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Submission to Senate on Tax Laws Amendment (R&D) Bill 2010 and Income Tax Rates Amendment (R&D) Bill 2010

by

Risk Research International Pty Ltd , 26 May 2010

Addendum to Submission of 23 May 2010

We noted on 23 May that debate on this legislation has missed a major point. We wish to expand on why the effect of reducing the refundable tax offset from 125% as it stands now, down to 45% is damaging to small innovative companies.

The Government has said the following about the existing provisions[1]:

"The Government recognises the importance of providing innovative small companies, particularly those in tax loss who cannot gain immediate benefit from the R&D Tax Concession, an opportunity to increase their cash flow when they most need it during their initial growth phase."

The existing provisions are described concisely (link below) as:

"The R&D tax concession enables companies to deduct up to 125% (and in some cases up to 175%) of eligible expenditure incurred on R&D activities from assessable income when lodging their tax returns.

The Government has enhanced the R&D tax concession by providing small companies with an R&D tax offset (that is, a refundable tax offset) equivalent to the value of the deduction available under the R&D tax concession provisions.

[1] Australian Taxation Office 12 May 2010
http://www.ato.gov.au/businesses/content.asp?doc=/content/34652.htm

The R&D tax offset is available to companies whose R&D expenditure exceeds $20,000, but whose grouped expenditure on R&D is not more than $1 million per year, and who have an annual group turnover of less than $5 million."

That is, small companies in the pre-income phase currently can cash out eligible R&D expenditures up to 125% of value, and in some cases 175%.

Our earlier submission argued that the provisions in this proposed legislation will completely exclude the small companies which the Government is talking about above.

There is another factor in this legislation which makes *doubly sure* that small companies are cut out.

Tricks with "Turnover"

The new legislation applies the tax "offset" differently to current provisions. The new 45% tax offset will be applied against "turnover" whereas the current tax offset is a deduction and subtracted from net income.

The impact of this change is that not even the 45% credit will be of use to small companies in the pre-income phase. This is because the refundable amount is estimated by multiplying the tax credit (45%) by turnover (ie sales). If there are no sales there is no refundable return.

This new structure purposefully favours large companies – the higher the turnover (sales) the higher the cash refund.

Clearly this legislation represents a profound shift away from small companies. It jettisons the very values which the Government has been espousing. The existing offset provisions should be retained for the small companies addressed above.

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