



5 February 2010

General Manager  
Business Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Sir/Madam

**Response to "The new research and development tax incentive - exposure draft legislation and explanatory materials"**

Austal Limited is pleased to make this submission in response to the "The new research and development tax incentive - the exposure draft legislation (ED) and explanatory materials (EM)" regarding the proposed legislation for the new research and development (R&D) incentive to be introduced from 1 July 2010.

We submit that the draft R&D tax credit legislation does not accomplish government policy intentions of encouraging and supporting R&D activity whilst achieving revenue neutrality through the elimination of low value R&D claims.

Broadly we are supportive of the following features of the proposed legislation:

- Increasing to 40% tax offset;
- Removal of the unlimited assessment period - to 4yrs; and
- The dual administration changes to ensure a more collaborative approach from Innovation Australia and the Australia Tax office.

Broadly we oppose the following features of the proposed legislation:

- Tighter R&D definition
  - experimental activities
  - "considerable novelty" AND high technical risk
  - PKI test - (policy driven) to generate spillover benefits
  - divergence from Frascati (OECD)
  - at odds with international norms at a time of increased competition for global R&D spend
- Supporting activities narrowed
  - "dominant purpose" - previously "directly related"
  - narrows quantum of eligible R&D costs - particularly process trials, prototypes etc
- Exclusion lists
  - eliminates certain activities
- Software claims significantly tightened

100 Clarence Beach Road | Tel +61 8 9410 1111  
Henderson | Fax +61 8 9410 2564  
Western Australia 6166 | Email [marketing@austal.com](mailto:marketing@austal.com)

**Submission to draft R&D tax incentive legislation**

**Austal Limited**

- Feedstock rules
  - previously 'clawed back' only direct inputs subject of processing/transformation
  - market value of R&D output concept
  - include all expenditure, directly related to the output
  - quarantined items (conceptual design etc)
  - successful R&D will be penalised
- Expended not at risk

Over the years a significant amount of the business growth Austal has been able to achieve has been due to Government incentives programs such as the Shipbuilders Bounty, Shipbuilders Innovation Scheme, R&D Start program and the R&D tax concession. Further, over the years we have seen these Government incentives largely reduced. We forecast that the proposed changes to the R&D legislation would be a further erosion of this support.

The proposed legislative changes will introduce significant uncertainty at the commencement of an R&D project and this certainty may only become evident upon the completion of an R&D project. This upfront uncertainty will cause Austal to consider projects without the ability to rely on the risk mitigation factors afforded to it by the R&D tax incentive program and this will alter the decision process and may result in a project not being undertaken.

The above is provided by way of broad and general comment of Austal's views of the proposed changes to the R&D legislation and if you would like to discuss this submission in more detail please contact me on (08) 9410 1111.

Yours faithfully



M J Atkinson  
Executive Director