



HM Revenue
& Customs

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Dear Ellen,

Thank you for your letter and subsequent conversations expressing your concerns about HMRC's Research and Development (R&D) compliance activities.

I value our relationship with CIOT and other representative bodies and want us to work together to tackle the non-compliance and customer service challenges that we collectively face. That involves a free and frank exchange of views and I want to thank you and your members for setting those out.

Your letter includes examples of claims where HMRC's response has not met its professional standards and Charter commitments and some of these are not what your members and their clients should expect from us.

We have reviewed our processes and taken steps to provide additional support and training to caseworkers. We will monitor the impact of these changes and will continue to listen to customer and agent feedback.

Around 90 per cent of R&D claims involve an agent. Given the unacceptable levels of non-compliance we are seeing within the schemes, we believe HMRC, and representative bodies need to work together to improve compliance.

Our objective is to ensure that processes for claiming R&D are not unduly burdensome for compliant claimants, while also protecting the public purse from unacceptable levels of error and fraud.

We are confident that the action already taken to improve the claim process (see annex) will improve levels of compliance and customer service over the coming months and look

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forward to continuing to work with you to improve the quality of claims received as well as HMRC's response.

Levels of non-compliance within the R&D schemes

HMRC's [Annual Report and Accounts 2022-2023](#) includes updated estimates for error and fraud within the SME and RDEC R&D Tax Reliefs. The value across both schemes in 2020-21 is estimated at £1.13 billion or 16.7 per cent. The majority (£1.04 billion) is within the SME scheme – which is equivalent to 24.4 per cent of all money paid out.

We believe half of all claims are non-compliant – rising to 75 per cent of all claims for amounts under £10,000 (a more detailed analysis is available in HMRC's published [compliance approach to R&D reliefs](#) report). This level of non-compliance is unacceptable and demands urgent action. As 90 per cent of R&D claimants are represented by an agent, we firmly believe this is a problem that requires collective action across the tax profession.

However, the scale of the issue means it is inevitable that the reforms and operational action required to tackle the problem will have an impact on compliant claimants. I welcome your offer to work with us to test and understand the impact of Government reforms and HMRC's operational action on your members' compliant clients.

Our random enquiry programme does not suggest that large numbers of customers are withdrawing their claims as a result of either the cost or complexity. We are still processing over 85% of SME scheme claims within 40 days.

Volume compliance

Your letter focusses on the 'volume approach' to R&D enquiries and concerns raised by your members.

It's entirely understandable why many agents would prefer a more bespoke one-to-one service particularly given the complexity of some of the claims. However, the number of R&D claims in a year has more than doubled since 2015-16 (90,000 per year in 2020-21 up from 43,000) and half of all claims are assessed as being at risk of not qualifying for the relief or being inflated.

As a consequence, we have expanded the work done by our Campaigns and Projects (C&P) teams to cover R&D claims, which enables large scale compliance activity. They undertake targeted activity when large volume risk is identified; for example, in trade sectors where we do not generally see successful claims for R&D, and among first-time claimants within those sectors.

In addition, we have more than doubled the size of our specialist R&D teams and now have 191 Full Time Equivalent specialists working this issue compared to 93 in 2020-21, as part of more than 500 compliance officials work on R&D across HMRC.

HMRC Charter and professional standards

Your letter describes a number of occasions where our service to compliant customers has fallen short of the standards, we set ourselves. I take the feedback from CIOT, and others, very seriously. And I want to stress that all of our teams within our Customer Compliance group should be working to the same Compliance Professional Standards, which reflect the commitments in the HMRC Charter. Your feedback has directly informed amendments to our quality assurance processes.

We want to work with CIOT, and others to identify areas where we can collectively improve the quality of claims as well as HMRC's response. We can do that using the data from our random enquiry programme, along with customer and agent feedback and the new Additional Information form (to be completed for all R&D claims from 8th August).

Having discussed this with you, we intend to focus jointly on the following areas:

- Compliance approach: processes, escalations, closure of enquiries and penalties
- Guidance and communications
- Agent standards

Escalation process

We have listened to your feedback and have reviewed our internal processes, including building escalation routes for additional support should a caseworker need it. This includes where a meeting is required. In most instances, we do not believe a meeting is required to conclude an enquiry, but that route remains open where it is deemed necessary. We will continue to engage with customers and Representative Bodies to understand if our approach is effective.

R&D compliance processes

Your letter raises a number of more technical questions around penalties, how eligibility is assessed, common errors, and our random enquiry programme which I have answered in an annex to this letter. I've also set out some of the common issues that we encounter in processing claims.

Raising agent standards

At their best, agents enable their clients to access the relief they are entitled to. However, as you and other stakeholders have told us previously, there are also agents who either lack capability or purposely abuse the schemes. Our compliance activity shows that some of those agents are part of national representative bodies.

We share the goal of having an R&D tax relief regime that supports innovation in the UK. CIOT and its members are valued stakeholders. We look forward to continuing to work with you and other representative bodies to raise standards across the profession and ultimately ensure compliance of your members and their clients.

Yours sincerely,



Philippa Madelin

Annex

Activity to date

Action the Government and HMRC have taken has already reduced error and fraud compared with 2020-21. Policy changes, including those coming into effect in August 2023, combined with further operational action by HMRC, will further reduce non-compliance in the R&D schemes.

For example:

- requiring all claims to be made digitally will enable HMRC to risk assess large volumes of claims digitally
- the additional information requirements will mean HMRC can better identify and target higher-risk claims
- requiring each claim to be supported by a named officer of the company will help prevent claims being submitted without the company's knowledge or understanding
- the improved claim notification form allows us to better support first time claimants

In addition, HMRC has more than doubled the size of the teams dealing with R&D and there are higher numbers of interventions as a result. We estimate that changes to our operational response over the last year have reduced non-compliance in the SME Scheme by £250m.

Establishing validity

It is HMRC's responsibility to ask questions to establish that the claimant understands and has correctly applied the definition of qualifying R&D, particularly in an area where almost £8bn of claims were paid in 2022-23.

The time taken to review the responses to those questions will vary depending on the quality and quantity of the evidence that the claimant or their agent submits. We are keen to work together with CIOT and other representative bodies to provide clarity to your members on what is required. This will shorten the timeline for enquiries in the majority of cases.

It is important that customers have the information to support their claim at the point that they make it. The introduction of the additional information form is one step we are taking to support the provision of better information, but it is incumbent on agents and claimants to ensure they have the appropriate evidence to support their claim at the time it is made.

We have rolled out training to less experienced caseworkers who are also able to collaborate with experienced colleagues to ensure information provided by customers is fully considered before asking further questions. All HMRC compliance officers can seek technical support or specialist advice if necessary.

Common errors/reasons for claim being discounted

Some of the most common reasons for claims being ineligible include:

- the project is not in a field of science or technology (notably work in the arts or humanities)
- it involves upgrading internal systems
- existing technology is being applied in a new industry
- it involves a bespoke solution that doesn't advance science or technology

Common reasons why R&D relief is overclaimed or the wrong scheme being used include:

- claims for costs that aren't related to the R&D project but relate to overall company project (e.g. marketing costs).
- claiming for consumables which were part of an item which went on to be sold.
- excessive staff costs
- projects which were carried out as a subcontractor and/or were subsidised

Penalties

HMRC will always consider charging a penalty if a claimant submits a return or other document that contains an inaccuracy. HMRC officers examine what the person did or failed to do and ask whether a prudent and reasonable person would have done that or failed to do that in those circumstances.

HMRC officers gather evidence to support their conclusions on the behavioural penalty charged. If a claimant disagrees with this, there are a number of avenues available to challenge it. Details can be found in HMRC's Appeals reviews and tribunals guidance, with section ARTG2100 onwards being most relevant.

Our position is that claimants must take reasonable care to ensure that their claims are accurate, even when they appoint an agent to act on their behalf. HMRC will use examples from CIOT and others to understand where the penalty process is working well and where it needs to improve. Your members and their clients should rightly expect professionalism and consistency of approach from HMRC.

Guidance and communications

HMRC are committed to improving guidance to support customers and reduce error. We are reviewing the Corporate Intangibles Research and Development (CIRD) manual and have work in train to consult on new draft guidelines to assist R&D claimants (the [Guidelines for Compliance](#) project). HMRC will also work with external representative bodies to see whether any other gov.uk guidance can be redesigned to support customer understanding.

More broadly, we will give more visibility of our planned compliance activity, what we are seeking to address, and how we intend to deliver that. We will work with agents and their representative bodies on how we will address error and fraud in certain sectors and share compliance communications.

We are continuously reviewing our approach and have quality checking processes to help ensure communications to our customers are accurate and appropriate. We use these quality checking processes to address any individual learning needs. Some of the examples you have shared fall short of our standards.

Error and Fraud Quantification

You have raised questions about the withdrawals of claims skewing the error and fraud rate in R&D claims. Our random enquiry programme was delivered specialist R&D teams within Wealthy and Mid-sized Business Compliance (WMBC).

Of a total of 500 claimants we found that:

- 34 withdrew their claims – 1 when the enquiry was opened and 33 during the enquiry.
- Of the 33, 22 withdrew because they agreed their claim wasn't valid as they either: hadn't conducted qualifying R&D; didn't have evidence to support a claim; or because they recognised they had made an error.
- 11 claimants withdrew their claim because they felt it wasn't worth the time or cost of continuing. These claims were deemed low value and therefore had a negligible impact on the overall findings.

Adherence with Compliance Professional Standards

[HMRC's Compliance Professional Standards](#) were introduced in July 2020. They set out what we, and our customers, should expect to see in a well-managed and effective compliance intervention and are at the heart of our recently enhanced training package. We regularly run surveys to assess awareness and application of the Standards and monitor and manage performance to help us identify areas where improvement is needed. Where

our people fall short of the Standards, we offer additional training and increase quality checking to build capability.