



Claiming the new German R&D tax credit

Funding increases to up to EUR 1 million per company and per fiscal year

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Author: **Dr. Katharina Heusinger**

The tax credit on research & development projects was introduced on 1 January 2020. At the will of the lawmakers, all companies that are conducting research & development projects shall be able to profit from the tax credit regardless of their size, industry, legal form or financial situation by getting additional liquidity. We will outline the R&D tax credit in the following paragraphs and show you how to profit from it in an efficient way.

What is the R&D tax credit?

The R&D tax credit of up to EUR 1,000,000 per fiscal year will be credited against tax payable or is added to the tax refund in the next tax assessment in the same way as an advance tax payment and thus leads to additional liquidity, regardless of the company's financial situation. Insofar as the requirements for the credit are fulfilled, the company is legally entitled to receive the credit.

Projects that are eligible for funding include R&D projects in the fields of 'fundamental research', 'industrial research' or 'experimental development'. The OECD's R&D definition – by which the German authorities should be gauging the eligibility – is broad. In addition to the classical R&D fields of sciences and engineering, the OECD also provides examples of R&D conducted by IT companies or in the field of social sciences, e.g. by educational institutions. Eligible R&D projects may be carried out independently or in cooperation with other companies or research institutes. Expenses for contract research are eligible for the tax credit at the level of the client company only.

The amount of the tax credit is calculated as the sum of 25% of the wage costs which occurred for R&D personnel within internal R&D projects and 60% of the expenses for contract research. The projects must be assessed for their eligibility for the tax credit by a central authority. The assessment certificate will then serve as verification of eligibility for the annual application for the actual tax credit at the local fiscal authorities and cannot be challenged by the local fiscal authorities.



Further information, e.g. regarding funding of R&D activities of corporations or individual companies can be found in our (German) news article addressing the draft law for the tax credit, which has been passed without change. Alternatively, the author of this article can be contacted directly.

Background to the increase of the maximum tax credit amount

Due to a tax act that was recently introduced to alleviate the consequences of the coronavirus pandemic, the maximum R&D tax credit that can be claimed annually has been doubled from EUR 500,000 to EUR 1,000,000 for each (unaffiliated) company per business year. This temporary increase applies for the period between 1 July 2020 and 30 June 2026.

The R&D tax credit act was – due to EU state aid legislation – initially invoked with time limitation until 30 June 2020. As the European Commission approved the R&D tax credit act on 26 June 2020, this time limitation could be abolished.

How will the eligibility of a project for the R&D tax credit be assessed?

Starting (late) summer this year, it should be possible to apply electronically for the assessment of eligibility for (proposed and already ongoing) R&D projects. The positive outcome of such assessment is a requirement that needs to be fulfilled in order for taxpayers to be able to annually claim the R&D tax credit from the local fiscal authorities. The eligibility will be assessed at a central office which is under the aegis of the Federal Ministry of Education and Research. The processing time for the assessment of eligibility is predicted to be approximately three months. Especially at the beginning, processing might take longer due to the high amount of expected applications. In order to apply for an assessment of eligibility, it is not necessary that the R&D projects have already been started. A positive assessment is binding for the local fiscal authorities. The aforementioned can help managers assess the company's future R&D program while already taking the tax credit into consideration.

How is the basis for the tax credit determined?

The R&D tax credit will be assessed in an annual tax assessment from the local fiscal authorities. This assessment will be based on the prior assessment of eligibility of the projects as well as on their annual costs. The assessed annual tax credit amount will then be set within the next corporate / personal income tax assessment against any tax payable or added to any tax refund. Recently the Federal Ministry of Finance has clarified that the costs which are included in the basis for the R&D tax credit will have to be determined and documented according to the generally accepted accounting principles. Even small and medium companies will have to follow these principles fully, which means e.g. that individual records have to be maintained for each employee's working time.

What can I do now to claim the R&D tax credit?

If your business or permanent establishment is paying taxes in Germany, it is generally eligible for the tax credit. To optimally benefit from the R&D tax credit, an initial high level assessment of possibly eligible projects could be the first step in order to avoid missing out on a tax credit for current expenses and as preparation for the application for an eligibility assessment. Additionally, we recommend reviewing current accounting of possibly eligible projects, so that the base for the R&D tax credit for such projects is delimited, determined and recorded in a way that will be accepted by the fiscal authorities.

Need any help?

We are happy to support you with all tax and accounting matters in relation to the R&D tax credit. Please do not hesitate to contact the author for any help with assessing how your business and projects can profit from the R&D tax credit in the best possible way.