

CSR LIMITED

Triniti 3 39 Delhi Road North Ryde
NSW 2113 Australia
Locked Bag 1345 North Ryde BC
NSW 1670 Australia
T 61 2 9235 8000
F 61 2 8362 9012
www.csr.com.au
ABN 90 000 001 276

Martin Jones

General Manager, Government Relations
Direct Telephone 03 9283 4733
Mobile 0419 475 962

General Manager
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600
19 April 2010

Email: rdtaxcredit@treasury.gov.au

Dear Sir/Madam,

Tax Laws Amendment (Research and Development) Bill 2010 - 2nd Exposure Draft

Thank you for the opportunity to comment on the second exposure draft legislation.

CSR is disappointed with the provisions in the second draft and does not believe sufficient of our concerns with the first draft have been addressed. Our separate submission on project examples provided clarity on the anticipated impact on projects which previously were funded under the program. The examples showed that funding would be eliminated in some cases and virtually eliminated in most others. The second draft made some concessions, but they are of limited value in the context of the core R & D issue. While it has not been specifically stated anywhere, CSR's natural conclusion of the draft as it stands, is to effectively eliminate all but white coat Research and remove Development programs from the R & D measures. It would not appear that this is the stated objective or intent of the legislation - however it is the consequence should the legislation be enacted. Manufacturing industry is more likely to have a higher proportion of D than R and the legislation will inevitably have a profound impact on the future competitiveness of Australian Industry.

Specific Issues with the Second Exposure Draft

Core R & D Activities

he revised definition essentially eliminates the prospect of what might be called development work and constricts effort to pure research, or the pursuit of new knowledge. For example, the standard of 'new knowledge' appears to have been lifted from 'new to the company' to 'new to the world'. That would be a totally impractical standard, and in almost all cases, impossible to achieve except in an esoteric lab scenario. It appears to eliminate applied research and experimental development where the majority of R & D expenditure in manufacturing industry would normally occur. CSR closed its pure research laboratories many years ago as did many Australian companies. Where white coat research was required ahead of a product development phase it is outsourced, but the majority of activity is applied and experimental development.

As previously submitted

- About 85% of CSR R & D expenditure involves trialling high-risk products or where both safety and efficacy must be assured, or is far from given.

Production Related Activities

- The second ED extends the dominant purpose requirement for core activities to now exclude production costs from supporting activities. Once again this has the impact of shifting R & D from the factory to the laboratory, or more likely to not conduct the program at all due to the unavailability of pilot plants or other suitable lab scale equipment.
- The clawback provisions for success whereby a product is in some form or other are saleable need to be factored in as an additional success risk at the time of program development are another disincentive to conduct R & D.

Feedstock Rules

- The promised relief from the augmented feedstock provisions are welcome, but in the context of the tightened dominant purpose test are likely to be of little benefit as development will not take place in the manufacturing process. It is a worthwhile concession only if the other rules don't block it. Furthermore the details of these provisions have not been provided so a comment can only be made "in principle".

Software

- CSR welcomes the amendments to the software clause.

Summary of Changes

In summary, the tightening of the definition of core activities and the disallowance of commercially focussed supporting activities reinforces the view expressed in our earlier submission that the Government is shifting from what is effectively an innovation, research and development policy to a regime of research only.

What can be done?

If Government is concerned about the size of individual claims it could impose a limit of say \$20 million per project - apply caps to claims. The existing definitions of R & D and other deductions could be retained.

If the Government is serious about its objectives as promoted by Ministers, then serious work should be undertaken to make the program more workable.

Specifically:

Re - review the ED in relation to the originally stated objectives and seriously consult with industry on how to achieve those objectives.

In so doing recognise not only basic research, but include applied research and experimental development.

Remove the dominant purpose test

Develop the feedstock provisions so that industry can understand the implications.

Seriously consider delaying the implementation date to 1 July 2011 to allow for proper considered feedback and a re-write that reflects the true Government objectives. Something as serious and defining as R&D policy should not be done 'on the run' with a self-imposed artificial deadline.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Martin Jones', with a horizontal line drawn underneath it.

Martin Jones