



19 April 2010

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

Dear Sir/Madam

Second Exposure Draft of the *Tax Laws Amendment (Research & Development) Bill 2010*

The Australian Coal Association (ACA) welcomes the opportunity to comment on the Second Exposure Draft of the *Tax Laws Amendment (Research & Development) Bill 2010*.

This submission should be read in conjunction with previous ACA submissions on changes to the R&D Tax Concession and we refer you to the submission of the Minerals Council of Australia (MCA) which addresses broader R&D tax issues associated with mining. The ACA supports the MCA submission.

ACA and ACALET

The Australian Coal Association (ACA) represents Australia's black coal industry which is Australia's largest export earner (valued at \$54.7 billion in 2008) and fuels over 56 percent of Australia's electricity.

Through the \$1 billion COAL21 Fund, managed by ACA Low Emissions Technologies Ltd (ACALET), the ACA is making a significant investment in low emission coal R&D. The ACA is concerned that many of the proposed amendments will significantly reduce the scope of eligible R&D activities and act as a disincentive for investment in R&D while also discouraging collaborative partnerships such as the COAL21 Fund.

Encouraging Collaborative Research Partnerships

In 2006 the ACA established the COAL21 Fund as part of a world-first whole-of-industry funding approach to address greenhouse gas emissions. The COAL21 Fund will raise \$1 billion over 10 years from a voluntary levy on black coal production to support the pre-commercial demonstration of low emission technologies in the power generation sector, including Carbon Capture and Storage (CCS).

CCS has been identified by governments and industry as a technology of considerable strategic interest to Australia. By supporting the development and commercial-scale demonstration of CCS, the COAL21 Fund complements Australian Government initiatives such as the \$2 billion CCS Flagship Program and the Global CCS Institute.

The Australian coal industry's collaborative approach to R&D has a number of benefits:

- By pooling industry resources, the COAL21 Fund is able to support large-scale demonstration projects which require capital, personnel and expertise which is beyond what is typically available within individual companies;
- A coordinated industry approach avoids the duplication of R&D activities and achieves solutions in a more economically efficient manner; and
- The approach supports more efficient technology transfer with contributing companies obtaining the knowledge and use of the intellectual property rather than this being concentrated within one

company. This is particularly important in the case of low emission technologies where accelerated deployment is critical to achieving domestic and global emissions reductions targets.

The ACA submits that collaborative approaches to R&D should be recognised and encouraged in the new legislation. To an extent, this has occurred with the streamlining of treatment of Cooperative Research Centres (CRCs). The amendment to allow monetary contributions made by program participants, rather than expenditures out of those contributions, to be eligible for a tax offset will significantly reduce administrative complexity and a similar approach could be applied to other recognised collaborative arrangements, such as the COAL21 Fund. Program conditions could be developed to ensure the tax offset is applied only for eligible R&D activities.

The ACA recommends that the streamlined treatment of CRCs should be extended to other collaborative industry R&D arrangements.

Alternatively, the “on own behalf” requirements should be amended to provide for collaborative R&D arrangements, consistent with ACA’s previous submissions.

Core v Supporting R&D Activities

The ACA considers the move away from the definition of core R&D as proposed in the first exposure draft and the restoration of ‘directly related’ as the test for supporting R&D activities as a step in the right direction. However, the proposed retention of the ‘dominant purpose’ test for some supporting activities, including those directly related to the production of goods or services, will add to uncertainty and may undermine R&D investment in the mining sector. We refer you to the submission of the MCA on this issue.

Implementation Timeframe

The ACA recognises that the proposed changes to the R&D tax concession represent an ambitious reform program which will have economy-wide implications. An implementation timeframe of 1 July 2010 will not allow companies sufficient time to determine if their intended investments will meet the new eligibility requirements. **The ACA recommends a period of more considered consultation with an implementation timeframe of 1 July 2011.** This will allow the development of a workable approach and would reduce the substantial uncertainty and costs associated with adjustment to the new law.

Yours sincerely,



Ralph Hillman
Executive Director