Questions and Answers from the RDTI webinar:

Tips to make accounting for RDTI claims easier and update on in-year payments on Tuesday 28 March.

In Year Payment Q&A

Q. Will the in-year payments apply to existing open (FY22) supplementary returns? The current FY22 credit wait time (3+ months and increasing since our last correspondence was received) is too slow to help/encourage innovation.

A. In-year payments will be available for eligible R&D expenditure incurred since 1 April 2022.

Q. Can RDTI - in year payments be based on prior year approved supplementary return expenditure?

A. No. RDTI in-year payments loans can only be based on actual R&D expenditure in the preceding period, not a prior year's R&D expenditure.

Q. Do you know how long the MBIE review process is expected to take?

A. At the time of this webinar, we currently aim to have loans paid to businesses within 25 working days of the loan period payment request deadline.

Q. RDTI in year payments have been framed as a world first. Before RDTI there was the Callaghan Innovation Growth Grant, which paid quarterly for a number of years. How does this really differ in the outcome?

A. The RDTI replaced Growth Grants as the government’s main mechanism to support business R&D. Unlike Growth Grants, which were competitive and left some applicants unsuccessful despite performing eligible R&D, all businesses performing eligible R&D can receive the RDTI. In-year payments enable RDTI recipients to get their payments at regular intervals throughout the year, rather than having to wait for the money to be paid out after the end of the tax year.

Q. To achieve payment round in May - when is the 1Apr-22 to 31Apr-22 IYP application due?

A. At the time of this webinar, we have not yet announced the loan period payment request deadline for expenditure in the period 1 April 2022 - 31 March 2023.

Q. The administration around the RDTI process is comprehensive for businesses. I acknowledge some of the changes that have been made over the last 12 months etc. Are there going to be any further review processes or feedback loops around how to make the system better for business? My concern listening today is that there is a lot of work required and it may turn businesses off applying for RDTI.

A. All RDTI applications are assessed before any tax credits are issued, in order to ensure the RDTI only supports eligible R&D activities. This means some work up front on the application process, but once the application is approved, applicants have the certainty they will receive the R&D tax credit once they have filed their supplementary return after the end of the tax year. We are constantly looking at ways of improving the efficiency and effectiveness of the scheme and in-year payments are an example of this.

Q. What is the limit to the interest free loan, and would the loan be received pre or post expenditure?

A. Businesses can request a loan of up to 80% of the value of their expected tax credit for a particular income year. It will only be necessary to apply for the loan once per income year, but you will be able to request payments at up to 3 regular intervals. Each payment will be based on actual, eligible R&D expenditure prior to the payment date.

Q. Will the In-Year-Payment be the way to apply for RDTI in the future or is the year-end application the preferable way?

A. Businesses must file their supplementary return after the end of the tax year in order to receive the RDTI. Your loan will become due for repayment even if you do not receive the RDTI tax credit. You should consider your ability to repay the loan before applying for in-year payments.

Q. I've heard that the information required to apply for an in-year payment can be quite intrusive, is this true?

A. TMNZ is administering the RDTI In-Year Payments solution on behalf of the Ministry of Business, Innovation, and Employment (MBIE). This arrangement makes these interest-free loans subject to specific legislation, namely the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act). This Act mandates AML and Customer Due Diligence (CDD) checks for all relevant transactions, including interest-free loans like the RDTI In-Year Payments. These checks will depend on the structure of your business. For example, family trusts or limited partnerships, will be asked different questions to limited companies.

Returns and Record Keeping Q&A

Q. Re: Overseas expenditure, if Core R&D activity is partly performed by a team in NZ and partly by contractors overseas is any of the overseas cost claimable? Or do you have to put through the contractor work as supporting activity?

A. There are 2 parts to this question: (a) firstly, the Core R&D activity performed partly by contractors overseas must be an eligible supporting activity. Note that while the legislation only allows for a supporting activity to be performed overseas, the activity can still be a core activity in the sense that it seeks to resolve scientific or technological uncertainty. Using the supporting activity definition simply ensures that the activity must be integral to a core R&D activity conducted in New Zealand; and (b) secondly, the overseas contractor cost is claimable where it is incurred by an eligible entity in New Zealand but limited to the lesser of your actual expenditure incurred on the activity overseas and 10% of your total eligible expenditure.

Q. Re: Overseas expenditure, if you have staff working overseas can they be included as they are employed by the company?

A. This is a fact specific scenario. Expenditure on an R&D activity conducted outside New Zealand is generally ineligible. However, where you incur expenditure on an R&D activity conducted overseas, and that activity is integral to a Core R&D activity conducted in New Zealand, your eligible expenditure is the lesser of your actual expenditure incurred on the activity overseas, and 10% of your total eligible expenditure.

Q. Re: overseas expenditure, if a staff member is employed and paid in NZ, but overseas when they undertake work towards the research as an employee, are they overseas expenditure?

A. This is a fact specific scenario. Irrespective of where an employee is paid, if the activity they are working on meets the following criteria, it would be considered to be overseas expenditure. Under the foreign expenditure rule, up to 10% of your total eligible expenditure can be for supporting activity(ies) performed overseas, provided the supporting activity is in support of a core R&D activity in New Zealand.

Q. Re: overseas expenditure, if the staff member moved to Australia, so is therefore paid by our Australia company are they still classed as overseas expenditure?

A. This is a fact specific scenario. You will need to determine whether this staff member is working on an eligible R&D activity and that the payments made to this staff member are incurred by the eligible entity in New Zealand. Where this staff member is conducting the R&D activity overseas, that activity must be an eligible supporting activity to a core R&D activity conducted in New Zealand. Since payment is made by your Australian company, the associated person rule in clause 8 of Part B of Schedule 21B to the Income Tax Act 2007 will apply.

Q. When you say that activities performed overseas cannot be core activity, does that mean that a core activity performed overseas should be filed as supporting activity or that it's not eligible?

Yes, it should be filed as a supporting activity where it is integral to and required for an eligible core R&D activity in NZ. Note that while the legislation only allows for a supporting activity to be performed overseas, the activity can still be a core activity in the sense that it seeks to resolve scientific or technological uncertainty. Using the supporting activity definition simply ensures that the activity undertaken overseas must be integral to a core R&D activity conducted in New Zealand.

Q. Re: grants, how about if the employee’s salary was covered by a Callaghan Innovation grant? Which portion of it is eligible for RDTI?

A. This is a fact specific scenario. You will need to look at how much of the employee's salary is covered by the Callaghan Innovation grant and whether there are any conditions of the grant requiring you to contribute own funds towards the project. Any expenditure or loss incurred that is a precondition to, subject to the terms of, or required, by a grant made by the Crown or a local authority is ineligible. For a Callaghan Innovation Project Grant, the ineligible portion is the estimated cost of the project as specified in the project grant agreement.

Q. Re: grants, do project grant exclusions only apply to Callaghan Innovation grants?

A. The clause 21 (of Part B of Schedule 21B to Income Tax Act 2007) exclusion covers any grant from the Crown or a local authority. Any other grant, including other Callaghan Innovation grants, is subject to the full exclusion. That is, "Expenditure or loss that is a precondition to, subject to the terms of, required by, or otherwise related to a grant made by the Crown or a local authority" is excluded. For the Callaghan Innovation Project grant, there is a limited exclusion in that the ineligible expenditure amount is the estimated cost of the project as specified in the project grant agreement.

Q. Our experience has been that processing delays occurred not due to our records but because of knowledge, skills and capacity processing returns at the IRD (Over 6 months), what is happening to improve the performance at the IRD? It led to significant cashflow lag for us given we were in a loss position.

A. Without knowing specifics it is difficult to answer this question. As a general statement IR will ask for some standard information - working papers for apportionment, financial statements if not already provided, depreciation schedule. Providing this information upfront will enable IR to process the supplementary returns faster.

Q. The online portal for submitting your supplementary claim had technical issues (GA allowed for longer title names than the supplementary screen allowed but there is no way to update, required IRD intervention and then restarting the supplementary claim to name but one) are these issues being prioritised to fix and make it more user friendly to use the portal.

A. We are aware of these issues, a systems fix has been requested

Q. The Growth Grant system allowed for uploading of Excel files with details regarding projects, this was good and saved a lot of time during the upload process, right now we keep records but have to copy/paste manually into a million fields the data, will you be looking to provide templates or similar for RDTI?

A. There are various fields that need to be answered in the GAs. The fields are there as a prompt to provide the information required. Attachments can be made to the GA providing more detail.

Q. How long does it generally take for the supplementary return to be accepted? We started the process in October and are still awaiting approval.

A. Processing of the supplementary return is dependent on the quality and extent of information provided.

Q. We are all still learning the RDTI system and are getting better at understanding the evolving rules……if a supporting activity has been missed as part of the approval process, is there any opportunity to add after approval? It has been very hard for business to implement the new way and people are learning as they go……is there any flexibility/discretion in the first couple of years of rollout?

A. The legislation allows no discretion for IR to accept late amendments to a GA. If a customer has a multi-year GA with more years to run, the GA may be varied upon application to include supporting activities for income years where the filing due date has not passed.

Q. What if we do internal research that does not utilise 'qualified' research institutions, can we still claim R&D credits?

A. By 'qualified' research institutions, we assume this means 'Approved Research Provider' (ARPs). Please refer to www.ird.govt.nz for a list of the ARPs. R&D credits can be claimed on eligible R&D expenditure incurred on undertaking eligible R&D activity(ies) without ARPs provided the eligible expenditure incurred in a given income year is at least $50,000.

Q. Legislated timing (ITA OB 9C) is for the imputation credits equal to the amount of R&D tax credit to be credited at the date of filing the income tax return, however operationally the R&D tax credit amount is not always known at the time of filing the income tax return and preparing the ICA because the R&D credit amount is not being entered in the IR4 as was originally planned. Does IR have any advice on this?

A. A customer must file their IR4J (imputation return) by the same due date as the income tax return. Because what the RDTI gives rise to is a credit, that credit should be included in the IR4J. An associated debit is made to the imputation account when the return is processed, and a refund is made. Please refer to the IR1240 (April 2023) from page 132 for further details.