

JAS PARTNERS

CHARTERED ACCOUNTANTS

BUSINESS ADVISERS – TAXATION PROFESSIONALS – SUPERANNUATION CONSULTANTS

Research & Development Tax Offset

PUBLISHED – 15 SEPTEMBER 2011

There have been some recent changes to Tax Law in regards to the treatment of Research and Development (R&D) Expenditure. These changes which were contained in the Tax Laws Amendment (Research and Development) Bill 2010 will be effective as of 1 July 2011. The new R&D tax incentive provides a tax offset for eligible R&D activities and replaces the current R&D tax concessions. This new measure is administered jointly by the ATO and AusIndustry (on behalf of Innovation Australia).

To be eligible for the R&D offset, you must be an eligible entity, undertaking eligible R&D activities and have incurred eligible expenditure (Notional Deductions) of at least \$20,000. The expenditure in relation to the R&D Tax Offset is referred to as Notional Deductions because the amounts are only used for the purposes of working out the amount of the tax offset. You do not claim a tax deduction for the expenditure incurred, instead you claim an offset which is paid as a percentage amount of that expenditure.

The offset is paid at two different rates depending on the turnover of the entity and the tax position. For entities with an aggregate turnover of \$20million or less and for companies that are in a tax loss – the offset will be Refundable at 45% of the notional deductions. For all other entities the offset is not refundable and is paid at 40% of the notional deductions. In this case any unused tax credits are not paid as a cash refund, but carried forward for future use.

Eligible Entity

You are an eligible R&D entity if you are a corporation that is incorporated under an Australian law. Generally, an R&D entity is only entitled to a tax offset if the R&D activities were conducted for the benefit of the R&D entity itself. Working out whether the activities were conducted for the benefit of the R&D entity itself involves considering:

- who effectively owns' the know-how, intellectual property or other similar results arising from your company's expenditure on the R&D activities,
- who has appropriate control over the way the R&D activities are conducted and
- who bears the financial burden of carrying out the R&D activities.

Trusts are not generally eligible entities, however you can claim a notional deduction for expenditure you incur to an associate, provided the expenditure is for the benefit of the R&D entity as per above. You can also only claim a deduction for expenditure incurred to an associate in the year the expenditure was actually paid.

Eligible Activities

Your research and development activities must meet certain criteria to be eligible for the R&D tax incentive. A fact sheet from Aus Industry (which as mentioned previously will be jointly administering the new measure) which details what types of activities will be eligible and can be found at:

<http://www.ausindustry.gov.au/InnovationandRandD/RandDTaxIncentive/Pages/EligibilityofActivities-InformationSheet.aspx>

If you believe the activities you are undertaking are eligible according to these guidelines, please contact our office. We will then need to register your R&D activities with AusIndustry. Applications to do this in relation to the 2011-2012 income year will open on 1 July 2012. As the registration forms are not yet available from AusIndustry we cannot give you an indication of what information will be required to complete the registration process.

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