

R&D Tax Incentive – 2017-18 financial year end update

29 March 2018

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In brief

With the end of the 2017-18 financial year fast approaching, there are a number of things worth noting and actioning from a research and development (R&D) perspective.

For companies with a June tax year end, it is time to ensure relevant overseas finding applications for claims applicable for 30 June 2018 are lodged, and also to ensure that any amounts incurred to an associate for eligible R&D are 'paid' prior to the end of the income year. It is also a timely reminder for any companies with a year ended 30 June 2017 to ensure that their Application for Registration of R&D Activities is lodged by 30 April 2018.

This TaxTalk Alert also provides an update on Innovation and Science Australia's Innovation Plan, and the release of additional taxpayer guidance by the Australian Taxation Office and Innovation Australia on the R&D Tax Incentive program.

In detail

For companies with a 30 June year end

Lodgment deadline for Application for R&D Activities

Any company with a 30 June year end is reminded that that an Application for Registration of R&D Activities for the year ended 30 June 2017 must be lodged with the Department of Industry, Innovation and Science (which acts on behalf of Innovation and Science Australia) by 30 April 2018.

Overseas R&D activities

A company can only claim expenditure on R&D activities carried out overseas if those activities are registered and are covered by a finding that meets the following conditions:

1. The overseas activity has a significant scientific link to 'Australian core activities'.
2. The overseas activity cannot be conducted within Australia for a reason listed in the legislation.
3. The expenditure on the overseas activity and certain other overseas activities is less than the expenditure on the related core R&D activities and supporting R&D activities conducted in Australia.

The overseas finding application must be lodged prior to the end of the first year to which it will apply.

Accordingly, for activities carried out in the current income year, an application must be lodged by 30 June 2018.

Payments to associates

Provided the relevant eligibility requirements are met, a claimant may include expenditure incurred to an 'associate' in their R&D claim. However, this expenditure can only be claimed when the expenditure is 'paid' before the end of the income year.

For this purpose, an 'associate' includes shareholders and directors of the company, and other related legal entities (such as trusts).

Where an amount is not 'paid' until a later income year, a claimant will either forgo the notional R&D deduction altogether and claim a normal tax deduction on an incurred basis, or defer the claim for the notional R&D deduction until the year in which payment is made. The term 'paid' takes its general meaning under income tax law and includes constructive payment.

Therefore, claimants who are seeking to include an amount incurred to an associate as part of their R&D claim for the current tax year must ensure these amounts are paid prior to 30 June 2018.

Recent R&D Tax Incentive program guidance

During 2017, Innovation and Science Australia released guidance materials to assist taxpayers self-assess the eligibility of activities under the R&D Tax Incentive program, and to register those activities. The updated ['Sectoral' guidance](#), which is available on the AusIndustry website, includes R&D issues relevant to the following sectors:

- Agrifood
- Biotechnology
- Built Environment
- Energy
- ICT
- Manufacturing.

Several [Taxpayer Alerts](#), jointly developed by the ATO and the Department of Industry, Innovation and Science, were also released during 2017, and focus on the arrangements of certain industry participants that are claiming the R&D Tax Incentive. The Alerts summarise the ATO's concerns about new or emerging higher risk tax arrangements or issues that it has under risk assessment. The Taxpayer Alerts, which are available on the ATO website, are as follows:

- TA 2017/2: Claiming the Research and Development Tax Incentive for construction activities.
- TA 2017/3: Claiming the Research and Development Tax Incentive for ordinary business activities.
- TA 2017/4: Claiming the Research and Development Tax Incentive for agricultural activities.
- TA 2017/5: Claiming the Research and Development Tax Incentive for software development activities.

Innovation and Science Australia – 2030 plan

Innovation and Science Australia has released its [Australia 2030: Prosperity through Innovation Plan](#). The Plan includes 30 recommendations to the Government, actionable within five core policy imperatives for: education, industry, Government, R&D, and culture and ambition. Some of the key recommendations are measures designed to stimulate higher levels of R&D expenditure by the business sector, which the Plan says lags behind that seen in competitor nations, including introducing a collaboration premium in the R&D tax incentive and implementing the other recommendations of the 2016 Review of the R&D Tax Incentive.

The takeaway

For companies with a 30 June 2018 year end that undertake R&D activities, ensure to:

- Lodge overseas finding applications before 30 June 2018.
- Pay any R&D amounts incurred to an associate prior to 30 June 2018.

A more active compliance focus by AusIndustry and the ATO also means that, more than ever, correctly navigating the R&D Tax Incentive rules is critical.

If you would like to discuss any of these matters further, please contact your PwC R&D contact.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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