BOSCH

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

Robert Bosch (Australia) Pty. Ltd
Locked Bag 66
Clayton South VIC 3169
Visitors:
1555 Centre Road
Clayton VIC 3168
Tel +61 3 9541 5555
www.bosch.com.au

Harald Krug, CFO
Tel 03 9542 5299, Fax 03 9541 3900
Harald.Krug@au.bosch.com

5 February 2010

Dear Sir

Submission re the 'New Research and Development Tax Incentive' Exposure Draft dated December 2009.

Thank you again for the opportunity to provide comments on the proposed legislation.

It is unfortunate that the Exposure Draft (ED) from December has overlooked the concerns raised in our October response. Bidding for R&D activities within the Bosch group is fiercely contested, with allocation based on a range of factors – one being the taxation incentive environment. A taxation scheme that supports the risk in innovation and provides incentive for commercialization will provide a solid basis for further R&D investment by Bosch in Australia.

Our understanding of the announced intention was to "deliver a more generous…tax incentive" and so "…lift Australia's innovation capacity and performance". We conclude that Bosch (Australia) will be substantially worse off under the ED propositions. Therefore we wish to reiterate our concerns from October for further consideration.

Bosch (Australia) is committed to applying all statutory requirements in our business transactions. At times these requirements are somewhat burdensome, so we welcome any initiative to reduce compliance costs associated with the current R&D Tax Concession. However, the proposed changes to the R&D Taxation Laws raise the following concerns:

1. Change in definition of R&D Activities

The proposed change to the definition of eligible R&D activities from 'innovation or high levels of technical risk' to 'considerable novelty and high levels of technical risk' will in our view result in a number of projects no longer being eligible to claim the proposed 40% R&D tax credit, as activities undertaken in an R&D project may not be able to satisfy both criteria in the definition. As such, Bosch believes the proposed change to the definition will have a negative effect on the quantum of R&D undertaken within Australia. This negative effect is therefore defeating the government purpose to encourage Australian industry to undertake more R&D activities as illustrated in point 7 below. If activities do not qualify, it will impact on the decision to locate these projects in Australia.

2. Supporting R&D activities subject to major limitations

The application of limited supporting activities will in our view have a substantial impact on a company's R&D claim. This change represents a significant shift away from established practice and will deny claims for some supporting activities such as pre-production trials, which have previously been legitimate R&D activities and are a necessary confirmation of design for commercialisation. As supporting R&D activities are essential, this will have a direct effect on the quantum of a company's R&D claim and be determinative to their decision to undertake R&D in the first instance. The increased level of benefits is of no incentive if the quantum of eligible expenditure is substantially reduced. Having to identify which activities are core and which are supporting will largely increase the compliance burden.

3. Excluding Pre-production activities

The proposed change to limiting the amount of supporting activities by excluding pre-production activities, such as saleable prototypes and run-at-rate trials, in our view is fundamentally flawed. By their very nature, pre-production activities are necessary elements to prove the technical feasibility of a proposed design or development. They are as integral as an idea or a drawing. In most cases they also generate significant costs to the business and therefore in the most need of government support.

4. R&D Expenditure Conducted Overseas

With reference to Principle 1 of the consultation paper, eligible R&D activity must be conducted in Australia unless with prior approval. We often require our Australian based and international Bosch affiliates to have direct contact with our overseas customers in order to fit our R&D to customer requirements. Additionally, in order to test our products in different environmental conditions, we are required to perform winter testing in locations such as Sweden or New Zealand. It is noted that pre-approval for overseas expenditure may be obtained. The process for obtaining this pre-approval must be an efficient process where decisions are made and communicated in a timely manner. In any case this will increase the compliance burden, rather than reduce it, which is the stated aim of the proposed legislation.

5. Supporting Software

Bosch (Australia) has been successful in developing a vehicle dynamics group from a base of 5 engineers in 1995 to over 75 today. It is recognized within the Bosch group for its regional expertise and works on local and international projects. The core activity of this group is to develop unique software from a base platform (a process of typically 12 months or more). Innovation through each vehicle & product generation are high as is the technical risk, but under the proposed software exclusion provision, these activities will no longer be eligible. Software is a part of nearly every product that Bosch (Australia) designs and develops in Australia. Competitive pressure will increase the likelihood that these activities will be moved to an offshore location that recognizes software as being included in the research and development.

6. Augmented feedstock & Expenditure not at risk

Some activities undertaken by our R&D group is funded from our German parent. Under the proposed feedstock rules, labour and materials would be clawed back. These projects would also be unable to be included given the expenditure not at risk provision, which would also require claw back of the expenditure. This will result in some projects that were supposed to be eligible under the new rules regarding foreign owned R&D not being eligible.

Similarly, the 'Expenditure not at Risk' provision would also preclude a claim for R&D activities undertaken for our German parent. Similar provisions in the current R&D Tax Concession do not apply in respect of R&D work done for related foreign companies. At a minimum this should be replicated in the proposed R&D Tax Credit.

Bosch (Australia) would suggest that the "At Risk" and Augmented Feedstock provisions should be abandoned and the Augmented Feedstock rules be relaxed to either exclude all labour and materials consumed, or simply revert back to the Feedstock Rules under the current R&D Tax Concession.

Once again, we want to stress the importance of reconsideration of the above points and its impact on the 'real-life' examples of R&D activities at Bosch (Australia).

Yours sincerely

Harald Krug
Chief Financial Officer
Robert Bosch (Australia) Pty Ltd