

# Budget 2011

## Update to R&D Tax Relief and the Taxation of Intellectual Property



The Chancellor of the Exchequer, George Osborne outlined his plans for the UK economy to the House of Commons on 23 March 2011.

Alongside attractive pro-business measures, the Chancellor announced proposed amendments to the taxation of intellectual property and the R&D tax relief scheme:

### Patent Box

This measure was originally announced by Alistair Darling in his last Budget speech in 2010 and has now been adopted by the Coalition Government, although details are still to be confirmed. The new legislation is expected to be included within Finance Bill 2012.

The Patent Box will provide a corporation tax rate of only 10% for profits arising from intellectual property including royalties, licensing and other patent income net of relevant expenses.

It is expected that the 10% rate will be first available from 1 April 2013 and available on all income from patents first commercialised from 28 November 2010.

This important measure will surely help to modernise the UK's approach to the taxation of Intellectual Property, where it has historically lagged behind global competitors. Although the UK has provided generous support to R&D, the taxation of any resulting Intellectual Property has been far from competitive.

### R&D Tax Relief

The rate of R&D tax relief available under the Small or Medium Enterprise scheme is expected to be increased from 175% to 200% from 1 April 2011 and to 225% from 1 April 2012. These increased deductions would equate to a cost saving of 20% during 2011/12 and 25% after 1 April 2012 on initial R&D investment for a company paying tax at the Small Companies' Rate.

These new rates are subject to EU approval as the R&D tax relief scheme is deemed to be so generous it must comply with state aid /competition regulations but have been included within Finance Bill 2011.

The rules restricting an R&D tax credit claim to the level of PAYE and NIC originally paid by a company has been highlighted for removal, as has the minimum expenditure regulation. Therefore, R&D tax relief schemes should be opened up to the smallest entities and provide the ability for larger cash claims by businesses.

Unfortunately there are no proposed changes to the rates available to large companies (or SMEs claiming under the Large Company Scheme) however the restrictive rules regarding sub-contracted R&D may be removed. This may seem like a small step, but should provide increased R&D tax relief for activities contracted out by those claiming under the Large Company Scheme.

The Government will publish a response to the February 2011 consultation this coming May, with a view to including the proposals in Finance Bill 2012.

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### Summary of Proposed Measures

1. 10% Corporation Tax Rate within 'Patent Box' from 1 April 2013
2. R&D Tax Relief for SMEs increased to 200% from 1 April 2011 and 225% from 1 April 2012.
3. No minimum expenditure restriction for R&D tax relief (currently £10k) from April 2012.
4. No restriction of R&D cash credit claim amounts from April 2012.
5. Easing of sub-contracted R&D rules for Large Company Scheme from April 2012.

### What next?

Although these proposals remain just that for the meantime, businesses should be aware of the potentially beneficial changes which may occur in the near future.

If you have any queries or wish to find out how the new and existing rules affect your business, please email Andrew Reid at [reid@capitus.co.uk](mailto:reid@capitus.co.uk) or telephone on 028 2565 7022.