

COVID-19: SUPPORT FOR BUSINESS R&D

The Government recently passed some changes to the R&D Tax Incentive (RDTI) rules under urgency to provide extra cash support to R&D performing businesses, to help support them through the disruption caused by COVID-19.

What's changed?

Broader refundability rules now apply (instead of the limited refundability rules previously in place), and are backdated to the beginning of the scheme (the 2019/2020 income year). Businesses can still access the (previous) limited refundability rules, if they prefer these, in the first year of the scheme.

What are the broader refundability rules?

If you're in a tax loss position or don't have enough income tax to pay to use all your R&D tax credits, you may be eligible for refundable R&D tax credits. If you're eligible for refundability, you can receive R&D tax credit refunds up to a cap based on labour-related taxes.

The cap includes PAYE, ESCT (employer superannuation contribution tax), and FBT (fringe benefit tax) you have paid for the relevant income year. It can also include amounts paid by other companies, if those companies control your business or are in the same wholly-owned corporate group (if you've got one) and have allocated amounts to you for inclusion in your cap. Please note that an amount of tax paid can only be included in one person's cap (double dipping isn't permitted).

How does this compare with the previous rules?

Until recently, limited refundability rules applied for the first year of the RDTI. These previous rules had very specific requirements which meant that for the most part, only small, R&D intensive companies would be eligible for refundability in the 2019/2020 income year. The previous rules also placed a \$255,000 cap on the amount of credits that could be refunded to a business.

The Government had always intended to replace these limited refundability rules with broader, more inclusive rules. Laws to introduce these broader refundability rules from the second year of the scheme (the 2020/2021 income year) were passed in March 2020. These broader rules are the ones that have been brought forward.

Some businesses may prefer to apply the previous limited refundability rules. In recognition of this, businesses can opt to apply the limited refundability rules (instead of the broader refundability rules), but only in the first year of the Incentive.

How can I access refundable credits under the new rules?

After you enrol for the RDTI, you will need to file your income tax return and R&D supplementary return with Inland Revenue.

Which refundability rules are right for me?

Question	Broader refundability rules	Limited refundability rules
Eligibility	No extra criteria beyond the R&D Tax Incentive eligibility criteria .	Must meet certain eligibility and R&D intensity requirements (see page 122 of IR's detailed RDTI guidance).
Refundability cap	No specific dollar cap, but instead a cap based on labour-related taxes (PAYE, ESCT and FBT) applies (see pages 118-121 of IR's detailed RDTI guidance).	\$255,000

Find full information on the refundability rules from page 115 of Inland Revenue's [detailed RDTI guide](#).