

Irish Revenue accelerates early payment of 2020 installments of excess R&D tax credits

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On 1 April 2020, Irish Revenue issued an [e-Brief](#) (e-Brief 056/20) in response to the exceptional circumstances arising as a result of the Covid-19 pandemic, outlining that Revenue will accelerate the payment of excess research and development (R&D) tax credits that are due to be paid to companies in 2020.

Normal rules around the repayment of the R&D tax credit

R&D tax credits are payable in cash installments over a 33-month period. In accordance with Section 766 *Taxes Consolidation Act 1997* (TCA), the payment of each R&D cash installment will not be paid to a company earlier than the company's corporation tax pay and file deadline for the period in which the expenditure was incurred. Below is an example of how the installment arrangement works and the earliest date that the R&D cash installments would normally be due.

Example

Company A has the following R&D tax credit claims for each of the years as set out in Table 1. Table 1 also sets out the R&D installments that are due for each tax year. In Table 2 reflects which installments would be claimed on the company's Fiscal Year (FY) 2019 tax return and when the cash installment would be due to Company A.

Table 1

	FY2019	FY2018	FY2017
R&D tax credit claim	€500,000	€300,000	€100,000
1st Installment due	€165,000	€99,000	€33,000
2nd Installment due	€167,500	€100,500	€33,500
3rd Installment due	€167,500	€100,500	€33,500

The company had no corporation tax liabilities for any of the above years.

Table 2 - FY2019 R&D claim on the corporation tax return

	FY2019 - 1st Installment	FY2018 - 2nd Installment	FY2017 - 3rd Installment	Total due to be claimed on FY2019 corporation tax return
R&D tax credit not payable earlier than	23 September 2020	23 September 2020	23 September 2020	23 September 2020
Total R&D tax credits	€165,000	€100,500	€33,500	€299,000

Therefore, under the provisions of S766 TCA 1997, where a company files its corporation tax return in advance of the pay and file deadline, this would normally not accelerate the payment of the R&D tax credit installments as the date the R&D cash installments are payable is by reference to the corporation tax pay and file deadlines. Based on the normal rules and using the example above, the total R&D installments due to the company of €299,000 would not be repayable to the company before 23 September 2020.

The impact of the new measures provided for in e-Brief 056/20 will mean that Company A can seek the cash installment of €299,000 now (subject to filing their FY2019 corporate tax return) instead of waiting until 23 September 2020 (at the earliest) to receive this potentially vital cashflow when most needed during these uncertain times.

To the extent there may be other R&D refunds that have not been paid to date, there may be an opportunity to enter into discussions with Revenue to expedite these refunds too given the current economic environment.

Process under e-Brief 056/20

e-Brief 056/20 has relaxed the rules relating to R&D installments which are payable in 2020 and is allowing companies to request their R&D cash installments earlier than by reference to the filing date of the company's corporation tax return. In order to accelerate the repayments of any 2020 R&D tax credit installments, the company must:

1. Make a request to expedite the excess R&D tax installments through MyEnquiries
2. Have filed the Form CT1 (corporation tax return) for the accounting period ending in 2019 at the time of request

To ensure timely processing of requests, the request should be tagged appropriately within MyEnquiries as follows:

- ▶ Enquiry relates to "Corporation Tax"
- ▶ More specifically R&D installments payable in 2020

Other considerations

Companies should file their R&D tax credit claims for FY2019 as soon as possible to benefit from these enhanced cashflow measures.

Now that Revenue have agreed to accelerate the repayments of R&D tax credit claims, it is important that companies continue to focus on completing their supporting documentation from both a financial and technical perspective. In this regard, Revenue have stated the repayments are “subject to appropriate checks in selected cases” and therefore they may request supporting documentation to substantiate the R&D tax credit claims. Where this has not been requested in advance of Revenue issuing the refunds, it is important to note that they may seek this supporting documentation at a later date and therefore it is imperative to ensure that such supporting documentation is available.

Revenue audit activity

Revenue have stated that they have in general, “suspended audit and other compliance intervention activities on taxpayer’ premises until further notice.” This does not mean that they have ceased with audit activity as they will continue to engage with businesses on open interventions.

Note that in the event of a clawback of any R&D cash refunds that the clock on interest, and penalties (where relevant), will begin from the date of the receipt of the R&D cash installment.

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