

# Tax E-News

Welcome to our latest monthly tax newswire. We hope you enjoy reading this newsletter and find it useful. Contact us if you wish to discuss any issues further.

November 2018



## The Clawback of the Research & Development Tax Credit

A tax credit for certain qualifying expenditure incurred by a qualifying company on R&D activities is provided for under section 766, 766A and 766B Taxes Consolidation Act (TCA 1997). The tax credit is given at 25% of allowable expenditure on a claim to relief by the company on the CT1. All claims for deductions, reliefs and credits in relation to CT are processed based on self-assessment.

In the event that a Research & Development Tax Credit claim is subsequently found to be incorrect either by over claim or expenditure that is non-qualifying, the tax credit is clawed back. The Revenue may also request that penalties and interest are paid in relation to this tax credit. When the tax credit is clawed back, there are two separate charges to tax as outlined below.

### Schedule D Case IV Assessment applicable for:

#### 1. *A clawback of payable credits*

Where a clawback arises on a specified amount a Schedule D Case IV assessment should be made. Specified amount is defined in section 766 of the

TCA 1997. It includes the payment of the excess remaining of the tax credit for qualifying research and development expenditure in 3 equal instalments to the company and the repayment of the excess tax credit remaining for specified relevant expenditure of a qualifying building which is repaid over 3 instalments. The specified amount includes amounts that a company has surrendered to one or more key employees.

#### 2. *Change of use in an R&D Building*

If a building or structure is sold or ceases to be used for the purpose of the same trade a clawback will occur and a Schedule D Case IV assessment should be raised.

### The clawback of an incorrect claim to the Research & Development Tax Credit is as follows:

- Repayment of tax credit over 3 instalments; the clawback amount is calculated as an amount equal to 4 times the excess credit claimed.
- Amount surrendered to key employees; the clawback is calculated as an amount equal to 8 times the excess credit.
- Change of use of a building; the clawback is calculated as an amount 4 times the aggregate of the credit given.

## Deposit Interest - Trading Receipt or Passive Income

The general rule for deposit interest is that it is passive income and chargeable to tax as Case III or Case IV income. Some of the main exceptions to this general rule are noted below:

#### 1. *Regulatory Capital Requirement*

Where a company is required by regulatory authorities to retain a certain level of permanent capital in the business, any deposit interest which derives from the investment of such regulatory capital is assessable Case I. To take account of a company's need for flexibility in circumstances of fluctuating regulatory capital requirements, the Revenue Commissioners will allow up to 120% of the regulatory capital requirement to be invested and for the deposit interest to be assessed as Case I.

#### 2. *Capital which is integral to the trade*

Deposit interest arising from deposits held by banks, certain financial services companies and insurance companies is chargeable as Case I income. In the case of managers of financial services and other similar type companies, deposit interest on deposits held will not be regarded as arising in the course of the company's trading operations and will be taxable at the full rate of corporation tax unless the company can satisfy the very high burden of proof that the deposits are integral to the company's trade.

## KEY FILING DATES - NOVEMBER 2018

TAX HEAD	RETURN	PERIOD	PAYMENT & FILING DATE
Dividend Withholding Tax	DWT	October 2018	14 <sup>th</sup> November 2018
Professional Services Withholding Tax (PSWT)	F30	October 2018	14 <sup>th</sup> November 2018
PAYE/PRSI/USC/LPT	P30 Monthly Return	October 2018	23 <sup>rd</sup> November 2018
VAT	Monthly VAT 3 & Return of Trading Details	October 2018	23 <sup>rd</sup> November 2018
VAT	Bi-Monthly VAT 3 & Return of Trading Details	September - October 2018	23 <sup>rd</sup> November 2018
VAT	Annual VAT 3 & Return of Trading Details	November 2017 - October 2018	23 <sup>rd</sup> November 2018
Corporation Tax	Preliminary tax	Accounting periods ending between 1 <sup>st</sup> - 31 <sup>st</sup> December 2018	23 <sup>rd</sup> November 2018
Corporation Tax	Corporation Tax Return (Form CT1)	Accounting periods ending between 1 <sup>st</sup> - 28 <sup>th</sup> February 2018	23 <sup>rd</sup> November 2018
Relevant Contracts Tax (RCT)	RCT Monthly Return	October 2018	23 <sup>rd</sup> November 2018
Corporation Tax	Returns of Third Party Information (Form 46G)	Accounting periods ending between 1 <sup>st</sup> - 28 <sup>th</sup> February 2018	30 <sup>th</sup> November 2018

Please contact a member of our team if you would like to discuss any of the issues raised.

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