

Dear Sir/Madam,

I wish to make a submission for your review of the R&D Tax Credit.

There was originally a Tax Free Patent Royalty scheme, I think what happened was that it started to be abused and some companies who were not doing real R&D began to run very large sums through it to enrich a handful of people. So the Scheme was stopped.

Before its demise the R&D Tax Credit/Rebate scheme started and 'took over'. The criteria not being a 'patent', but rather that the company was doing R&D (as per the OECD R&D definition – though there is some subjective judgement still to be made) was a better one. It now means that the Government/Revenue has a tool that singles out the R&D companies (Knowledge Workers, Smart Economy etc.). If that was combined with the previous 'payment' approach it would be a good basis for an effective scheme.

The current 'reward' approach had originally too many flaws:

- 1) It was 75% of a person's time on R&D – even a full time R&D person would be hard pressed to hit 75% on R&D – given he/she has to do things like helping sales, business development, customer meetings etc. So this was change to 50% which is a better threshold – but again it missed the 'woods for the trees' – see later.
- 2) The idea that the payment to an employee is 'at risk' until after a Revenue Audit (i.e. the Revenue can disallow an R&D claim after an audit and hence look for repayment) – what employee would want to take that risk, it is not an appropriate risk to ask an employee to take (effectively the money is of little use, as the employee must always have an ability to repay it – so can't gainfully use it).
- 3) Another issue is that if a manager wishes to assign an R&D employee to some key task (but which is not R&D), that employee is dis-incentivised to want to do a non R&D job, as they are cutting of their own ability to get the personal tax benefit of doing R&D. And it is making it very difficult for companies and their managers to properly assigned employees to the actual work that needs to be done (rather than the work that the employee wants to do).
- 4) But the core problem is that only an R&D employee can get the tax benefit. Of course we want to reward and incentivise R&D employees, but R&D employees do not create R&D jobs. It is the managers of R&D employees who actually create R&D jobs. So we have the situation that we want to create more R&D jobs, and we can't incentivise the people who do that, we are actually incentivising the wrong people (but we do want to have some ability to incentivise the R&D employee).

What we actually need is an R&D Tax Credit scheme that identifies the right kinds of companies, i.e. R&D companies – the use of the OECD definition of R&D as used in the current R&D Tax Credit scheme is good at that.

Then we want the ability for a company to use that tax benefit from that credit to reward any / all their employees, including those in sales who bring in the money, including managers who assign the work and the priorities, and create new R&D jobs, and including other support staff who play key roles in helping to make companies doing R&D successful.

So keep the R&D definition, but drop the restriction on who the company can pay, leave it open to pay an / all employees in a tax efficient way.

If it is necessary, in order to make it work, to limit the amounts that can be paid (say €50k) in a tax efficient manner so be it.

One other point that I have heard argued is that restricting it to R&D employees would help to get more 'start-ups' going - I don't agree with that argument, because what CEO would be interested in starting a 'start-up' and then finding himself cut out of the tax efficient payment! And we are not interested in 'start-ups' per se, we are interested in 'start-ups' because they will grow into bigger companies and employ more people, generate more revenue, more cash, become more secure, pay tax, support jobs in local suppliers etc. So the argument that it is in the interest of creating more start-ups to keep the current tax benefit focused on the R&D employee is wrong and it is also not in the interests of Ireland.

If you can find a way to work the above into your consideration for the feedback to the Dept. of Finance we would be very grateful. I am happy to correspond further on this (but please note that I am travelling next week – will have some email access).

Best regards,
-james

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Chief Technology Officer