

TAX BULLETIN

AN UPDATE PUBLICATION
FOR OUR CLIENTS

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RESEARCH AND DEVELOPMENT UPDATE - REVISED EXPOSURE DRAFT

Following the release late last year of an exposure draft on its proposed changes to the R&D tax concessions, the Federal Government has tried to respond to criticisms from industry, professional bodies and tax professionals by releasing a revised second exposure draft on 31 March 2010.

Our view

Whilst the Government has made some improvements to the proposed R&D tax incentive in the revised exposure draft, these improvements are not enough to convince us that the new scheme will enhance business expenditure on R&D - in fact, we still fear that the proposed changes will actually undermine (rather than enhance) business expenditure on R&D.

Date of effect

The Government remains committed to a start date of 1 July 2010 and it is expected that final legislation will be issued introduced to Parliament in June.

Summary of the changes

Some of the changes introduced in this latest exposure draft are as follows:

- There is a new definition of Core R&D activities which departs from the language of “considerable novelty” and “high levels of technical risk”, although arguably, these concepts remain as determinative factors. The definition now reads:
 - Core R&D activities are experimental activities:***
 - (a) whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, but can only be determined by applying a systematic progression of work that:*
 - (i) is based on principles of established science; and*
 - (ii) proceeds from hypothesis to experiment, observation and evaluation, and leads to logical conclusions; and*
 - (b) that are conducted for the purpose of generating new knowledge (including knowledge about the creation of new or improved materials, products, devices, processes or services)¹.*
- Eligible supporting activities are no longer restricted in every case to activities that are undertaken for the dominant purpose of supporting core R&D activities.
- The augmented feedstock rule contained in the first exposure draft has been withdrawn.
- The exclusions relating to software related R&D have been considerably softened, with no longer a blanket exclusion for activities that involve integrating off-the shelf software.

¹ Section 355-25 Tax Laws Amendment (Research and Development) Bill 2010



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- There is now clarification on how the new incentives will interact with government grants received by taxpayers.
- AusIndustry and Innovation Australia have been given additional powers in an attempt to boost their advisory and enforcement functions.
- There are additional provisions to deal with transitional issues where R&D activities straddle 1 July 2010.

FURTHER INFORMATION

Please ask either your regular Pitcher Partners tax contact or any of the contacts in the Pitcher Partners firms below for further details on the issues raised in this Tax Bulletin:

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