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New Research & Development Tax Incentive Program - Australian Federal Government Passes Law

On 24 August 2011, the Federal Government passed the Tax Laws Amendment (Research and Development) Bill 2010 and the Income Tax Rates Amendment (Research and Development) Bill 2010, which now awaits Royal Assent.

What does this mean for you?

The tax incentive program gives rise to new opportunities, including:

- potential cash savings of up to 15c for every \$1 spent on eligible Research & Development ("R&D") activities
- relaxation of the Intellectual Property ("IP") rules - greater opportunity to claim an increased ability to claim overseas R&D, and
- the opportunity to apply for a Private Binding Ruling on R&D activities.



What do you need to do?

As the law has now passed through Parliament and is effective from July 1, 2011, current claimants should consider:

- proactively reviewing current R&D claims in light of the different eligibility criteria, and particularly the new definition of eligible R&D;
- determining what additional documentation will be required to substantiate claims under the new program;
- establishing revised processes to capture R&D information in a contemporaneous manner; and
- considering the additional requirements set out in the legislation (e.g. the required delineation between core and supporting activities and their relevant costs).

If you do not currently have a claim you should consider whether:

- you meet the new definitional requirements of the new program;
- your company performs R&D in Australia on behalf of a foreign entity (i.e. IP is held offshore);
- you may undertake R&D overseas; and
- to make an R&D claim in light of the increased benefit.

Main aspects of the new Program

The program has a retroactive start date of July 1, 2011.

Broadly, the new R&D tax incentive program takes a two-tiered approach:

- a 45 per cent refundable R&D tax offset will be available for companies with a grouped turnover of less than A\$20 million. This is equivalent to a 15c in the dollar benefit, and
- a 40 per cent non-refundable R&D tax offset will be available for companies with a grouped turnover of more than A\$20 million. This is equivalent to a 10c in the dollar benefit.

For more information, please do not hesitate to contact:

Sandra Mason +61 2 8266 0470 sandra.mason@au.pwc.com

Sean Keegan (646) 471 8085 s.keegan@us.pwc.com

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