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R&D Tax Incentive :ive

Stakeholder Reference Group

Details

R&D Tax Incentive Stakeholder Reference Group

You are invited to an upcoming R&D Tax Incentive Stakeholder Reference Group.

This forum provides an opportunity for registered tax agents and R&D consultants to receive program updates, discuss technical matters and provide feedback on the administration of the program with program administrators from both the Department of Industry, Science and Resources (DISR) and the Australian Taxation Office (ATO).

To ensure that all participants have the opportunity to provide input we ask that **no individual cases** are discussed.

Any information shared during the forum **must not be confidential or sensitive**.

RSVP

Friday 22 November, 11:59pm AEDT.

Please note before registering:

We kindly ask **only those who have received an invitation** fill out the registration form. You may nominate a proxy to attend on your behalf. To ensure equity of representation, only one person from each organisation may attend the forum.

Registrations submitted by persons other than invitees, without prior arrangement, **will not be accepted**.

This event has passed.

Details

Tue, 03 Dec

13:30 - 15:00 GMT+11

Online

Register

From: R&D Tax Incentive Engagement
Bcc: s 22(1)(a)(ii)

Subject: R&D Tax Incentive | Stakeholder Reference Group - Invitation [SEC=OFFICIAL]
Date: Wednesday, 13 November 2024 5:56:11 PM
Attachments: image010.png
image001.png

R&D Tax Incentive Stakeholder Reference Group

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Event Details

Date:	Tuesday, 3 December 2024	
Time:	1.30pm – 3.00pm AEDT	12.30pm – 2pm AEST
	10.30am – 12.00pm AWST	1pm – 2.30pm ACST

Location: Online via MS Teams

Agenda: The agenda and meeting papers will be sent to you in advance of the meeting.
RSVP: Please register here by **Friday, 22 November 2024**.

OFFICIAL

From: R&D Tax Incentive Engagement
Bcc: s 22(1)(a)(ii)

Subject: Research & Development Tax Incentive | Stakeholder Reference Group [SEC=OFFICIAL]
Date: Friday, 29 November 2024 1:03:52 PM
Attachments: image002.png
Agenda.pdf
Program Update.pdf
Discussion topic.pdf

OFFICIAL

Stakeholder Reference Group

We look forward to welcoming you to the upcoming Stakeholder Reference Group forum.

Please find attached the agenda and key program updates. During the meeting you will have the opportunity to ask questions arising from these updates.

Also included is a document for the 'Discussion topic – Record keeping and Governance' agenda item.

During this session we will discuss the steps you are taking and the issues you are seeing about the records being kept by your clients. We would value your input on this topic. We kindly ask all attendees to consider their feedback prior to the meeting, to maximise the benefit had from this discussion item.

Please note, to maintain confidentiality requirements, specific cases cannot be discussed during this forum.

Event Details

Date: Tuesday 3 December 2024
Time: 1:30pm – 3pm AEDT | 12:30pm – 2pm AEST |1pm – 2.30pm ACDT | 10:30am – 12pm AWST
Location: Online via MS Teams - join the meeting

If you have any questions ahead of the meeting or issues joining on the day, please contact us at Email: rdti.engagement@industry.gov.au

| **business**.gov.au/rdti
| **ato**.gov.au/rdti

From: R&D Tax Incentive Engagement
Bcc: s 22(1)(a)(ii)
Subject: Reminder, tomorrow: Research & Development Tax Incentive | Stakeholder Reference Group s 22(1)(a) [SEC=OFFICIAL]
Date: Monday, 2 December 2024 5:37:26 PM
Attachments: image002.png
Agenda.pdf
Program Update.pdf
Discussion topic.pdf

Stakeholder Reference Group

We look forward to welcoming you to Stakeholder Reference Group forum tomorrow.

Please find attached the agenda and key program updates. During the meeting you will have the opportunity to ask questions arising from these updates.

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Event Details

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Time: 1:30pm – 3pm AEDT | 12:30pm – 2pm AEST |1pm – 2.30pm ACDT | 10:30am – 12pm AWST
Location: Online via MS Teams - join the meeting

If you have any questions ahead of the meeting or issues joining tomorrow, please contact us at: rdti.engagement@industry.gov.au

| business.gov.au/rdti
| ato.gov.au/rdti

Australian Government
Department of Industry, Science and Resources
Australian Taxation Office

R&D Tax Incentive

Stakeholder Reference Group

Tuesday 3 December 2024

1.30 pm – 3.00 pm AEDT

Agenda

Time	Item	Speaker/s
1:30pm – 1:35pm	**1.** Welcome	Alfred Chidembo, People and Culture Lead, R&DTI
	1.1. Acknowledgement of Country	
	1.2. Housekeeping	
1:35pm – 1:50pm	**2.** R&DTI update	Matt Crawshaw, General Manager, R&DTI
1:50pm – 2:10pm	**3.** ATO update	Jared Birbeck, Director, ATO
2:10pm – 2:20pm	**4.** Record keeping and Governance	Jared Birbeck, Director, ATO Corrie Cooney, Assistant Manager, Assessments and Findings, RDTI
2:20pm – 2:55pm	**5.** Discussion topic – Record keeping and Governance	Alfred Chidembo, People and Culture Lead, R&DTI
2:55pm – 3:00pm	**6.** Meeting close	Alfred Chidembo, People and Culture Lead, R&DTI

Australian Government
Department of Industry, Science and Resources
Australian Taxation Office

R&D Tax Incentive

Stakeholder Reference Group

Discussion topic – Record keeping and governance

3 December 2024

Record keeping and **governance** will be the topics of discussion at this SRG session. We value your input and kindly ask you to consider the following content in advance of the meeting.

Session objectives

To better understand:

- the steps you are taking to ensure appropriate records are being kept by your clients
- what common issues you are seeing with record keeping and how you are assisting clients with these issues.

Background

Companies that choose to access the benefits of the R&D Tax Incentive (R&DTI) must self-assess eligibility as defined in legislation, and as explained in guidance published by DISR and the ATO (the regulators).

When companies submit a registration for the R&DTI, they declare that they have kept and will maintain records that substantiate their eligibility and the basis of their self-assessment. This requirement has been supported by court and tribunal decisions.

DISR and the ATO have provided guidance through various forums to help companies and their advisers determine what types of records and other evidence may meet this requirement.

The issue

Despite advice and guidance from the regulators, compliance reviews continue to find that companies struggle to provide evidence to substantiate eligibility of activities, or the link between registered activities and claimed expenditure. This has implications for the program's integrity and is an issue that the regulators wish to explore further.

Poll questions

Question 1: What issues are you consistently seeing as barriers to adequate record keeping (outside of it being perceived as onerous)?

Question 2: What could be done to help your clients improve their record keeping to support their applications?

Question 3: How do you manage situations where you find a client has not taken advice and guidance about record keeping and has failed to keep adequate records?

Question 4: How do you ensure that a registration only contains R&D activities that have been appropriately assessed and are supported by evidence?

Australian Government
Department of Industry, Science and Resources
Australian Taxation Office

R&D Tax Incentive

The Research and Development Tax Incentive is jointly administered by the Department of Industry, Science and Resources and the Australian Taxation Office.

Stakeholder Reference Group

Program update

As at 28 November 2024

The Department of Industry, Science and Resources (DISR) and the Australian Taxation Office (ATO) provide the following Research and Development Tax Incentive (R&DTI) program updates:

DISR

1. Registration and claims

1.1 Application insights

Applications for registration for the 2022-23 income year for companies who have a standard income year were due on 30 April 2024. Processing timeframes are detailed in the Research and Development Tax Incentive (R&DTI) program charter. The department's 2023-24 to 2026-27 performance measure service level standard is that 95% of company applications for registration of research and development (R&D) activities through the R&DTI are processed within:

- 40 business days for first-time registrants
- 20 business days for registrants that have applied within 6 months after the end of the income period
- 80 business days for registrations submitted from 6 to 10 months after the end of the income period.

DISR exceeded its service level standards for 2022-23 applications with more than 95% processed within target timeframes.

As these performance standards reflect, applications that are received outside of our peak processing period are typically registered much faster. We encourage entities to lodge within this timeframe where they can.

Aside from the sheer number of applications we need to process at any given time, another reason for an application to take longer than expected may be that we are taking a closer look pre-registration at the R&D activities described in the application. A key role of the department is to ensure the integrity of the program.

On these occasions we may identify a need to commence engagement with the company on its current year application. Ensuring a complete application that addresses the criteria for an eligible R&D activity and reflecting any guidance the department has previously provided can negate the need for this step in most instances.

If at any time you are after the status of a specific application, this can be viewed in real time through the R&DTI customer portal.

1.2 Registration and claims data

The preliminary figures for FY2022-23 show 13,602 applications for registration with estimated R&D expenditure of $17.3 billon. This is an increase from FY2021-22 which had 12,938 applications for registration representing R&D expenditure of $15.5 billion.

There were 205 applications for advance and overseas findings for FY2022-23 which was an increase on FY2021-22 where the program received 190.

In FY2022-23 and FY2021-22, the Professional, Scientific and Technical Services industry represented the industry with the highest number of registrations and the highest R&D expenditure, followed by the

Manufacturing industry. These two industries account for 60% of registrations and R&D expenditure in both financial years.

Small to Medium Enterprises (SMEs), defined by businesses with an annual turnover less than $20 million, have maintained a steady R&D expenditure of 56% for both years. The program saw more than 300 additional SMEs register R&D projects in 2022-2023. The program is continuing to see growth in R&D investment with SMEs over the last several years when compared to the number of large enterprises.

1.3 Updated Research Service Provider online register

The updated research service provider (RSP) online register is now live on business.gov.au at Find a Research Service Provider for the R&D Tax Incentive.

If a business is looking for help to conduct its R&D activities, it can search for Australian RSPs using updated search functionality and find the right provider for its project. It is important that companies understand that activity eligibility must still be assessed even if using an RSP.

1.4 Federal Court of Australia – judgment in Active Sports Management Pty Ltd v IISA

On 25 November 2024, the Federal Court of Australia (Court) handed down its decision in the matter of **Active Sports Management Pty Ltd v Industry Innovation and Science Australia (IISA)**. Active Sports appealed a decision of the then Administrative Appeals Tribunal (Tribunal) that none of Active Sports' claimed R&D activities were eligible for the R&DTI. The Court found in favour of IISA. This means the decision of the Tribunal stands. The Tribunal agreed with IISA's decision that the activities were not eligible.

The decision reinforces the department's approach that, to be eligible for the R&DTI, activities must be conducted using a systematic progression of work involving technical or scientific uncertainty.

The claimed R&D activities related to the customisation and modification of a basketball shoe to suit the personal preferences and playing style of an Australian basketball player – Matthew Dellavedova.

In the appeal, Active Sports raised two questions of law for the Court to determine:

- How the decision was reached by the Tribunal, focusing on the conduct of the Tribunal and the adequacy of the Tribunal's reasons. The Court found that the Tribunal had approached the statutory task diligently and comprehensively, and that it appropriately considered the Applicant's submissions.
- Whether the Tribunal had made an error of law in incorrectly applying the legislative test in s 355-25 ITAA by requiring that the outcome of the activities 'be directed to a technical or scientific uncertainty'. The Court decided that the Tribunal's use of those words was an appropriate shorthand version of the statutory requirement and did not involve an error of law.

The Applicant has 28 days in which to appeal the decision.

The department will prepare communications for its website soon.

2. New online forms

The below updates are part of a broader approach to improve the information collected in R&DTI forms and reduce processing times. The forms also ask for more information about who is lodging the request to enhance integrity for companies using registered tax agents or R&D consultants.

2.1 Advance and overseas finding form

An updated version of the advance and overseas finding (AOF) form became available through the R&DTI customer portal on 25 July 2024. The updated form collects more information upfront rather than during the assessment process, helping to reduce assessment timeframes and provide applicants with a faster decision.

Companies with January – December income years are reminded that they should submit any applications for advance or advance and overseas findings by 31 December 2024.

2.2 Extension of time form

An updated version of the extension of time (EOT) form is now available through the R&DTI customer portal. Companies are required to use this form if they wish to apply for any extension to submit their R&DTI registration application.

The updated form provides clarity about the two categories of extensions of time requests under the *Industry Research and Development Decision-making Principles 2022* (DMPs).

Category 1 is a request for an extension of 14 days or less, made prior to the statutory deadline. These types of requests are automatically approved once the necessary information is provided.

Category 2 is a request for:

- an extension of more than 14 days, made prior to the statutory deadline, or
- an extension of any period, made after the statutory deadline.

Category 2 requests require more supporting evidence and will only be approved if the evidence meets the requirements set out in the DMPs.

All requests must be submitted through the R&DTI customer portal.

Extensions of time cannot be granted for applications for advance or overseas findings.

3. Information and guidance

3.1 Updated *Guide to Interpretation* and *Guide to Software related activities and the R&DTI*

The updated *Guide to Interpretation* and *Guide to Software-related activities and the R&DTI* were published on 16 May 2024. Updates to the guides were minor and related to not implying a threshold for ‘the purpose’ in the definition of core R&D activities and clarifying when some software activities currently excluded as core R&D activities may still be claimed as supporting R&D activities.

3.2 Hypothetical case study published

On 26 August 2024 DISR published a new hypothetical machine learning case-study. This case study helps entities whose R&D includes machine learning techniques to self-assess their activities.

3.3 R&DTI information sessions

DISR and the ATO continue to deliver the Introduction to the R&D Tax Incentive information sessions, most recently on 8 August and 12 November 2024.

DISR also recently expanded information session topics to include two new thematic webinars.

The *Guide to Registering for the R&D Tax Incentive* information session (delivered 11 September 2024) covered:

- how the registration process works
- the types of information to include in an application
- the importance of record keeping and the types of evidence that needs to be kept.

The *Guide to eligibility certainty and record keeping for the R&D Tax Incentive* information session (delivered 15 October 2024) covered:

- advance findings
- how to maximise receipt of a positive and rapid assessment
- record keeping approaches.

Further thematic webinars focussed on practical advice will be held in 2025.

3.4 Business.gov.au website refresh

DISR is currently reviewing R&DTI content on business.gov.au as part of a website refresh. Once completed, the site will introduce a range of improvements designed to enhance user experience including easy to navigate content. It is expected to be completed in 2025.

4. Research and Development Incentives Committee (RDIC)

The R&D Incentives Committee (RDIC) operates under delegation from Industry Innovation and Science Australia (IISA). It is responsible for providing advice to IISA about the operations of the R&DTI.

The Chair of the R&DIC, Julie Phillips attended her last meeting as Chair on 30 October 2024. The government is in the process of considering nominations to appoint a new Chair. The public can obtain information about committee members from directory.gov.au.

5. Assessments & Findings

The department's R&DTI compliance teams have been restructured and now all compliance activity is undertaken by one large team called Assessments & Findings. The restructure allows the department to allocate resources to priority tasks more efficiently and provides a more seamless experience for program participants.

6. Random sample project

The DISR and ATO joint review of a random selection of R&DTI registrations and claims made for the 2021-2022 income year is almost complete.

The review assessed eligibility of registered R&D activities and expenditure to:

- obtain information about the integrity of the program
- inform the development of risk indicators for use in future integrity assurance activities
- better direct the department's and ATO's education and guidance activities towards companies that would benefit from greater assistance to meet the program's obligations.

DISR's component closed on 31 October 2024 with 170 reviews completed and the ATO component is expected to continue through December 2024. Related administrative work such as finalisation of guidance and notification letters is still underway.

7. Other important changes

7.1 Administrative Review Tribunal

As part of government reforms to Australia's system of administrative review, the Administrative Review Tribunal (ART) commenced on 14 October 2024 – replacing the Administrative Appeals Tribunal (AAT).

The jurisdiction of the ART is the same as the AAT, so any new applications for external review of DISR R&DTI decisions will need to be made to the ART. Any matters that were before the AAT prior to 14 October 2024 have automatically transitioned to the ART. AAT decisions finalised prior to 14 October 2024 will not be considered again by the ART.

Further information can be found on the Attorney-General's Department website.

7.2 myGovID is now myID

myGovID now has a new name and look. Companies will continue to use it in the same way to access the R&DTI portal.

The change aims to reduce the ongoing confusion between the app's previous name (myGovID) and myGov.

Companies should know that they do not need to set up a new myID or reconfirm their details. DISR and the ATO encourage advisers to alert their clients to possible scams which prompt companies to visit a website to update their details. Further information can be found at mygovID now myID.

Australian Taxation Office

8. Changes to promoter penalty laws

The promoter penalty laws are used to deter and take action against the promotion of unlawful tax schemes including R&D advisers. The Government has recently passed legislative changes to the promoter penalty laws. These changes operate from 1 July 2024. Among other things, the changes to these laws include:

- increase in the maximum penalties for advisers and firms who promote unlawful tax schemes, from $7.8 million to $780 million
- increase in the time limit for the ATO to bring Federal Court proceedings on promoter penalties from 4 years to 6 years after the conduct occurred
- expansion to the scope of schemes to which the laws apply
- change in the definition of when a person constitutes a 'promoter' of a 'tax exploitation scheme'.

Also visit:

Promoter penalty laws | Australian Taxation Office or Practice Statement PS LA 2021/1 – Administration of Promoter Penalty Laws

Promoter penalty case studies | Australian Taxation Office, which provide some case studies in R&D space, where promoter penalties could be applied

Tax schemes | Australian Taxation Office, to understand more about unlawful tax schemes and their warning signs so you don't get caught and face significant penalties.

How to report unlawful tax schemes
If you're offered an unlawful tax scheme, you should reject it and report it to us confidentially by:

- completing the tip-off form on our website or in the ATO app 'contact us' section, or
- phoning the tip-off hotline on 1800 060 062.

If you suspect that you've already entered into an unlawful tax scheme, contact us to correct your position and mitigate your exposure to interest and penalties.

9. Tax transparency report

The first annual R&D tax transparency report was published by the ATO on 3 October 2024. In the 2021–22 income year, 11,545 companies claimed R&D expenditure spending $11.2 billion on R&D.

The report includes:

- The name of the entity claiming the R&D tax incentive
- Its ABN or ACN
- The entity's total expenditure on R&D less any feedstock adjustments.

However, the report does not disclose the amount of the tax incentive each company received or whether it was refundable or non-refundable.

Information about the nature of the company's R&D activities is also not included in the report. Any information beyond what is published in the report remains protected information under the *Taxation Administration Act 1953* and the *Industry Research and Development Act 1986*.

If you would like further information about the R&D transparency measure, please refer to ato.gov.au/RDTaxTransparency.

From: R&D Tax Incentive
To: R&D Tax Incentive Engagement
Subject: R&D Tax Incentive Insider - December 2024
Date: Thursday, 19 December 2024 12:37:45 PM

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Australian Government | Department of Industry, Science and Resources logo

R&D Tax Incentive Insider

DECEMBER 2024 | EDITION 27

In this edition

Changes to R&DTI program announced excluding gambling and tobacco

As part of the Mid-Year Economic and Fiscal Outlook (MYEFO) 2024-25, the Government has announced an amendment to the Research and Development Tax Incentive (R&DTI) program to exclude activities related to gambling and tobacco for income years starting on or after 1 July 2025.

Legislative change is required to implement this amendment. Until then, the Department of Industry, Science and Resources (DISR) and the Australian Taxation Office (ATO) will continue to administer the R&DTI program as it is currently legislated.

<!--[if !mso]--> Read the latest MYEFO <!--[endif]-->

Government announces independent panel for Strategic Examination of R&D

The government has announced the appointment of an independent expert panel to lead its review of Australia's R&D performance, as well as releasing the terms of reference for the review.

The Strategic Examination of R&D was announced as part of the 2024–25 Budget and will look at ways to improve Australia's R&D system.

The examination will consider how Australia can:

- get more value from investment in research across universities, industry and government

- harness and grow business investment in R&D
- leverage our scientific strengths to help address national priorities and foster new industries.

The panel will consult widely across Australia and deliver an action plan of recommendations to government by the end of 2025.

<!--[if !mso]--> Learn more about the Strategic Examination of R&D <!--[endif]-->

Seeking assistance over the holiday period

The R&DTI team will be unavailable from close of business 24 December and return on 2 January.

If you require assistance during this time, our contact centre (13 28 46) will be open throughout this period, except for the national public holidays. Opening hours remain 8:00 am to 8:00 pm (Australian Eastern Daylight saving Time).

You can continue to find information on the R&DTI on our website and will still be able to access the R&DTI customer portal.

Latest from the Stakeholder Reference Group

On 3 December, DISR and the ATO jointly led the biannual Stakeholder Reference Group (SRG) forum.

This forum brings together representatives from both government agencies, as well as tax agents and R&D consultants, to discuss key issues and updates impacting the R&DTI program.

Attendees were provided with information and updates about:

- the recently released Advance and Overseas Finding and the Extension of Time forms
- preliminary findings from the joint Random Sample Project
- R&D tax transparency report
- Federal Court decision on Active Sports
- the new Research Service Provider register
- the recently updated Guide to Interpretation and the Software Guide
- registration and claims data (detailed in the wrap-up).

A key focus for the December SRG was the importance of record keeping. Attendees provided DISR and the ATO with insights into some of the barriers to adequate record keeping that agents and consultants are seeing amongst their clients. This is an important topic which will continue to be a focus area for DISR and the ATO.

If you are an R&D consultant or tax agent and would like to be invited to future SRG forums, email: rdti.engagement@industry.gov.au.

Federal Court dismisses appeal from Active Sports

On 25 November, the Federal Court of Australia handed down its decision on *Active Sports Management Pty Ltd v Industry Innovation and Science Australia*.

Active Sports appealed a decision of the then-named Administrative Appeals Tribunal which had found in favour of IISA that none of Active Sports' claimed R&D activities were eligible for the R&DTI. The Federal Court has dismissed the appeal.

The decision reinforces the department's approach that, to be eligible for the R&DTI, activities must be conducted using a systematic progression of work involving technical or scientific uncertainty.

Active Sports has 28 days in which to appeal the decision.

<!--[if !mso]--> Read more about the Federal Court's decision <!--[endif]-->

Top tips to help protect yourself from a scam

Do not let scams ruin your festive cheer. Stay safe over the Christmas break and protect your business as well as your personal information from scammers.

Be on the lookout for these common signs:

- **Spelling mistakes** - Scam messages often include typos or misspelt words.
- **Receiving a message from someone you do not know** - If you get a message from a business or organisation that you are not a customer of, it could be a scam.
- **Asking for your login details** - Most businesses will not ask for your login details out of the blue. Get in touch with the business to confirm contact.
- **Receiving an unknown email asking you to click on a link or download files** -

Scammers may send an email with links or files that may be unsafe and contain viruses. Do not click on them.

- **Wanting you to act immediately** - Scammers may use words such as 'urgent' or 'limited time deal' to pressure you into acting fast.
- **Vague terms** - If the message starts with 'Dear customer', avoids using your name or seems unrelated to you, it might be a scam.
- **Asking for payment in unusual ways** - If another business is asking for you to pay in a specific way, such as a gift card, it is a scam.

The ScamWatch website is a great resource that has up to date information about the latest scams and what you can do if you think you have been scammed.

<!--[if !mso]--> Learn more about cyber security <!--[endif]-->

Is this newsletter meeting your needs?

We want to make sure the information we are providing is useful and helps you participate in the R&D Tax Incentive program.

If you have feedback on the type of content you would like to see, please let us know.

<!--[if !mso]--> Contact us <!--[endif]-->

R&D Tax Incentive team

Department of Industry, Science and Resources

Contact centre 13 28 46 | email or chat

GPO Box 2013 Canberra ACT 2601

Enabling a productive economy, enriched by science and technology, for all Australians.

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ACKNOWLEDGEMENT OF COUNTRY

Our department recognises the First Peoples of this Nation and their ongoing cultural and spiritual connections to the lands, waters, seas, skies, and communities.
We Acknowledge First Nations Peoples as the Traditional Custodians and Lore Keepers of the oldest living culture and pay respects to their Elders past and present. We extend that respect to all First Nations Peoples.

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SRG questions from participants

Joint ATO/DISR

Contacting R&DTI assessors or reviewers:

Question: *How do companies and their advisors/consultants contact the DISR or ATO officers handling their reviews or when they have queries?*

Draft response: s 47F

- If you have a query about the status of your registration, our *Rdtaxincentive@industry.gov.au* mailbox is monitored daily.
- As we receive 100's of applications weekly, please be mindful that your application may be earmarked for a closer look but not yet be allocated to a case manager. This is why in absence of any direct communication from a case manager within our assessments and findings team, contacting the general inbox in the first instance and is best.
- Our role is to balance our service level standards concerning timeframes for registration with our role to uphold the integrity of the program by undertaking compliance and education activities where appropriate.
- If your application has been assigned a case manager, we are taking a closer look at your application and we may be in contact to understand more about your activities.

Question: *Why are there delays in completing reviews and responding to enquiries?*

Draft response: s 47F

- Our risk-based compliance approach involves the selection of specific R&DTI registrations for assessment. We undertake compliance activities in proportion to the need to maintain the integrity of the R&DTI and in response to particular issues that might arise.
- Applications/registrations selected for review are assessed on a case by case basis. This process often involves engaging with the applicant/registrant to obtain more information and evidence, whether this is through a Request for Information and/or a meeting. The time taken to undertake a review will depend on its complexity. We endeavour to complete reviews within a certain time period, however these are service level standards only.
- My colleague s 47F has provided more information about responding to enquiries relating to applications being registered. In terms of other enquiries, compliance teams manage multiple reviews at any given time and always endeavour to respond in a timely manner.

• DISR

Registration times:

Question: *Are registration times for the R&D Tax Incentive increasing compared to prior years?*

Draft response s 47F

- Companies are encouraged to apply for the RDTI well ahead of any ATO deadlines.
- If your registration is taking longer than expected, our compliance team is likely to be taking a closer look at your application and may be in touch to understand more about your activities.

- Longer timeframes are more often than not associated with our compliance processes not delays associated within our registrations function and the registrations team.
- For instance, we will review your application if the company has previously received guidance from us – this is to consider whether the guidance has been taken on board.
- Applications that clearly articulate how an activity meets the legislative criteria will be registered quicker.
- Our service level standard is that 95% of applications for registration are processed within:
  - 40 business days for first-time registrants
  - 20 business days for registrants that have applied within 6 months after the end of the income period
  - 80 business days for registrations submitted 6 months or more after the end of the income period.
- DISR exceeded its service level standards for 2022-23 year applications with more than 95% processed within target timeframes.
- Compared to the previous year, there was only a change of 1% for first time-registrants, from 100% in the previous year to 99%.
- Our service level standard timeframes are the best indicator of likely processing times.

Question: *What is the process for reviewing applications, both first timers and existing claimants*.

Draft response s 47F

- Companies need to accurately self-assess their activities and register them correctly to meet program objectives. We're responsible for ensuring the integrity of the program, and we take a risk-based approach to engagement and compliance activities, including applications from first time registrants and longer-term claimants.

- We recognise that most companies believe their activities are eligible. So we do reviews to determine the level of compliance risk shown by participating companies. We can do this before we register your activities or after you have received a registration notification letter. We tailor our education and engagement to respond to different levels of eligibility concerns.
- We use the highest level of compliance activity for companies who have registered before and who have not followed our guidance.

- Registration form:

Questions: *Is a new registration form being developed and can we include a way to calculate expenditure totals for core and supporting R&D activities?*

Draft response s 47F

- A new registration form is in development and has gone out for external consultation with a group of our most frequent form users. This approach allows us to constructively manage the feedback. . Consultation was targeted to the projects, core and supporting activities sections of the form which is where we are focusing our efforts for the redevelopment. Our aim is to better align the form to how the legislation defines an R&D activity.

Commented [CM1]: Given not everyone on SRG was consulted, perhaps better to express as we did some consultation with a group of users and give a general sense of the areas in the form where some improvements are being made, and further improvements we'd like to make down the track

- We have listened to feedback on having total calculation methods and are looking into what is technically feasible with our systems. The final form will be a balance of what our IT systems can reasonably support and priority areas for redevelopment.

ATO

Question: *How do companies and their advisors/consultants contact the DISR or ATO officers handling their reviews or when they have queries.*

Response

Question: *We would be keen to find out more about how joint R&D is treated and administered, any updates on whether there is any reconsideration of the legal tests as to for whom R&D is being conducted, and any insights into ATO thinking on parents funding subs*.

Response

Question: *Does the ATO consider that the release of the FY22 information about the R&D expenditure of claimants achieved either of the stated goals of the disclosure in terms of transparency and encouragement of companies to conduct R&D activities.*

Response

FOI 300606

Name	Email	Org	Question	Remit	Response (or indicate to follow up offline)
s 22(1)(a)(ii)			Can the ATO and AusIndustry please update and publish their national and state based contacts for queries. There have been many changes to personnel recently and communications are very difficult.	DISR + ATO	If you have a query about the status of your registration, our Rdtaxincentive@industry.gov.au mailbox is monitored daily
			Can we have an 'advisor' contact route to bypass customer support level generic responses to questions.	DISR	*As above*
			Can we please have some clarifications on the current increased timeframes for RDTI application registrations, which have been taking an incredibly long time to receive compared to prior years.	DISR	Applications/registrations selected for review are assessed on a case-by-case basis. This process often involves engaging with the applicant/registrant to obtain more information and evidence, whether this is through a Request for Information and/or a meeting. The time taken to undertake a review will depend on its complexity. We endeavour to complete reviews within a certain time period, however these are service level standards only.
			I am aware that you may be providing an updated registration form soon. Is it possible to have TOTALS for the R&D expenditure that sum the core/supporting activities? This may avoid typos and ensure that expenditures have been input correctly.	DISR	Following consultation with users, this update is focussing on aligning the form with how the legislation defines an R&D activity, prioritising project, core and supporting sections. We are looking into what features are technically feasible with our systems currently, and what may be possible in future updates.

s 22(1)(a)(ii)

Review and response times at both agencies have blown out to the point where companies are waiting months for a response, any response, leading to serious financial stress. Have both agencies over committed themselves?	**DISR + ATO**	s 47F Our risk-based compliance approach involves the selection of specific R&DTI registrations for assessment. We undertake compliance activities in proportion to the need to maintain the integrity of the R&DTI and in response to particular issues that might arise. The time taken to undertake a review will depend on its complexity. *Share with* s 47F *but I'm going to share with* s 47F *and all A&F EL2s to see if he wants to tackle head on in his update*
The process for reviewing applications, both first timers and existing claimants.	**DISR**	This is addressed in the program update, but we take a risk-based approach to engagement and compliance activities, including applications from first time registrants and longer-term claimants. s 47F – check the update because part of the answer is there. Otherwise the answer is – it hasn't changed but if there are specific concerns we ask s 47F to reach out separately to chat with us.
We would be keen to find out more about how joint R&D is treated and administered, any updates on whether there is any reconsideration of the legal tests as to for whom R&D is being conducted, and any insights into ATO thinking on parents funding subs.	**DISR + ATO**	s 47F *This is a* s 47F *only response to handle.*

s 22(1)(a)(ii)

Will there be a new registration form for FY25 submissions?	DISR	s 47F A new registration form is in development and has gone out for external consultation with a group of our most frequent form users. This approach allows us to constructively manage the feedback. Consultation was targeted to the projects, core and supporting activities sections of the form which is where we are focusing our efforts for the redevelopment. Our aim is to better align the form to how the legislation defines an R&D activity
Does the ATO consider that the release of the FY22 information about the R&D expenditure of claimants achieved either of the stated goals of the disclosure in terms of transparency and encouragement of companies to conduct R&D activities.	ATO	s 47F

From:	R&D Tax Incentive Engagement
To:	Crawshaw, Matthew; s 47F s 47F
Cc:	s 47F R&D Tax Incentive Branch Calendar; s 47F s 47F
Subject:	Stakeholder Reference Group [SEC=OFFICIAL]
Attachments:	Agenda.pdf Discussion topic.pdf Program Update.pdf Light teams background option.png Stakeholder Reference Group - Registrants report 2 December.xlsx

Hi all

Thank you for agreeing to participate in the SRG forum. The link to join the meeting is below.

We kindly ask that you review the attached final agenda and discussion paper prior to the session. Also attached for your reference is the program update paper.

A few key points to note ahead of the event:

* The meeting runs from 1:30pm to 3:00pm. The event team will start the meeting 15 minutes before the start time to check the technology.
* A separate (MS Teams) chat will be set up for internal participants. We will be able to chat without participants seeing.
* The forum will be transcribed for internal use only (to assist with event summary). The meeting will not be recorded.
* For visual consistency DISR staff are asked to use the attached MS teams background.
* Roles and responsibilities:

Alfred Chidembo

Facilitator

Matt Crawshaw

Speaker

Jared Birbeck

Speaker

Corrie Cooney

Speaker

s 47F

Tech
RDTI background slide for discussion session
Internal MS Teams chat set-up

s 47F

Monitor/allow entry to meeting
Scribe

s 47F

Allow entry to meeting
Monitor chat / questions
Scribe

s 47F

Scribe

Should you have any concerns please reach out to the SE team at ICG-CD-RDTI-StakeholderEngagement@industry.gov.au <mailto:ICG-CD-RDTI-StakeholderEngagement@industry.gov.au>

Kind regards

SE Team

Microsoft Teams Need help? <https://aka.ms/JoinTeamsMeeting?omkt=en-US>

Join the meeting now <https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZDUzNmIzNzMtMTM0Yy00MTNmLTlmMGMtZjQ2NzRhZDAyNWYx%40thread.v2/0?context=%7b%22Tid%22%3a%22e99d2042-c1e3-4d13-a60e-20d3bb39177c%22%2c%22Oid%22%3a%2230889220-1121-4900-a4a4-93acc3c7087b%22%7d>

Meeting ID: 410 583 291 324

Passcode: H6uKMy

Dial in by phone

+61 2 6188 4842,,573417555# <tel:+61261884842,,573417555> Australia, Canberra

Find a local number <https://dialin.teams.microsoft.com/c993185a-0ca9-4103-8002-d99ecd3703aa?id=573417555>

Phone conference ID: 573 417 555#

Join on a video conferencing device

Tenant key: teams@vc.govteams.gov.au <mailto:teams@vc.govteams.gov.au>

Video ID: 139 775 190 8

More info <https://pexip.me/teams/vc.govteams.gov.au/1397751908>

ID	Start time	Completion time	Email	Question 1: What issues are you consistently seeing as barriers to adequate record keeping (outside of it being perceived as onerous)?	Question 2: What could be done to help your clients improve their record keeping to support their applications?	Question 3: How do you manage situations where you find a client has not taken advice and guidance about record keeping and has failed to keep adequate records?	Question 4: How do you ensure that a registration only contains R&D activities that have been appropriately assessed and are supported by evidence?
1	12/3/24 14:31:50	12/3/24 14:33:11	anonymous	Not knowing what is enough			start with underaking a review of existing documentation as part of the engagement
2	12/3/24 14:33:35	12/3/24 14:33:35	anonymous	• Record keeping is often done post-income period rather than throughout the year. • Clients provide initial registration information but lack deeper research and documentation. • Lack of knowledge on what and how to record, and a lack of resources especially for startups and SMEs. • Inadequate detailing in invoices or R&D development/scoping engagements/heads of agreements to establish a nexus between activities and eligible R&D expenditure.	• Send client newsletters reminding clients of self-assessment requirements, with examples of compliant documentation and emphasis on real-time record-keeping. • Share the R&D Tax Incentive Compliance Readiness guide with clients. • Provide templates for information gathering, record keeping, and timesheet tracking. • Advise clients to reference 'unknown outcomes' to credible research sources or professionals. Cite the reference. • Recommend ensuring supplier invoices and agreements detail activities clearly. • Reduce claims by removing activities lacking sufficient documentary evidence.	• Educate clients with templates and guidance to improve record-keeping practices. • If unresponsive, refuse to act for them or reduce claims by excluding unsupported activities with the principle: "What cannot be substantiated is NOT ELIGIBLE."	• Emphasize to clients that only activities backed by research and evidence are eligible. • Request from a client that all documentation is provided during initial assessments. Remove unsupported activities from registrations, therefore reducing the overall R&D claim amount.
3	12/3/24 14:32:07	12/3/24 14:33:57	anonymous	R&D activties and supporting not clearly defined until after year end when timesheets were already completed. So still requires retrospective updates to tie into finalised activties			

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4	12/3/24 14:31:52	12/3/24 14:34:02	anonymous	Inadequate information from the regulators as to what is adequate information is the key barrier. The equivalent of the old Part A, B &C guides has been promised sine 2010/11 and never delivered. With something of this quality the only way we learn what is considered acceptable is from reviews. Here there is inconsistency in the application	Better explanation of what is adequate	Don't claim the activity or do a post application audit ready check	Collect sample evidence and sight on-site documents
5	12/3/24 14:32:49	12/3/24 14:34:05	anonymous	Different assessors at ATO and AI will have hugely different expectations of documentation	Consistency. Documentation accepted by one assessor is often rejected by another	Don't work for them	
6	12/3/24 14:31:52	12/3/24 14:34:22	anonymous	Time, understand what is required	Ruling, more guidance	Education, not clain	Proper review
7	12/3/24 14:31:50	12/3/24 14:34:23	anonymous	Not knowing what is required	More guidance regarding expectations	Start to work with them to understand what records they do have (e.g. pictures on phones).	Detailed technical interviews and evidence gathering
8	12/3/24 14:31:52	12/3/24 14:34:41	anonymous	No guidance on the format of time records	Feedback from the ATO & Ausindustry that doesn't penalise the applicant	We break off the relationship if the client doesn't follow our advice	Interviews and visits to the client
9	12/3/24 14:32:45	12/3/24 14:34:47	anonymous	Time poor	Guidance and templates	Advise not to claim RDTI	Request documentation from clients, ensure all activities meet the definition of core or supporting activities.
10	12/3/24 14:31:51	12/3/24 14:34:58	anonymous		Examples of good recordkeeping, including timesheets and other templates.	Don't submit the claim.	Due diligence; reviewing evidence as part of claim preparation.

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11	12/3/24 14:31:50	12/3/24 14:34:59	anonymous	Department and ATO not being prescriptive.	Provide more templates and guidance.	Explain the recordkeeping requirements and understand their responsibilities.	
12	12/3/24 14:31:53	12/3/24 14:35:20	anonymous	An unreasonable expectation - th R&DTI is not the only operation for most businesses, there needs to be more pragmatic acceptance that well-meaning companies may fall short - but legally they meet the criteria.	Examples of acceptable documents and not- acceptable documents (particularly timekeeping and contracts)	Encouragement and advice, but ultimately they take the risk of not satisfying and audit.	Active participation in the assessment and transparent discussion about record keeping requirements and obligations.
13	12/3/24 14:35:29	12/3/24 14:35:29	anonymous	They struggle with the level of detail needed in record keeping. Even with guidance, records are consistently at a higher level than what we need to report on.	Specific record keeping examples for various industries	It depends on the level of records they have kept, and the size of the claim. In some cases, it would put too much risk on the advisor and I would not proceed with the claim. If there was a chance to remediate records without undue risk, then I would guide the client through this.	
14	12/3/24 14:31:50	12/3/24 14:35:35	anonymous	The client focus on project/actvity progression ahead of documenting the outcome			You can't, you can but ask the questions
15	12/3/24 14:31:51	12/3/24 14:35:58	anonymous	The regulators appear to be judging the scientific adequacy of records using the opinion of external experts, rather than whether the records meet the criteria set out in Sect 262A	Be presecriptive and hire staff that have real life econimic and commercial experience	Get rid of them as clients. I'm very risk adverse	Adopting the 'trust but verify' response. I don't accept what client say, unless I have pressure tested it

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16	12/3/24 14:31:50	12/3/24 14:36:04	anonymous	lack of internal resources, and struggle to come to come to terms with the language of the program - ''hypothesis'' , knowlsdeg gaps are concepts unfamlar to many businesses who are not R&D businesses	some examples of templates for timewriting that will pass muster. Confirmation that a logbook method would be acceptable	advise client that their claim will not be sutainable on audit and so should not be submitted	regular review and quartely meetings with clients to discuss R&D project eligibility
17	12/3/24 14:31:50	12/3/24 14:36:09	anonymous		If the ATO and AusIndustry provided suggested templates for record keeping		
18	12/3/24 14:33:27	12/3/24 14:36:11	anonymous		Examples of best practice templates should be shared.	We exclude their costs/activities from the claim, falling back to the scope / amount which is supported.	Witnessing, and retaining the majority of that evidence on file at our end.
19	12/3/24 14:37:03	12/3/24 14:37:03	anonymous	No barriers, different consultants have different expectations. Hence some consultants will say no to an applicant and other consultants including unregistered agents will be happy to take those applicants on...	Further guidance documentation on the expectation of record keeping	If they don't take my advice and I do not feel comfortable I will not take them on...They'll probably go to another consultant...	I discuss the R&D activities with clients to ensure I am happy with those R&D activities...
20	12/3/24 14:31:52	12/3/24 14:37:08	anonymous	more specific templates made available to companies	more specific sector guidance aligned to templates	advice and sharing guidance available on record keeping. decides not to engage if records are poor and unwilling to improve	sighting sample records available and request sign off from the company
21	12/3/24 14:37:37	12/3/24 14:37:37	anonymous	no dedicated time and person to keep and manage the record	providing templates, regular reviews, having a dedicated team on the client side to record and manage	we advise that no record means to R&D and it's risky to register the R&D	we collect evidence from the clients to cross check the R&D activities and the link

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22	12/3/24 14:31:50	12/3/24 14:37:42	anonymous	Un realistic and poor Accounting practices in Small Businesses.	We Educate them on our requirement on engagement, but too often that is after the R&D has commenced.	We tend to exclude all undocumented costs, this is regretable but as a R&D Tax Agent we have no choice.	We Complete a R&D plan that captures all contemporaneous Research activities, we keep evidence of all expenditure undertaken, General Ledger, supported by Invoices, and Wage Records of R&D Activity.
23	12/3/24 14:31:50	12/3/24 14:38:01	anonymous	Clients informing us that we are requesting "too much information" vs other R&D consultants that don't request any documents or evidence to substantiate their claim.	Clear examples and what DISR and the ATO DO and DO NOT accept as acceptable records.	We hold sessions and encourage them to take advice on example documents to implement in their business/R&D activities.	We request full access to the company's accounting platform so we can see their financials and perform spot checks of R&D expenditure. We also conduct thorough eligibilty checks and background research on what the clients claims is "new knowledge".
24	12/3/24 14:31:51	12/3/24 14:38:21	anonymous	Client understanding of record keeping importance	More education from the departments	Explain that we wont be able to claim	Ensure the client has adequate experiment records
25	12/3/24 14:31:50	12/3/24 14:39:28	anonymous	Start-ups often have a less records as they first enter the program, and also have low staff numbers to balance between getting work done and documenting everything.	Sessions like today are useful for insight into what the ATO and DISR require and will help with a balanced assessment of what companies already have and what gaps to fill.	We advise that some expenditure cannot be claimed on the basis of insufficient records.	Where needed we ask to site example records and evidence of work conducted. There is a often a limitation in our ability to fully comprehend more technical records of work conducted.
26	12/3/24 14:31:54	12/3/24 14:41:08	anonymous	Sense of entitlement - startups don't think they should have to keep timesheets. Companies don't know about the program until after activities have been conducted.	Probably can't do it - but a mandate or stronger guidance to keep timesheets would be more helpful to get the message across. If an advisor declines to assist due to lack of timesheets, they will just go to a less scrupulous advisor. There	You need to comfortable that the client understands their obligations. Claims are prepared on the basis of information provided by the client	Checklists, requesting sample records - make sure you have the conversation and ensure that the client is aware of their obligations. Even if they don't have records, most companies are still going to make a claim on the basis

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					is a perception that previous year R&D has been 'approved' by the Government. This is supported by advisors who obfuscate what registration actually is and pushes 'success' fees		that compliance activities are relatively rare

Post-meeting evaluation

December 2024 Stakeholder Reference Group

Extracted from Mural.

Dot points represent individual notes, ↓ represents connections drawn between notes.

What went well

- Speakers
  s 47F 's update was great.
  Good speaking notes that can be repurposed for other comms.
- sent the messages/information we wanted to get out
- s 47F 's troubleshooting and ability to multitask
- Flow of agenda - worked well.
  Story and welcome.
  People always like to dial in for DISR and ATO updates.
- Audience appeared engaged with lots of interaction
- Tech - Everything went smoothly.
  No issues with slides, people speaking, connecting
- Tech was great and the internal chat was useful for presenters/internal staff
- Attendee numbers about 72.
- Useful information for attendees
- Identified for us that we have a problem.
  We have a good idea ..disconnect between our expectations and what they Tax agents feel.

  ↓
- Misalignment of expectations

  ↓
- We have always known this
- We got feedback on record keeping from attendees

  ↓
- From poll questions, written in the chat and verbal.

OFFICIAL: Sensitive