# HMRC case law: an overview of the cases that shape current R&D tax requirements

*"...there is no substitute for going through the detailed conditions, one by one, to see if, on a fair reading, they are satisfied."* – presiding judge, *Gripple Ltd v HMRC*.

Tax legislation and HMRC guidance forms the majority of our understanding of R&D tax relief, which can be extremely complex and, in some cases, up to interpretation. Where there is disagreement, cases are brought to tribunal.

This series highlights the key cases that help define HMRC legislation.

Grazer Learning Ltd sub-contracted the creation of an innovative platform that matched customers with digital learning providers. But when HMRC questioned their R&D claim, they failed to provide sufficient evidence in the initial enquiry.

## What happened?

Grazer Learning Ltd ('Grazer Learning') matches customers with digital learning providers. It sub-contracted the creation of an innovative platform that would uniquely match the customer to the content through the customer's prior experience and individual learning goals.

The platform introduced a novel multi-pathway approach to identify an individual's most appropriate learning pathway. HMRC queried whether a technological advancement was being sought, and therefore opened an enquiry. Grazer Learning failed to arrange for the 'competent professional' working on the project to give evidence in the initial HMRC enquiry and, as such, HMRC sought to re-claim the paid tax credit. Grazer Learning appealed and the case made its way to tribunal.

The question before the tribunal was essentially whether the expenditure incurred on the platform was done so to resolve a scientific or technological uncertainty, or merely resulted from a novel use of existing technology.

## The outcome

FTT found the taxpayer could not establish that expenditure was incurred in resolving a technological uncertainty and achieving an advance in science and technology.

The tribunal had directed the taxpayer to provide HMRC with any witness statements as evidence to support their appeal, by December 2020. However, they had not done so – they had provided one witness statement to the tribunal, but not to HMRC, in April 2021, and three further witness statements to the tribunal (but not to HMRC), three days before the hearing in September 2021. Because of this, the late evidence was rejected, and the appeal against the R&D tax credit being disallowed was dismissed.

*"…the Appellant had failed to establish on the balance of probabilities that the activity involved a project seeking to achieve a technological advance through the resolution of a technological uncertainty – appeal dismissed."*

## Case take away

You are asking for trouble if you do not provide evidence to support your claim. In this case, whether the work undertaken was R&D or not is almost irrelevant. As no evidence was provided on time, the FTT had no option but to dismiss the appeal.

Also, just because HMRC has paid out a claim doesn't mean that a company is out of the woods. So long as the enquiry window is still open, HMRC can go back and revisit claims.

# Gripple Ltd v HMRC – proof that you need to understand and apply the legislation to your case, line by line.

## What happened?

One director of Company A was paid by another company – Company B in the same group – and the cost was charged back to Company A. There was no dispute that the expenditure qualified, as staffing costs for SME additional R&D relief in all other respects.

However, HMRC argued that the recharged amount was not 'emoluments paid by the company to directors or employees of the company' – the key point was that the recharged amount was not paid 'to' the director. A claim as an 'Externally Provided Worker' could also not be made, as the individual was a director of Company A + B, and thus ineligible.

## The outcome

The judgment found, reluctantly, in favour of HMRC on the basis that the costs should be disallowed. They found relevant extracts from the director's personal tax returns showing all employment income came from Company B. The group could easily have arranged matters in such a way as to attract relief, but inadvertently failed to obtain the relief to which it might otherwise have been entitled.

The mere fact that the same economic result could have been achieved in a different, and more fiscally attractive, way could not help the taxpayer. The clear words of the legislation precluded relief for the transaction actually undertaken.

*"…The provisions form a detailed and meticulously drafted code, with a series of defined terms and composite expressions, and a large number of carefully delineated conditions, all of which have to be satisfied if the relief is to be available."*

HMRC even accepted that, if Company B had only acted as a payment or salary agent of behalf of Company B, the relief would indeed have been available.

## Case take away

This is a prime example that it's important to plan ahead to ensure you do not fall foul of the legislation.

For a classic ‘what not to do’, this case ticks all the boxes. In it a number of different issues were brought before the tribunal.

## What happened?

The court found that the taxpayer had, incorrectly, overstated salary costs and claimed for bonuses that were actually in the accounts for a previous period. There was also a lack of evidence in relation to payments for materials and subcontractors.

The taxpayer could not provide any evidence that these costs were incurred by the company or within the time period of the claim – with incomplete, invoice trails for sales, subcontractors, and materials. The taxpayer could not provide any evidence that these costs were incurred by the company or within the time period of the claim – with incomplete, invoice trails for sales, subcontractors, and materials.

There were also issues with the projects themselves. The key points were: the burden of proof in demonstrating that activities meet the definition of an R&D project, are with the taxpayer; and, it is not sufficient for the company to argue that they are experts in their field of technology and that HMRC should accept their assertions.

## The outcome

The FTT agreed that it was appropriate for HMRC to seek evidential proof to support the assertions of the ‘Competent Professional’ and therefore, retaining and cataloguing documentary evidence to support the claim, is of critical importance.

Only one individual was provided by the company as a competent professional but was unable to provide the relevant technical detail to allow HMRC to assess the qualifying nature of the projects. This meant that HMRC was unable to confirm that the projects included in the claim did actually qualify as R&D for tax purposes.

A number of the taxpayer’s projects were undertaken in conjunction with customers. HMRC argued that the projects should be considered to be subcontracted because the company was commissioned to design bespoke products for customers. This meant that, if the projects did involve qualifying activities, they would be only eligible for relief under the RDEC scheme.

The judge referred to the contracts in place between the two parties, primarily focusing on the economic risk – where in this case the claimant company was paid on an hourly basis for the work undertaken. As the taxpayer did not bear any economic risk, it was ruled that the projects were subcontracted. To further support the ruling, the customer on one project had successfully filed a patent for the design work carried out by the claimant company.

In the judgment, the FTT agreed with HMRC in rejecting six out of seven projects that formed the basis of the company's R&D tax claims; the seventh project was partially accepted.

## Case take away

There were a number of key issues here: eligibility, record keeping, and the competent professional test. The case has important lessons for all R&D tax claimants, but especially SME companies claiming under the SME regime, where the R&D relates to fulfilling specific customer requirements.

Quinn (London) Ltd developed a number of novel techniques for refurbishing certain types of properties. The focus turns to the interpretation of subsidised R&D expenditure in this case.

## What happened?

Quinn (London) Ltd ('Quinn') carried on the trade of providing construction and refurbishment works to a range of clients. During the course of this work, Quinn developed a number of novel techniques for, amongst other things, refurbishment of certain properties.

The legislation for R&D tax relief restricts the amount of relief available to SMEs for R&D that has already been funded by other means, such as a grant or subsidy. HMRC, however, argued that if R&D activities were part of a project to deliver goods or services that were being paid for by a client, any expenditure on that project should also be treated as subsidised.

Quinn's R&D projects, like many other construction firms, are typically carried out for clients in return for an agreed price (which could be varied under certain conditions).

HMRC was happy that R&D had been undertaken, however, they considered all of Quinn's R&D to be subsidised, as its clients had indirectly 'met' the claimed expenditure by paying Quinn for its services. This decision excluded Quinn's expenditure from SME R&D tax relief, denying the company the valuable funding that they were entitled to, as a reward for their investment in innovation.

Quinn argued that, on the contrary, it cannot be said that the claimed expenditure was 'met' by its clients who, under an entirely commercial arrangement, simply paid a price for a product (i.e. the finished building works). Quinn decided how to complete the work, and bore the costs and risks associated with it.

## The outcome

HMRC lost. The tribunal held that without a 'clear link' between the price paid by the client/customer and the R&D expenditure, that expenditure could not be said to be subsidised.

Based on the contracts concluded between Quinn and its clients, the clients did not agree to pay or reimburse Quinn for particular costs, such as the

claimed R&D expenditure. Further, Quinn did not agree to carry out the relevant R&D on being paid or reimbursed by the clients for doing so. Thus, Quinn's claims for enhanced R&D relief should be allowed. The Judge commented that:

"*…It would be wholly out of kilter with the overall SME scheme, if an SME were to be denied enhanced R&D relief solely because, in doing what is envisaged by the legislation (namely, utilising the relevant R&D for the purposes of its trade), as is usual and to be expected of an entity carrying out a trade on a commercial basis*."

"*…Indeed, if HMRC's approach were to be adopted, the circumstances in which an SME could claim enhanced R&D relief would seem to be confined to those where it has no prospect of exploiting the R&D for commercial gain*."

## Case take away

This was a decisive win for the taxpayer, preventing what is seen to be the incorrect narrowing of the scope of the incentive, and protecting the ability of SMEs to claim this essential relief.

It doesn't, however, put an end to the matter.

HMRC have chosen not to appeal the decision (FTT decisions are not binding as they are made on the facts of specific cases if they appealed and lost), but it should be clearly noted that HMRC's view of the effect of the legislation remains unchanged.

HMRC quietly updated their guidance on subsidised expenditure, and believe that, whilst they may have lost on the subsidised expenditure point, they would have won if they had considered to challenge the claim on the basis that the activities had been subcontracted to the company.

HMRC is challenging customer-led R&D projects. It is therefore vital that you proactively consider contracts entered into and their impact on your R&D tax claim.

Another case that shows why it's vital to understand the rules as they are written in the legislation. This one shows how a going concern note in the accounts can have a significant impact on an ongoing R&D Tax claim.

## What happened?

MW High Tech Projects UK Ltd ("MW") claimed R&D tax credits under the RDEC scheme for both periods ending December 2017 and 2018. There was no dispute regarding the nature of MW's operations in this case — the focus here was on the application of the going concern requirement.

To meet the going concern requirement, a company must be a going concern at the time they submit a claim. However, the requirement also contains a couple of nuanced points that are often missed and became the crux of this case.

As per the legislation, a company will be a going concern if its latest published accounts are prepared on a going concern basis and there is nothing in those accounts to suggest that they were prepared in this way due to an expectation of receiving R&D tax credits.

At the time, MW's accounts for both 2017 and 2018 stated that they were not a going concern due to the expectation that the trade would either be transferred to another group member or that it would cease entirely — therefore failing the going concern requirement.

This, however, ceased to be the case by the time the accounts for 2019 were prepared, when it was decided that the Company would continue trading as it had done previously. As part of the 2019 accounts, MW included a prior year adjustment due to these being stated as a going concern, which assumed a retrospective impact for the two previous periods where this had not been the case.

HMRC rejected the 2017 claim, whilst the 2018 was accepted stating that the Company had failed to meet the going concern requirement for 2017. However, since the 2019 accounts were published prior to the submission of the 2018 claim, MW was deemed to be a going concern for that period. MW sought to appeal the rejection of the 2017 claim on the basis that a prior period adjustment would have meant that the 2017 and 2018 accounts were treated as a going concern.

MW attempted to appeal this on several fronts, including the fact that Parliament had, by this point, admitted that S104T contained an error. This being that where a trade was transferred within a group and that trading company was no longer a going concern due to the transfer, for the purposes of S104T, they would not be treated as a going concern at the time of the claim, therefore invalidating any claim made. But while new legislation in 2023 corrected this omission (as detailed below), it was still not retrospective.

Additionally, MW claimed that despite what was stated per accounting rules, MW was a going concern, that their directors were pressured into signing the accounts, and by the fact that HMRC had paid the 2018 claim, it had accepted that MW was a going concern for the 2017 claim.

## The outcome

MW ultimately lost on all grounds of their appeal. The tribunal found that HMRC were correct in rejecting the claim for 2017, due to the accounts for 2017 and 2018 stating that MW were not a going concern, and as this had changed in the 2019 accounts, HMRC were correct to allow the 2018 claim.

Ultimately, if at the time of claiming the credit the company is not a going concern, it will not be entitled to receive the credit, as per S104S(2). However, if the company becomes a going concern on or before their last day on which an amendment of the tax return can be made, then the company would be entitled to the claim. This was not the case for MW as by the time the 2019 accounts had been published: they were outside of the period when an amendment could be made to the tax return.

Additionally, MW argued that the restatement of the accounts in 2019 to express that they were a going concern due to a change in strategy, would have affected the previous periods accounts. However, a restatement like this would not affect the published accounts at the date of the claim. Therefore, due to the wording of the legislation, it was not possible to consider this for the 2017 claim.

The goal of the going concern legislation in this area is to ensure that a company in receipt of the benefit will continue to trade and will use the economic benefit to further their development.

In this case, it may seem like the decision is not in the spirit of what is intended by R&D tax credits, given the fact that MW was going to continue to trade — via the transfer of the trade to another group company, or by the time the 2019 accounts were published. Therefore, following in the spirit of R&D credit, the tribunal might have allowed the claim on these grounds.

This shows that HMRC will follow the legislation to the word — although it has since admitted that there was an omission in the legislation for the transfer of trades with the inclusion of S104T(4A)(4B). At the time MW's claim was

made, HMRC followed the legislation correctly. The inclusion of this adjustment was not retrospective, therefore they acted correctly by rejecting the claim.

## Case take away

The key point to take away from this case is the importance placed on s104S by HMRC. This means it is vital to be aware of the position of your most recent published accounts and their going concern position when making an R&D claim.

HMRC can and will rely on the most recent published accounts within the amendment period in respect to a claim. If these prove that you are a no longer a going concern, then HMRC can rightly reject the claim. However, this approach can also be beneficial in that these later accounts can also be used to prove that the requirement is met and that a claim should be accepted, where previously it would not have been.

Tills Plus utilised a subcontractor for a software development project – HMRC sought to challenge the context in which the payments were made, the scope of the work carried out, and the Company's understanding of the underlying technology.

## What happened?

Tills Plus Limited is a software development firm for the hospitality industry that specialises in electronic point of sale ('EPOS') systems. To aid a project to develop new software, the Company entered into a 'software development agreement' with a subcontractor. The agreement did not set out any specific fees for the work to be done, only that the subcontractor would be invoiced every three months, and there was insufficient evidence to detail the scope of services the subcontractor was to carry out.

Crucially, all payments to the subcontractor were made via a series of interest-free personal loan agreements, rather than through physical payments from the Company's bank account. Only qualifying costs that have been paid and incurred by the time a claim has been submitted are eligible for R&D tax relief. HMRC therefore sought to disallow the R&D claim in full on grounds that there was insufficient evidence that these payments had been made.

HMRC additionally sought to disallow the claim on the basis that the project itself did not qualify as an advance within technology. This was partially because of a lack of any competent professional testimony and explanations over the course of the enquiry, with HMRC commenting on discrepancies in some of the explanations. Most of the Company's answers to HMRC's questions over the course of the enquiry tended to be more 'commercial-based' explanations for the benefits of the software and why it was being developed, rather than specific detail into how it advances existing technology through the resolution of technological uncertainties.

The Company's director, who had drafted the responses over the course of the enquiry, had accepted that they were not an expert in IT or artificial intelligence, but were instead more of a 'businessman'.

## The outcome

The court decided to uphold a wider interpretation of the paid requirement, stating that:

*"In our view, it cannot have been Parliament's intention that the availability of relief should depend on fine distinctions as to the way in which a payment is made to a subcontractor*."

HMRC therefore held that the relevant costs had satisfied this requirement, as the method of payment did not constitute commercial loans, and there was no interest or fixed dates for repayment.

Despite this, the tribunal decided to reject the Company's claim on the basis that it did not qualify as a technological advancement. This was in part due to discrepancies between the information provided over the course of the enquiry into the purpose and scope of the project, as well as insufficient evidence to demonstrate the work carried out by the subcontractor. These discrepancies were explained by the Company director as being because they were not able to explain the project with a strong level of detail.

## Case take away

Whilst the subcontractor costs were ultimately held to be correctly paid, this case emphasises the importance of considering the paid requirement when considering qualifying R&D costs, a point that is too often neglected when preparing R&D claims.

Additionally, this case demonstrates the necessity of competent professionals to gain a full understanding of what constitutes R&D for tax purposes, and to provide a detailed testimony of the project and work undertaken. Project boundaries should be well understood and defined, the advance should be clearly explained in full detail with comparison to an existing technological baseline, and any work undertaken by subcontractors needs to be clearly referenced.

If you have undertaken a software project that you think could qualify for R&D tax relief, feel free to get in touch — we'd be happy to assess any potential validity.

Get Onbord Limited (GoL) was a software company that provided customer onboarding solutions. This case concerned a project in which GoL sought to develop an AI analysis process for Know Your Client (KYC) verification and risk profiling, with the aim to achieve a higher analysis outcome compared to a human analysis.

## What happened?

GoL made their claim under the R&D tax SME scheme to receive payable tax credits. HMRC, however, launched an enquiry into their claim. They felt there was no actual advance achieved by the Company (citing paragraph 12 of the BEIS guidelines) — that the development made by GoL was a routine piece of work, in that the product used technologies that already existed to create a new process.

GoL's advisors tried to demonstrate the advance achieved by the Company, but the claim was rejected by HMRC. After consulting with GoL's CDIO (Chief Digital Information Officers) officers, HMRC maintained there was no advance. HMRC did not provide any evidence to GoL — at any point in the process — as to why this did not represent an advance in line with the BEIS guidelines.

It turns out, the HMRC caseworker who had raised and carried the enquiry process had no experience in software — this was the first time they had dealt with a software claim. The judge on the case found this highly frustrating. The FTT highlighted that HMRC's current approach in dealing with enquiries is not sufficient and that openness and common sense should be applied before a case reaches the tribunal stage.

## The outcome

In the end, GoL were successful in this case. The judge ruled that the claim should be allowed in its entirety. Though by this point, GoL had fallen into liquidation, so the success of the win was marred.

Of primary interest to the tribunal was the evidence provided by Mr Cahill — the Competent Professional provided by GoL. More broadly, his evidence will have a significant effect on software R&D claims industry wide. One particular statement made by Mr Cahill became key to the tribunal's decision-making in this case. In it, he describes how, in most cases, code is

created by building on existing code:

*"Every piece of code is built on existing code; nobody writes code from scratch. Why would you when someone else has already done the work? GOL works by taking components and adding to them. It is rare for software development to be completely novel."*

The tribunal was clearly impressed by Mr Cahill's strong understanding of the technological work being conducted by GoL. This led them to place a significant weight on his oral evidence. In addition, while Mr Cahill held no formal qualifications in software development, he did have over 25 years' experience in the industry, which they considered sufficient to establish him as a Competent Professional in this context.

This is interesting, as typically, HMRC requires individuals to have formal qualifications to be considered as Competent Professionals. In fact, the tribunal drew comparison to Sam Altman, the founder of OpenAI, as an example of a Competent Professional in the field — an industry leader, but one with no formal qualifications in AI. Indeed, the tribunal's approach to assessing

Mr Cahill's competency seemed to focus more closely on his ability to explain the technicalities behind the project, and the assured way he answered HMRC's questions during the hearing, rather than his specific background in software development.

From this, the tribunal drew the point that using open-source code should not determine whether a development is identified as routine, as HMRC did in this case. The question of whether improving a process or creating something new is an advance, should instead be answered in each case in isolation. It is therefore possible to use existing processes to create an overall novel advancement.

This is of vital importance, given the amount of open-source data that exists in the software industry. If this data could not be used, then it is highly unlikely that any software project would qualify.

One of the key issues this case brought out was whether the burden of proof (to substantiate the validity of the advance within science or technology) was on HMRC, or on the Company making the R&D claim. The tribunal determined that in cases where the claimant has done enough to show that there is a technological advance, the evidential burden shifts to the other side. So, the burden to provide evidence as to why the project does not represent a technological advance shifts to HMRC. HMRC failed to do this on several occasions in this case, which proved a source of great frustration for the tribunal, as the FTT stated:

"*We consider that these proceedings would have been much more*

*straightforward (and possibly could have been avoided) if, at an early stage, both parties had put their scientific cards face up on the table.*"

## Impact of the software industry

The impact on the software industry in this case is far-reaching. In terms of making future R&D claims, there are three main points to take away:

**The burden of proof** — the case provides an insight into the burden of providing evidence and who that lies with. At the start of the claim, the burden of evidence lay with the Company to raise a case that their project constituted an overall advance in science and technology. The advance being going beyond what is publicly available or readily deducible by a Competent Professional. This case asks the question: what more can the Company do after providing satisfactory evidence? It is therefore HMRC's role to produce evidence to show why the work conducted did not qualify, instead of providing an answer without evidence.

**Role of the Competent Professional and requirements to be classified as one** — Mr Cahill's ability to describe the technical intricacies that pertained to this case helped the tribunal to understand the context, which further reinforced their opinion of him as a Competent Professional. HMRC would usually rely on formal qualifications to determine if an individual should be a Competent Professional. However, this case demonstrates that a good understanding of the technical work conducted, an ability to clearly explain and detail complex, state of the art processes, and a substantial spell of industry experience, can all contribute to evidence of being a Competent Professional.

**Lack of a comparable tool elsewhere in the market can demonstrate that the innovation carried out is not readily deducible by other Competent Professionals** — although this should not be the sole justification for an advancement, it can support the case as to the complexity of a project.

## Case take away

Overall, this case can be seen as a huge positive for software companies. It significantly widens the scope as to what can be considered a technological advance in the field. The tribunal accepted that just because existing processes are used in code development, that does not mean the end goal of the project cannot represent an advance.

The wider impact is this: companies across all industries can take comfort in their ability to use existing processes, materials, and products as part of their development process to achieve an advance, rather than being restricted to

creating entirely novel ones.

A pre-revenue start-up struggled to convince a judge that it should qualify for tax relief - partly because it couldn't provide much in the way of evidence that it was actually doing what it claimed to be.

## What happened?

A First Tier Tribunal case for R&D was published at the end of 2024, with HMRC winning against the appellant, Strictly Money Ltd.

Strictly Money Ltd ("the Company") was an early-stage entrepreneurial, technology-based business idea consisting of a software tool for the investment industry.

The Company looked to gain additional relief on their expenditure that related to their Research and Development (R&D) under s1044 CTA 2009 which would provide them an 130% additional deduction on the R&D costs incurred for the accounting period 1 June 2016 to 31 May 2017.

Through this appeal, the Judge had two main points to be considered which would either allow or dismiss the appeal.

- Firstly, whether the Company was considered trading and met the requirements of s1044 and eligible for the R&D scheme.
- Secondly, whether the expenditure on subcontractors qualified for R&D and could be allowable as deduction for the purposes of the Company's trade.

### The underlying issues

**1. Trading Status**

A company's trading status is important with R&D: the company needs to be conducting general business activities, trading or receiving income. If not, the company is considered dormant. R&D tax relief available for trading companies; if the company is not trading, it is not chargeable for tax and therefore cannot be eligible for tax relief.

The evidence the Company presented to prove their trading status included a statement of comprehensive income detailing revenue of £30,000, administrative expenses just under £2 million and a balance sheet with net liabilities of £624,000. Additionally, they provided proposal documents and an executive summary which described the Company and their goal.

A further look into the revenue showed that the income was received for online platform and brand development consulting services. As the goal of the Company was to develop a blockchain technology platform for investment, the income received was not in relation to the main business activity, which in this case needed to be trading. Interestingly during the period in question, the Company did not possess a business bank account, meaning they were not receiving revenue related to the trade and had no means to do so.

The proposal documents provided a description of the work the Company sought to undertake. The first document stated that the Company was a pre-revenue "well-capitalised start-up business based in the Isle of Man" in the "design and development phase". The statements such as those regarding its funding status and area of operation were found to be **aspirational** rather than **realistic**. The second document was a 20-page executive summary which also reflected similar **aspirational** language of what the Company hoped to do rather than what it had done. In short there was no evidence of the Company engaging in any trading activity related to their main business activity, which was deemed to being not qualifying to claim R&D.

This became the first reason the Judge dismissed the appeal as the business itself was not near commercial viability and as such was not trading.

**2. Qualifying R&D Expenditure – £2,039,000**

Secondly, to claim R&D expenditure, the work, if contracted out to a third party, would need to have actually been done. There was alleged work undertaken by a Mr. Falk which was evidenced and presented in the form of an oral witness statement by a Mr Ashurst who was representing the Company.

It is important to note that Mr Ashurst did not work for the Company at the time the work was contracted out and had not met Mr Falk. Although the expenditure being claimed was for work contracted out to a third party, there were no actual documents or physical evidence of work being done. The only evidence of "work" was from the parties giving verbal confirmation to Mr Ashurst of the work that was apparently completed.

Ms Prendergast and Mr Falk, who were the parties to the contract, never appeared at the hearing and even Mr Falk refused to provide a witness statement of the work he had undertaken during the period for the Company. The only documentation which related to Mr Falk's involvement with the Company during the period was a legal document for a loan and its conversion arrangements, which was not related to any potential R&D or any work done for the Company related to its main activity. The Judge interpreted that Mr Falk carried out:

> *"No meaningful work for the appellant company during the period"*

Therefore, the expenditure associated with the work undertaken was not qualifying for R&D. Again, it was noted that his work had nothing to do with business purpose, so the fact that this was dismissed creates clear guidance for companies in the future.

In relation to the expenditure (£39,000) for Burderop Bridge Ltd, this was "work done" by Mr. Ashurst as a third party before joining the Company. This was work which related to main business activity. Evidence of the qualifying nature of the work was via emails from an individual described to have "long experience as a technology consultant" as well as another individual described as a "fellow of the Blockchain centre at a leading UK university". These individuals described the "work done" as potentially qualifying as an advance within the field of blockchain technologies. There was however no actual development evidenced beyond descriptions of how the platform should function.

Although the "work done" by Burderop Bridge related to the main business activity and could have been qualifying if the work was actually undertaken, the argument to allow the deduction could not be held. This was because - apart from the lack of evidence of work done - the main activity of the business did not constitute trading and was not eligible for tax relief. It was unclear where the money spent on hiring the subcontractors went and what was achieved over the period.

## The outcome

In conclusion, the Company attempted to claim for an additional deduction but based on the facts, the Company was not trading, and the contracted-out work was not undertaken at all, let alone being relevant R&D activity. Therefore, the Company was not granted the deduction based on their appeal and lost the case.

## Case take away

You can't claim relief on your tax if you're not eligible to be taxed.

And evidence - or a lack of it - is important. A claim without evidence is a weak claim.