PAYE and NICs liabilities for payment periods ending in that accounting period.
 - (3) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1) such other percentage as they think fit.
 - (4) An order under sub-paragraph (3) may make such incidental, supplementary, consequential and transitional provision as the Treasury think fit.
 - (5) Paragraph 17 of Schedule 20 to the Finance Act 2000 (calculation of total amount of company's PAYE and NICs liabilities for a payment period) applies for the purposes of this paragraph as it applies for the purposes of paragraph 16 of that Schedule.

Payment in respect of tax credit

- 18 (1) Where—
- (a) a company is entitled to a tax credit under this Schedule for an accounting period, and
 - (b) makes a claim,
- the Inland Revenue shall pay to the company the amount of the credit.
- (2) An amount payable in respect of—
 - (a) a tax credit under this Schedule, or
 - (b) interest on a tax credit under this Schedule under section 826 of the Taxes Act 1988,
 may be applied in discharging any liability of the company to pay corporation tax, and to the extent that it is so applied the Inland Revenue's obligation under sub-paragraph (1) is discharged.
 - (3) Where the company's company tax return for the accounting period is enquired into by the Inland Revenue, no payment in respect of a tax credit under this Schedule for that period need be made before the Inland Revenue's enquiries are completed (see paragraph 32 of Schedule 18 to the Finance Act 1998 (c. 36)).
- In those circumstances the Inland Revenue may make a payment on a provisional basis of such amount as they think fit.

- (4) No payment need be made in respect of a tax credit under this Schedule for an accounting period before the company has paid to the Inland Revenue any amount that it is required to pay for payment periods ending in that accounting period—
- (a) under the PAYE regulations, or
 - (b) in respect of Class 1 national insurance contributions.

Restriction on losses carried forward

- 19 (1) For the purposes of section 393 of the Taxes Act 1988 (relief of trading losses against future trading profits), a company's trading loss for a period for which it claims a tax credit under this Schedule is treated as reduced by the amount of the loss surrendered.
- (2) The amount of the loss surrendered is—
- (a) where the maximum amount of tax credit was claimed, the whole of the surrenderable loss for that period, and
 - (b) where less than the maximum amount was claimed, a corresponding proportion of the surrenderable loss for that period.

The "maximum amount" here means the amount specified in paragraph 17(1).

Payment in respect of tax credit not income

- 20 A payment in respect of a tax credit under this Schedule is not income of the company for tax purposes.

PART 3

MANNER OF GIVING EFFECT TO RELIEF: LARGE COMPANIES

Deduction in computing profits of trade

- 21 (1) This paragraph applies where a company that does not qualify as a small or medium-sized enterprise in an accounting period is entitled to relief under this Schedule for that period.
- (2) In so far as the company's qualifying expenditure for that period is deductible in computing for tax purposes the profits for that period of a trade carried on by the company, it is entitled (on making a claim) to an additional deduction in computing the profits of the trade for that period of an amount equal to 50% of the qualifying expenditure.
- (3) In so far as the company's qualifying expenditure for that period is not so deductible, it may (on making a claim) treat 150% of that qualifying expenditure as if it were so deductible.
- (4) This paragraph is without prejudice to any other deduction in respect of the qualifying expenditure.

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PART 4

SPECIAL PROVISION FOR GIVING RELIEF TO INSURANCE COMPANIES

Treated as large companies

- 22 Where, in an accounting period, an insurance company (within the meaning of Chapter 1 of Part 12 of the Taxes Act 1988)—
- (a) carries on life assurance business, and
 - (b) qualifies as a small or medium-sized enterprise,
- Parts 2 and 3 of this Schedule apply to that company as if it did not qualify as such an enterprise in that period.

Entitlement to relief in respect of “I minus E” basis

- 23 (1) This paragraph applies where for any accounting period the profits arising to a company from its life assurance business are not charged to corporation tax under Case I of Schedule D.
- (2) The provisions of Part 3 which allow a deduction in calculating the profits of a trade apply in relation to the company to treat amounts as disbursed as expenses of management.
- (3) Where by virtue of section 436, 439B or 441 of the Taxes Act 1988—
- (a) any profits arising to the company from any category of life assurance business are treated as income chargeable under Case VI of Schedule D, and
 - (b) the profits of that part of that business are computed in accordance with the provisions of that Act applicable to Case I of that Schedule,
- Part 3 of this Schedule has effect as if the references to the trade carried on by the company were references to that part of that business (and sub-paragraph (2) does not apply in relation to that part).
- (4) Subject to sub-paragraph (3), the provisions of Part 3 do not apply to allow any deduction in any computation of the profits of the company’s life assurance business made in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D.

PART 5

SUPPLEMENTARY PROVISIONS

Artificially inflated claims for deduction or tax credit

- 24 (1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it shall be disregarded in determining for an accounting period the amount of—
- (a) any relief to which a company is entitled under paragraph 14, 15 or 21, and
 - (b) any tax credit to which a company is entitled under this Schedule.
- (2) Arrangements are entered into wholly or mainly for a “disqualifying purpose” if their main object, or one of their main objects, is to enable a company to obtain—

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- (a) relief under paragraph 14, 15 or 21 to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled; or
 - (b) a tax credit under this Schedule to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled.
- (3) In this paragraph “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

Refunds of contributions to independent research and development

- 25 (1) This paragraph applies where a company receives a payment refunding the whole or any part of—
- (a) any qualifying expenditure on sub-contracted research and development to which paragraph 6(3) applies (research sub-contracted to charities, universities and scientific research organisations), or
 - (b) any qualifying expenditure on contributions to independent research and development (see paragraph 12),
- in respect of which it obtains relief under this Schedule.
- (2) The appropriate amount shall be treated as income of the company chargeable to tax under Case I of Schedule D for the accounting period in which the payment is made.
- (3) Where, by virtue paragraph 23(3) (profits of life assurance business chargeable to tax under Case VI of Schedule D), the relief obtained in respect of the contribution or expenditure concerned is a deduction in computing for tax purposes the profits of a part of the life assurance business of the company—
- (a) sub-paragraph (2) does not apply, and
 - (b) the appropriate amount shall be treated as income referable to that part which is chargeable to tax under Case VI of Schedule D for the accounting period in which the payment is made.
- (4) For this purpose “the appropriate amount” means—
- (a) where the company qualifies as a small or medium-sized enterprise in the accounting period in which it obtains the relief—
 - (i) if it is entitled to relief under Schedule 20 to the Finance Act 2000 (c. 17) in respect of the qualifying expenditure refunded, 50% of the payment, and
 - (ii) in any other case, 150% of the payment; and
 - (b) where the company does not so qualify—
 - (i) if the relief falls within paragraph 21(2) (relief for qualifying expenditure deductible in computing profits for tax purposes), 50% of the payment, and
 - (ii) in any other case, 150% of the payment.

Funding of tax credits

- 26 Section 10 of the Exchequer and Audit Departments Act 1866 (c. 39) (gross revenues to be paid to Exchequer) shall be construed as allowing the Commissioners of Inland Revenue to deduct payments for or in respect of tax credits under this Schedule before causing the gross revenues of their department to be paid to the account mentioned in that section.

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Interpretation

27 (1) In this Schedule—

“the Inland Revenue” means any officer of the Board;

“life assurance business” has the meaning given in section 431(2) of the Taxes Act 1988;

“national insurance contributions” means contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4) or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

“PAYE regulations” means regulations under section 203 of the Taxes Act 1988;

“payment period” has the meaning given in paragraph 17(2) of Schedule 20 to the Finance Act 2000 (c. 17);

“research and development” has the meaning given by section 837A of the Taxes Act 1988;

“surrenderable loss” has the meaning given in paragraph 16(2).

- (2) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this Schedule.
- (3) For the purposes of this Schedule a company not within the charge to corporation tax that incurs qualifying expenditure is treated as having such accounting periods as it would have—
- (a) if it carried on a trade consisting of the qualifying R&D activity on which the expenditure is incurred, and
 - (b) if it had started to carry on that trade when it started to carry on that activity.

Commencement and transitional provision

- 28 (1) This Schedule applies only to expenditure incurred on or after such day (being a day not earlier than 1st April 2002) as the Treasury may by order appoint.
- (2) For the purposes of determining the expenditure incurred on or after that day no account shall be taken of section 401 of the Taxes Act 1988 (pre-trading expenditure treated as incurred when trading begins).
- (3) Paragraph 1(1) (requirement of minimum amount of qualifying expenditure in an accounting period) applies to an accounting period beginning before and ending on or after that day as if so much of the period as falls on or after that day were a separate accounting period.