TAX TALKS

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107 | Changes to the R&D Tax Incentive

The changes to the R&D tax incentive have been on the horizon for a while, but are getting closer.

Changes to the R&D Tax Incentive

In May 2018 the government announced the changes to the R&D tax incentive in its 2018/19 Federal Budget. And then on 20 September 2018 introduced draft legislation to Parliament.

In this episode Simon Dorevitch of A & A Tax Legal Consulting in Melbourne will walk you through the drafted changes. Here are our notes from that interview. There are nine key changes coming through.

 # 1   RDTI set at 13.5%

For entities with an aggregated turnover of less than $20 million: The refundable R&D offset will be pegged at 13.5% more than the entity's corporate tax rate. For 'base rate entities' the corporate tax rate is currently 27.5% and therefore the offset will be 41% (2.5% less than the current rate of 43.5%)

 # 2   Refund Only Up To $4m Cap

For entities with an aggregated turnover of less than $20 million: There will be a $4 million annual cap on cash refunds . An exception is made for R&D activities that form part of a clinical trial.

Let's say a company spent $5 million on clinical trials and $15m on other R&D. Resulting in a total offset of $8.2 million (41% of $20 million). Of this amount $2.05 Million (41% of $5 million) of the offset relates to expenditure on clinical trials and is therefore refundable.

The other $6.15 million (41% 0f $15 million) relate to other R&D expenditure. The first $4 million of this is refundable, but the remaining $2.15 million is non-refundable. So in total $6.05 million is refundable and $2.15m is carry-forward as a non-refundable offset.

Let's say the company had a $1m tax liability in the following year. The carry-forward tax offset would reduce the tax payable to nil. And the remaining $1.15 million is available as a non-refundable offset for future years.

 # 3   R & D Intensity

Entities with an aggregated turnover of $20 million or more: The non-refundable offset for R&D entities with an aggregated turnover of $20 million or more will be determined by reference to the entity's R&D intensity – broadly, the proportion of notional R&D deductions to total expenditure

The offset rate is not a flat rate depending on the overall R&D intensity of a company but rather applied in a manner similar to marginal tax rates.

R&D intensity range	Offset
Up to 2%	34% (i.e. an intensity premium of 4%)
Between 2% and 5%	36.5% (i.e. an intensity premium of 6.5%)
Between 5% and 10%	39% (i.e. an intensity premium of 9%)
Greater than 10%	42.5% (i.e. an intensity premium of 12.5%)

4 Cap increases to $150m

The $100 million cap will increase to $150 million. This will apply to all entities, no matter what the aggregated turnover is.

5 Part IVA will include RDTI

The concept of 'tax benefit' for the purposes of the general anti-avoidance rules in Part IVA ITAA 1936 will be expanded to include the R&D tax incentive offset.

6 Clawback

The clawback of R&D recoupment and feedstock adjustment provisions will be consolidated and the clawback calculated by reference to a complex formula, rather than assumptions

7 No More Extensions

Innovation and Science Australia will only be able to grant extensions of time of up to 3 months. The only exception will be where the subject matter of the extension relates to a pending decision.

8 Publication of RDTI

The Commissioner of Taxation will be instructed, after a delay of two years, to publish name, ABN and notional dedctions of the R&D entities claiming the R&D offset:

9 Increased Rsources

The government will provide increased resources to both the ATO and Department of Industry. The aim of these is to allow greater enforcement activity and to provide improved program guidance to participants.

All this is just our brief take on the issue, but please listen to the episode above. Simon Dorevitch explains all this in a much better way than we ever could.

MORE

[R&D Tax Incentive]

[Accountants Exemption]

[Government Grants]

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