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AMERICAN CHAMBER of COMMERCE IRELAND

Public Consultation on the Research and Development Tax Credit and on Options to Support Innovation

Submission from American Chamber of Commerce Ireland (AmCham) to the Department of Finance

May 2025

The American Chamber of Commerce Ireland

The Voice of US-Ireland Business

The American Chamber of Commerce Ireland (AmCham) is the collective voice of US companies in Ireland and the leading international business organisation supporting the Transatlantic business relationship. Our members are the Irish operations of all the major US companies in every sector present here, Irish companies with operations in the United States and organisations with close linkages to US-Ireland trade and investment.

Executive Summary

AmCham welcomes the opportunity to respond to the Department of Finance on the Research and Development (R&D) Tax Credit and options to support innovation. This submission is structured to reflect the priority issues identified by AmCham members, starting with the most pressing concerns and focusing on measures that will enhance Ireland's competitiveness as a destination for high-value R&D investment.

Key priorities include a transformational amendment to allow related party R&D expenditure within a new subcontracting cap of 100 percent, recognising agency staff costs as internal R&D expenditure, and enhancing the R&D tax credit rate to 35 percent. AmCham also recommends the introduction of targeted tax credits for digitalisation and decarbonisation, supporting businesses with project-focused digital transformation and sustainable practices which reduce carbon emissions.

Further recommendations focus on strengthening Ireland's R&D ecosystem, including support for R&D talent through relocation incentives, improving the clarity and efficiency of R&D tax credit administration, and promoting industry-academic collaboration by increasing the cap on subcontracting to universities and research institutes. These measures will support Ireland in maintaining its position as a global leader in innovation and ensuring that the country remains an attractive destination for research-driven investment.

AmCham Key Recommendations:

- **Amend Section 766 TCA 1997** to create an additional new subcontracting cap of 100 percent of qualifying internal R&D expenditure, without restricting related party subcontracting costs, where certain conditions are met. This would be transformational in enabling businesses to fully leverage their global expertise while maintaining Ireland as a strategic location for R&D management.
- Amend the R&D tax credit framework to **allow costs associated with agency staff** working under the company's control and direction to be treated as internal R&D expenditure, provided these individuals directly contribute to qualifying R&D activities.
- Increase the **R&D tax credit rate to 35 percent,** ensuring that Ireland's R&D tax incentive is globally competitive and contributes to job creation and skills development.
- Introduce a standalone **Digitalisation Tax Credit** at a rate of 35 percent, providing targeted support for businesses investing in digital transformation and AI innovation.

- Introduce a standalone **Decarbonisation Tax Credit** at a rate of 35 percent, providing targeted support for businesses investing in initiatives that are seeking to reduce carbon emissions.
- **Increase the current cap** of €100,000 or 15 percent of R&D expenditure for subcontracting to universities or research institutes, allowing businesses greater flexibility to engage in meaningful academic partnerships.
- Ensure that **eligible R&D costs** include rental costs for spaces directly used for R&D activities, as well as other essential expenses needed to support innovation.
- **Expand the list of qualifying fields** under the R&D tax credit to include emerging areas of research, such as human behavioural sciences.
- Expand the R&D Tax Credit to include eligible **relocation expenses** for highly skilled R&D professionals, such as travel, accommodation, visa fees, and temporary housing, ensuring Ireland remains an attractive destination for top international talent.

Subcontracted R&D Activities to Other Parties

To remain competitive in global innovation, Ireland must allow businesses to effectively leverage external expertise, both locally and internationally. Businesses engaged in R&D often require the flexibility to outsource certain aspects of their projects. This may be due to the need for specialised expertise, access to advanced technology, or efficiency considerations. In many cases, businesses with operations in Ireland find that some elements of their R&D activities cannot be completed in-house or within Ireland due to skills shortages, capacity constraints, or the availability of advanced facilities abroad.

Under the existing R&D tax credit framework, relief on the cost of R&D activities outsourced to unrelated third parties is restricted to the greater of 15 percent of the company's qualifying R&D expenditure or €100,000. In addition, related party expenditure being incurred by the Irish entity and carrying out the R&D activities, which may serve as the principal IP owner for the group, are entirely restricted.

Currently, businesses are restricted in their ability to leverage specialised expertise or access advanced capabilities through related parties due to strict caps on outsourcing. While R&D is inherently uncertain and does not always lead to immediate financial gains for businesses undertaking it, it is critical for long-term growth, competitiveness, and innovation. Imposing strict limits on outsourcing R&D activities reduces Ireland's appeal as a location for strategic R&D investment, particularly for global companies that require flexibility to allocate research tasks across their international networks. For companies managing R&D at a global level, the inability to fully leverage related party expenditure is reducing Ireland's appeal as a location for strategic R&D management, leading businesses to consider alternative jurisdictions.

To address these challenges, AmCham recommends amending Section 766 TCA 1997 to allow related party expenditure to qualify for the R&D tax credit, establishing an additional new subcontracting cap of 100 percent of qualifying internal R&D expenditure. This would be in addition to the existing subcontractor and university caps in the legislation. This approach would provide businesses with greater flexibility to leverage global expertise while maintaining Ireland as a strategic location for R&D management. This additional provision should allow for the inclusion of related party expenditure, unrelated party expenditure, and university spending within the R&D tax credit, capped at a total of 100 percent of internal R&D spend, in addition to the existing caps, by mirroring the existing provisions but removing the wording *"other than to a person who is connected (within the meaning of section 10) with the company".* This change would not only align Ireland's R&D tax credit regime with international best practices but also enhance its competitiveness, attracting the next wave of high-value investment and employment.

In order to maintain the integrity of this approach, the additional cap of 100 percent would only be available to companies, which incurs expenditure to any party in order for that party to carry on research and development activities, and who themselves have not been contracted or paid to carry out those activities by any other party. This would ensure that Irish entities are ultimately carrying out and financing the R&D activities and thereby bearing the risk of failure of the projects. It would promote substance in Ireland by encouraging the creation of high-value strategic R&D roles, particularly within companies that oversee and direct international R&D activities from an Irish base. Additionally, this measure would offer businesses the flexibility to access global expertise when required, helping them overcome capacity constraints driven by talent shortages or housing challenges.

International Comparisons

Some EU countries have adopted more flexible approaches to related party R&D expenditure within their tax credit regimes, providing greater support for businesses engaging in global R&D collaboration. These models allow companies to leverage their international expertise while maintaining a strong R&D presence in the host country.

The following examples illustrate how other European jurisdictions have structured their R&D tax credit regimes to accommodate related party expenditure:

	Belgium	UK	France
Related party rule	Costs of subcontracting to related parties are allowable	Contracting outside of the UK are restricted but exceptions are applied for the Life Sciences Industry (clinical trials allowed)	Costs of subcontracting to related parties are allowable

Cost Restrictions	No limits on the amount of related party costs that can be included as the base cost in calculating the claim value, provided the costs are capitalised	No limits on the costs when exceptions are applied	Capped at the lesser of €2m and 3 times the internal R&D spend
Territorial Restrictions	No territorial restrictions	No territorial restrictions	Contractors can be based in EU or Iceland and Norway

AmCham recommends:

- Amend Section 766 TCA 1997 to create an additional new subcontracting cap of 100 percent of qualifying internal R&D expenditure, without restricting related party subcontracting costs, where certain conditions are met. This would be transformational in enabling businesses to fully leverage their global expertise while maintaining Ireland as a strategic location for R&D management.

Inclusion of Agency Staff within Internal R&D Expenditure

Flexibility is crucial for modern R&D projects, where businesses often rely on highly skilled Ireland based agency staff to adapt to changing project needs. In the context of large-scale R&D activities, it is common for businesses to engage agency staff to support specific phases of complex projects. This approach provides the flexibility to quickly access specialised expertise, enhancing employment levels onsite in the entity, while not being directly employed by the entity.

However, under current legislation, costs associated with agency staff are classified as subcontracted expenditure, making them subject to the same limitations as other outsourced activities. This classification does not fully capture the realities of modern R&D projects, where agency staff are often integral to achieving project goals and ensuring project success. Revenues guidance has recognised this point and made allowance and exceptions for a very narrow subset of these costs where individual consultants, with specialist knowledge, working under the companies control and direction on the companies' premises are considered employees provided the engagement is less than 6 months. A legislative provision should be introduced to broaden the scope of that exception in order to include agency staff as internal R&D expenditure.

To better align with industry practices and support businesses in scaling their R&D activities, AmCham recommends that costs associated with agency staff working under the company's control and direction, whose payroll taxes are paid in Ireland, be treated as internal R&D expenditure. Such an approach would offer companies the agility they need to manage complex projects while maintaining compliance with the R&D tax credit framework.

This change would not only support businesses but also enhance Ireland's attractiveness as a destination for high quality STEM employment, ensuring that agency roles, often highly skilled and project focused, contribute directly to Ireland's innovation ecosystem and tax base.

This change would stimulate the creation of high-value STEM roles in Ireland, driving employment growth. By recognising agency staff costs as qualifying internal R&D expenditure, companies would have greater flexibility to engage highly skilled professionals for a variety of long-term projects. This approach would support Ireland's innovation ecosystem, making it a more attractive location for global R&D activities and reinforcing its position as a competitive destination for high-value R&D investment and employment.

AmCham recommends:

- Amend the R&D tax credit framework to allow costs associated with agency staff working under the company's control and direction to be treated as internal R&D expenditure, provided these individuals directly contribute to qualifying R&D activities.

Enhancing Ireland's R&D Tax Credit Rate to 35 Percent

The increase in the R&D tax credit rate to 30 percent was a welcome step in ensuring that Ireland remains a competitive destination for research and innovation. For many US MNCs operating in Ireland, the introduction of Pillar Two rules will lead to increased contributions to the Irish Exchequer. In this context, further increasing the R&D tax credit to 35 percent presents an opportunity to actively incentivise greater R&D investment in Ireland. This adjustment would provide an incentive for both existing investors and new entrants to locate high-value research activities in Ireland.

AmCham recommends:

- Increase the R&D tax credit rate to 35 percent, ensuring that Ireland's R&D tax incentive is globally competitive and contributes to job creation and skills development.

New Tax Credits Addressing Key Areas of Innovation

To ensure Ireland remains at the forefront of innovation, AmCham recommends the introduction of targeted tax credits in critical areas, including digitalisation and decarbonisation. To achieve this, two targeted tax credits should be introduced: a Decarbonisation Tax Credit and a Digitalisation Tax Credit. These credits would complement the existing R&D tax credit, providing businesses with the flexibility and support needed to drive sustainable innovation and digital adoption.

Digitalisation Tax Credit

As the digital economy continues to expand, Ireland must ensure it remains a leader in digital transformation and Artificial Intelligence (AI). The Programme for Government has committed to positioning Ireland as a leader in the digital economy, including AI, by fostering digital skills, supporting data regulation, and enhancing higher education in areas such as AI and quantum computing.

To support this ambition, AmCham recommends the introduction of a standalone Digitalisation Tax Credit at a rate of 35 percent (to match the R&D tax credit rate), specifically targeting project-driven digital transformation initiatives. This credit would incentivise businesses to invest in digital transformation projects that directly enhance their operations through advanced technologies.

Eligible projects would include the development, implementation, and use of advanced digital technologies, such as AI, automation, data analytics, cybersecurity, and secure digital infrastructure. This targeted approach would ensure that the tax credit supports genuine digital innovation, helping companies to modernize their processes, enhance productivity, and drive future growth.

This tax credit should be designed as a *"qualified refundable tax credit"* for Pillar Two and the US Foreign Tax Credit (FTC) Regulations purposes, ensuring alignment with international tax standards and maintaining Ireland's competitiveness as a destination for high-value digital investment.

Unlike the existing R&D tax credit, which focuses on scientific and technological innovation, this Digitalisation Tax Credit would specifically target project-driven digital transformation initiatives, allowing businesses to claim support for investments that enhance their digital capabilities. Similar models have been successfully implemented in other EU jurisdictions:

- **Spain** has introduced a technology innovation tax credit to support digitalisation projects.

- **Luxembourg** offers an investment tax credit that includes eligible digital technologies, supporting businesses in adopting advanced digital solutions.

This approach would ensure that Ireland remains a competitive location for digital and AI innovation, attracting global companies and promoting the development of high-value intellectual property within the country. By supporting businesses in their digital transformation journeys, this tax credit would drive future growth, enhance productivity and efficiency, and strengthen Ireland's position as a leader in the global digital economy.

AmCham recommends:

- Introducing a standalone Digitalisation Tax Credit at a rate of 35 percent, providing targeted support for businesses investing in digital transformation and AI innovation.

Decarbonisation Tax Credit

The transition to a low-carbon economy is a critical priority for Ireland. To accelerate this transition, AmCham recommends the introduction of a standalone Decarbonisation Tax Credit at a rate of 35 percent (to match the R&D tax credit rate). This credit would incentivise businesses to invest in initiatives that are seeking to reduce carbon emissions, including energy efficiency, green technologies, and sustainable supply chain practices. Eligible activities could include projects focused on investments in green technologies, energy efficiency improvements, carbon capture, and sustainable supply chain practices.

Unlike the existing R&D tax credit, which focuses on scientific and technological advancements, the Decarbonisation Tax Credit would directly incentivise emissions reduction, making it more accessible to a wider range of businesses. To ensure that this incentive is effective and accessible, it should be designed as a *"qualified refundable tax credit"* in line with Pillar Two definitions, ensuring compatibility with international tax frameworks and in particular the US Foreign Tax Credit (FTC) Regulations.

International examples highlight the effectiveness of such incentives. For example, Finland has introduced a tax credit targeting investments in clean energy transition, covering areas such as hydrogen, battery value chains, energy storage, and industrial decarbonisation, with a 20 percent credit on eligible investment costs.

AmCham recommends:

- Introduce a standalone Decarbonisation Tax Credit at a rate of 35 percent, providing targeted support for businesses investing in initiatives that are seeking to reduce carbon emissions.

R&D Tax Credit Administration

Ensuring clear, efficient, and consistent R&D tax credit administration is essential to maintaining Ireland's competitiveness as a destination for innovation. To achieve this, it is important to continuously evaluate and enhance the administration of the R&D tax credit.

Ireland's approach to R&D tax credit compliance requires each R&D project to be supported by a comprehensive technical compliance document. This detailed approach can create significant administrative costs, particularly for companies managing a high volume of smaller, short-term projects. In many cases, MNCs continue to carry out this innovative work on smaller projects but may choose not to claim the credit due to the cost-benefit imbalance created by the administrative burden.

Furthermore, delays in processing and receiving R&D tax credit refunds can impact business cash flow. To provide greater certainty and support financial planning, AmCham recommends establishing a clear, consistent timeline for the processing and payment of R&D refunds by the Revenue Commissioners. This timeline could be implemented through legislation or agreed as an administrative practice, ensuring businesses have clarity on when they will receive refunds.

The new 3-year payment regime has ended companies' abilities to utilise the full benefit of their tax credit in year 1 and has a negative cashflow impact on many businesses. While this change was essential and welcome, in light of new qualifying refundable tax credit rules, the full payment of the credit be made in year 1. This would greatly enhance cashflow benefits for all companies and allow them to accelerate the reinvestment of the incentive into new R&D projects, turbo charging R&D activities. This change would have no net cost to the Exchequer, as it would simply be a timing difference that would stabilise to the same annual cost, after catch-up payments are made. Given the current level of Corporation tax receipts, it is a good time to make this transition, and it would be welcomed by industry.

The administration of R&D incentives is currently divided among several bodies, including Revenue, IDA Ireland, SEAI, and Enterprise Ireland, each with slightly different interpretations of similar rules. As a result, businesses engaged in R&D often face duplicative compliance requirements and multiple layers of review.

A streamlined, centralised approach to the administration of R&D incentives is needed. AmCham recommends the establishment of a centralised audit and approval process for all R&D tax credit claims and grants, ensuring that a single, consistent interpretation of the rules is applied across all relevant bodies. This would leverage the existing technical assessors, already present within the relevant agencies, and remove the requirement for an external technical assessor in Revenue audits. This would promote fairness, enhance predictability for businesses, and reduce the administrative burden on companies engaged in R&D. A centralised approach would also strengthen Ireland's reputation as an attractive location for

R&D investment, where innovation is supported through clear, consistent, and efficient policy measures.

AmCham recommends:

- Streamlining compliance requirements for smaller and short-term projects to better align administrative efforts with project scale.
- Establishing a clear and consistent timeline for the processing and payment of R&D tax refunds.
- Make the R&D tax credit repayable in full in year 1.
- Establish a centralised audit and approval process for R&D tax credit claims and grants, ensuring consistent interpretation from a scientific perspective and a common interpretation of rules across all relevant bodies to streamline compliance and reduce duplicative requirements for businesses.

Supporting Collaboration with Universities and Institutes of Higher Education

AmCham recognises the vital role that universities and institutes of higher education play in driving innovation and research. Collaboration between businesses and academic institutions fosters knowledge exchange, provides access to specialised expertise, and enables the use of advanced research facilities. There is an opportunity to further enhance the impact of these partnerships by refining the R&D tax credit rules related to subcontracting, ensuring they fully support industry-academic cooperation.

These collaborations are often driven by the need to tap into specialised knowledge, access advanced equipment, or leverage unique expertise. They can range from short-term projects to long-term partnerships, with many leading to further cooperative research beyond their initial scope. Maintaining a flexible and supportive framework for such engagements is essential to safeguarding Ireland's position as a competitive hub for innovation.

The existing cap of €100,000 or 15 percent of R&D expenditure for subcontracting to universities or research institutes is generally sufficient. However, there are cases where it may limit businesses' ability to fully leverage academic expertise. This cap can become a barrier to increasing investment in collaborative research, especially where more significant contributions from academic partners are required. By exploring opportunities to enhance flexibility in the R&D tax credit regime, Ireland can unlock the full potential of industry-academic partnerships, fostering a more dynamic and innovative research ecosystem.

AmCham recommends:

- Increase the current cap of €100,000 or 15 percent of R&D expenditure for subcontracting to universities or research institutes, allowing businesses greater flexibility to engage in meaningful academic partnerships.

Wider Societal Benefit of Collaboration with Universities and Institutes of Higher Education

AmCham recognises the significant value of collaborations between businesses and universities or institutes of higher education, extending beyond direct R&D activities. Many of our members actively engage with academic institutions through initiatives such as work placements for students, input into curriculum development, and sponsorship of advanced programmes, including PhD-level research. Such partnerships align academic programmes with industry needs, equip students with practical skills, and foster a pipeline of talent ready to drive innovation.

Beyond higher education, AmCham members also support STEM initiatives at primary and secondary school levels, promoting science, technology, engineering, and mathematics among young learners and encouraging diverse participation in these fields. Such engagements not only enhance the quality of education but also contribute to Ireland's long-term competitiveness by fostering a highly skilled workforce and strengthening connections between industry and education.

Expanding the R&D Tax Credit

Expanding the Definition

Ensuring that Ireland's R&D tax credit remains attractive and effective requires a clear and inclusive definition of qualifying R&D expenditure. Currently, the definition of *"expenditure on research and development"* in section 766 TCA 1997 is too narrow, leading to uncertainty and limiting the range of costs that can be claimed.

One significant issue is the exclusion of rental costs for spaces used for R&D, AmCham recommends expanding the definition of qualifying R&D expenditure to include rental costs for spaces used for R&D activities, provided these spaces are directly used for R&D purposes. Additionally, the definition should clearly allow for the full range of expenses needed to support innovation. This could be achieved by using the current legislative definition *from "in the carrying on by it" to "for the purposes of"* to align with existing tax law.

Expanding Qualifying Fields

AmCham recommends a comprehensive review and expansion of the list of qualifying fields for R&D activities under the R&D tax credit. The current list has not been updated in some time, which risks excluding important and emerging areas of research that are becoming critical for innovation.

For example, human behavioural sciences, are not currently included as a qualifying field despite its growing importance across multiple sectors. Research in this area is essential for developing user-centred technologies, educational tools, and AI systems capable of understanding and interacting with humans. This type of research should be allowable where it is focused and intertwined with research or development activities in another field of science or technology.

By conducting a comprehensive review and expanding the list of qualifying fields, Ireland can ensure that its R&D tax credit remains relevant, flexible, and aligned with global trends in innovation. This approach would enhance the tax credit's value, support businesses in exploring new research areas, and reinforce Ireland's position as a leader in global R&D.

Finally, to strengthen Ireland's position as a key location for R&D investment, the definition should recognise relocation and related costs for highly skilled R&D professionals moving to Ireland, making the country more attractive for top talent.

Attracting High-Value R&D Talent to Ireland

To strengthen Ireland's position as a leading destination for R&D investment, it is essential to ensure that Ireland is an attractive location for highly skilled R&D professionals from around the world. Access to top talent is a critical factor for businesses deciding where to locate their R&D operations, and the ability to attract and retain these professionals directly impacts Ireland's competitiveness in global innovation.

AmCham recommends that the R&D tax credit framework be expanded to recognise and support the costs associated with relocating highly skilled R&D professionals to Ireland. This should include eligible relocation expenses, such as travel, accommodation, visa fees, and temporary housing. Additionally, targeted measures should be considered to reduce the personal tax burden on highly skilled R&D professionals, such as enhancing Ireland's SARP offering.

By recognising relocation costs and providing targeted personal tax relief, Ireland can enhance its ability to attract top talent, enabling companies to build world-class R&D teams and fostering an ecosystem of high-value research and development. This measure would not only increase diversity within R&D teams but also promote knowledge transfer, bringing in a range of perspectives and expertise that can enhance the quality of research outcomes.

AmCham recommends:

- Ensure that eligible R&D costs include rental costs for spaces directly used for R&D activities, as well as other essential expenses needed to support innovation.
- Expand the list of qualifying fields under the R&D tax credit to include emerging areas of research, such as human behavioural sciences.
- Expand the R&D Tax Credit to include eligible relocation expenses for highly skilled R&D professionals, such as travel, accommodation, visa fees, and temporary housing, ensuring Ireland remains an attractive destination for top international talent.