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11 Ways to Spot a 'Rogue' R&D Adviser



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R&D advisers – Look out for 'rogue' agents!

When you're busy running a business and navigating the current challenging economic conditions, it can be tempting to sign up with the first adviser who gets in touch with you, with promises of thousands of pounds back in R&D tax credits... But with increasing HMRC scrutiny on claims, **choosing the wrong R&D partner could turn out to be a costly mistake for your business.**

With more and more providers emerging claiming to be R&D tax relief experts, how do you make sure you're not being led to submit spurious R&D claims which contain little or no qualifying R&D activity?

HMRC are working hard to raise standards, but businesses also need to protect themselves from the risk of illegitimate or inappropriate claims being submitted.

TO HELP YOU, HERE ARE SOME FACTORS TO CONSIDER IN CHOOSING YOUR R&D TAX RELIEF PARTNER.

1 The dubious claims of 100% claim success

The government wants to ensure that only those entitled to tax benefits gain access to them, and this also applies to R&D tax credits. You can expect to see continued improvements in the diligence of HMRC when it comes to assessing the validity of future claims. In fact, we have found at ABGI, that **increased scrutiny of R&D Tax Relief claims is already happening** – with more and more claims being reviewed by HMRC. So far this year we are seeing one enquiry opened per month – when we usually see about 3 or 4 a year.

So, an R&D tax adviser is boasting a 100% success rate, raises a major red flag! Chances are, they're either overstating the facts or have only done a very small number of claims. Insert? Even if the provider makes a habit of under-claiming to be conservative and 'safe' – which, incidentally, means their client is not getting all the benefit they're entitled to – they're still likely to be picked up by HMRC's random sampling of claims at some stage.

2 True technical expertise

Lots of R&D tax specialists now say they're 'technical', but why is that important and are they telling the truth?

Broadly speaking, if your consultant has a deep understanding of your specific area of technology, they're going to be more insightful and effective at identifying and documenting eligible activity, and therefore better at legitimately maximising your claim. Interestingly – where HMRC have questions about claims – it's more often than not about a technical (rather than a tax) issue.

If you're having to explain to your adviser what the R&D is, then they're not technical experts!

Chose an adviser whose people have formal, relevant qualifications, usually complemented by years of industry experience, enabling them to bridge the complexity between your technical activities and expenditure, and HMRC's guidelines and clauses.

3 Who's doing what?

Make sure you know what you're buying. You might sign up with a provider, only to discover that you're expected to do most of the hard graft yourself when it comes to preparing and submitting the claim.

Are you sufficiently comfortable with HMRC's guidance to claim for exactly the right amount? And if you are, why are you then paying an R&D tax specialist just to risk assess it? This is what you're paying them for, so you shouldn't be expected to do their job for them. How much responsibility do they take? Will they still be there if HMRC comes calling?

Chose a consultant who prepares the claim on your behalf, so that you can focus on your business. Someone who does most of the work, producing the required technical report and a strong set of numbers for HMRC so that you don't have to.

4 How will you be treated?

When it gets down to the real nitty-gritty what will your customer experience feel like?

Look for feedback from previous unfortunate "rogue" adviser customers – Do they complain about lot of wasted time, questions not being asked that should be and a superficial 'one size fit all' approach to their unique business?

Instead, insist on quality checks on deliverables, peer review, a dedicated Client Support department and presentable, knowledgeable, technical staff trained to a consistently high standard using Virtual Learning Environments.

As a client, you should feel confident and secure in your choice of provider, engaged in the process, understood and respected at all times, and completely satisfied with your experience from start to finish.

5 Full time or part-timers?

Does the R&D specialist have employees or use 'associates'?

Providers who invest in their own staff are usually able to train them to a consistent level of knowledge and service. Associates tend to be much more variable in their knowledge and service – you might be lucky and get a good one, or you might not. Also, if associates are working for several companies, as some do, they're not going to be as expert and focused as someone who devotes all their time and attention to one role.

Something else to be aware of is that associates are often paid more for making larger claims. **This can incentivise them to overinflate a claim, leading to an investigation, and your business ending up in hot water with HMRC.**

Choose an adviser with fully employed technically qualified staff with industry experience, who preferably undergo comprehensive and ongoing training on relevant legislation, regulation and tax guidance. This is what it takes to ensure claims are optimised "the right way": by providing HMRC with the clear, concise descriptions of scientific advances and the systematic breakdown of costs that they require – and NOT by over claiming for ineligible work

6 Make sure you know what you're signing up for...

Make sure the contract you sign with your R&D partner is clear and readable, up-front about the expectations on both sides.

Some R&D tax consultants have shorter, but more ambiguous contracts that carry a higher degree of risk. **Look for auto renew clauses designed to trap you, and other tie-ins to the provider.** What else is hidden in their T&Cs?

Try to find out who will defend the claim in the event of an enquiry. **Is there a lengthy notice period?** How much support do you/ will you get?

7 Flying blind?

Another area of concern is that some R&D advisory firms are putting in claims without having any form of approval from the company, refusing to share the details of the claim with the company on whose behalf they were submitting, until after it had been sent to HMRC.

It is **vital** that the technical report explains the R&D in simple terms, whilst still detailing the technology of the projects. Which is why you should always choose an R&D tax partner with a working knowledge of the complex procedures taking place, who will get your technical team involved, ensuring all relevant information is gathered and documented, and presented to HMRC as robustly as possible.

We know other providers are not quite as discerning. How do we know? Our enquiry team gets regularly asked to defend claims for non-client businesses that have been challenged by HMRC. **Some of the reports we look at are absolutely shocking.**

So, make sure to review and approve your technical narrative and cost capture information prior to submission to HMRC. Demand copies of the reports for both you and your accountants to keep on file.

8 Is enquiry defence included?

Find out who will defend the claim in the event of an enquiry. In our experience, not all advisors stand by their work when the claim goes into enquiry.

Regardless of how a claim has been submitted – by an internal team, accountants or other adviser – there is always the risk of an HMRC enquiry. Enquiry rates are rising and, if not handled properly, could damage your business.

Choose to work with a partner who will pre-emptively work hard to reduce HMRC enquiry risk of a claim, by ensuring all relevant information is gathered and documented, and presented to HMRC as robustly as possible.

However, if HMRC starts asking questions, make sure your R&D consultant commits to defending your claims on your behalf or even provides enquiry defence as a standard service to every client. **It's always a good sign if the R&D adviser has a standalone enquiry defence team** which can help companies who've prepared and submitted claims themselves or using a different provider.

9 Who receives the R&D tax benefit first?

We are aware of a concerning practice of repayments from HMRC being directly mandated to the adviser, with the fees coming out of the repayment before the balance is passed to the client. You might not be able to rescind such an assignment once it is in place. Some agents will even refuse to revoke the assignment, while others charge a fee for doing so.

HMRC received over 350 formal complaints which explicitly referred to assignments between April 2021 and March 2022 alone, a figure which has been increasing annually. These complaints primarily relate to individuals not understanding that their repayment would be sent to the agent rather than directly to themselves, and where individuals do not recall signing an assignment.

Demand complete transparency from your R&D tax provider.

Make sure any tax relief is paid directly through to you not the R&D adviser, meaning that you remain fully in control of your funding at all times.

10 How much are they charging?

When it comes to R&D tax advice, there's a wide range of choice of fees and prices, although most will charge on a contingent basis (i.e. a percentage of the claim's tax benefit). We're aware of providers charging anywhere between 5% and 30%. There is a real disparity between what different providers will do for you and how much impact it has on your time.

With so many available options, it can be tempting to choose the cheapest rate available. But remember that the savings will be negated if your staff members are expected to identify all of the eligible expenditures without sufficient guidance, write the majority of the justification documents, or if your claim goes into Enquiry due to errors or, even worse, misrepresentations of your activities.

Be sure to ask about track record, and the training and credentials of the people who'll be representing you to HMRC. Working with a true specialist with knowledgeable and experienced people will almost certainly minimise the time and effort for you.

11 What are they charging you?

Is your R&D tax agent fee based on the benefit you've received or the eligible expenditure that was uncovered?

Unscrupulous providers might try and **trick clients into paying a contingency fee based on the eligible R&D expenditure uncovered, rather than the benefit received!**

As an example, a qualifying R&D spend of £100,000 would potentially result in a tax refund to a loss-making company of £33,350 - So, if you're being charged a 20% fee based on the R&D expenditure, you'd be paying the R&D provider £20,000, whereas a 20% fee based on actual benefit received would be £6670.

Make sure that your R&D tax partner are charging you fees based on a percentage of the actual benefit you've received from your claim, and that the fee is only payable if your claim is successful, and the funds are transferred or the reduction in corporation tax is confirmed by HMRC.

Work with someone you can trust – Choose a specialist approved by your accountant and many others.

Enquiry rates are up - choosing the wrong R&D partner could be a costly mistake. ABGI are trusted by dozens of accountancy firms and industry organisations such as Make UK – The Manufacturers' Organisation – as their preferred R&D specialist.

Why? Because **they deliver the best results for their clients**, by speaking both their technical language and the tax language used by their Accountants and HMRC. In collaboration with ABGI, we manage the assessment, preparation, and submission on your behalf, ensuring you receive the biggest return for the least possible effort.

ABGI have 30+ years' experience submitting claims and over 250 technical experts globally. Unlike many other companies, they have an in-house specialist enquiry defence team, allowing them to competently deal with an enquiry should HMRC require any further information.

ABGI **are true specialists** who operate with the integrity to submit robust, compliant claims and just as importantly, where required to advise clients when claiming under the scheme wouldn't be prudent.

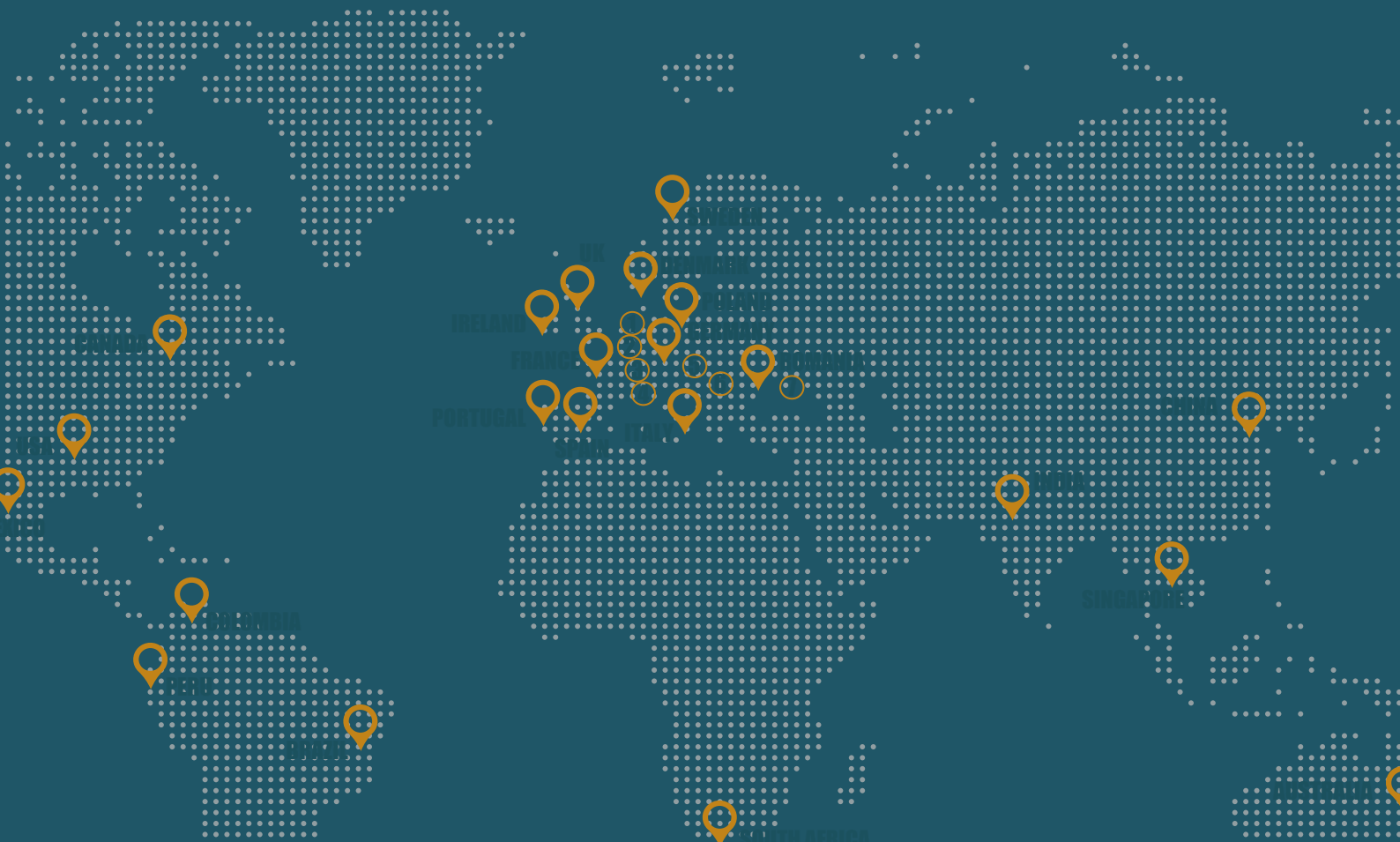
For a free R&D tax credit consultation and analysis of the potential returns you might expect from your projects, contact the Pentlands Team:

- ▶ on: 01926 424455
- ▶ or by email: hello@pentlands.ltd.uk
- ▶ or visit: www.pentlands.ltd.uk

ABGI GROUP – one of the world's leading tax incentive and innovation management advisers.

With a 30+ year heritage and 200 experts & advisers, we manage £870m of global tax incentives, grants and subsidies annually for a broad range of clients including some of the world's best-known brands.

Our aim is to help clients accelerate and fund their innovations. From R&D tax credits, RDAs, claim check, enquiry defence, Patent Box, Video Games Tax Relief, risk assurance and grant funding to capital allowances, R&D advances, innovation strategy and enabling technologies, whatever innovation funding challenges you face – in the UK or internationally – **we can help.**



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THANK YOU



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