

26-10-2009

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

Dear Sir,

SUBMISSION ON THE NEW RESEARCH AND DEVELOPMENT TAX INCENTIVE CONSULTATION PAPER, SEPTEMBER 2009

The Australian Geoscience Council (AGC)* is responding specifically to Question 5 of the Discussion Paper which states “Should the current list of activities excluded from being considered core R&D be a) amended in any way, or b) extended to exclude certain activities from being considered supporting activities?”

The Discussion Paper states that “the current list of activities currently excluded from being considered core R&D is expected to be retained under the new R&D tax incentive”. The exclusion list is provided at Attachment C of the Discussion Paper.

Item c) of the exclusion list states “prospecting, exploring or drilling for minerals or natural gas for the purpose of discovering deposits, determining more precisely the location of deposits or determining the size or quality of deposits”.

These words constitute an effective job description for thousands of Australian geoscientists who are represented by the AGC, and some are employed in companies that carry out R&D (as R&D is currently defined). We find it quite inexplicable that the specific industry which employs these skilled professionals should be discriminated against so directly. We call for the deletion of item c) from the list of exclusions.

In support of our assertion that item c) should be removed, we provide the following arguments:

- There is no comparable description contained in the exclusion list for firms employing agricultural scientists, engineers, physicists, chemists, pharmaceutical staff, software developers, financiers or bankers, whose routine employment also involves a keen desire to be innovative in their activities together with a degree of uncertainty of success in task accomplishment.
- Before becoming eligible to participate in the new R&D tax incentive, all of the industries mentioned in the first dot point above (and many other industries) must comply with the generic definition of R&D and the specific rules of compliance with the R&D tax incentive,. There is no rational reason why the resource exploration industry should be singled out for especially harsh treatment, namely absolute exclusion from eligibility as core R&D.
- Other exclusions (such as market research, quality control, management studies) are clearly general in nature, applying equally to all industries, highlighting the fact that item c) is inconsistent in its specific targeting of a single industry.

- The resource sector is important to Australia and new technologies will be needed to maintain our contribution to the national economy. These technologies might include more sensitive and more powerful geophysical instrumentation to detect resources under great thicknesses of sediment cover. Much improved, small scale data acquisition systems suitable for lowering into deep boreholes are required. New geochemical instrumentation designed to differentiate between barren terrains and mineralised terrains would ensure expenditure is applied more effectively. The industry's greatest cost is drilling and the invention of new drilling methods and new downhole measurement devices to capture the maximum amount of information is essential. Furthermore, the nation's most important commodity is water, and the capacity to better detect, delineate and characterise large deep groundwater systems is obviously a high priority, one which could be ranked much higher than other R&D activities which are not subject to the ad hoc exclusion currently applied to the resource sector under item c).
- While there are other provisions for tax deductibility of mineral exploration expenditures, similar deductions are equally available to other industries, and those deductions have no role in increasing the level of Business Expenditure in R&D in Australia. There are companies which are not in a tax paying situation and yet still are capable of conducting elements of valid R&D and deserve the same access to incentives as other industries.
- We acknowledge that it is still Government policy to introduce a Flow Through Share Scheme (FTSS). However, in the event that a FTSS is implemented, and this is overdue, the FTSS has no function in providing an incentive for increasing R&D expenditure. It is a quite separate issue that the Canadian FTSS has increased the availability of capital for resource exploration, and given the exceptional contribution of the resource sector to Australian export earnings, the introduction of the FTSS has merit. However, it has no relationship to encouraging investment in genuine R&D.
- It is suggested in the Discussion Paper on Page 13 that "currently excluded activities can be undertaken as a supporting activity and thereby attract assistance". However, the proposed distinction between core R&D and supporting R&D makes the maintenance of the exclusion in item c) unfair and discriminatory. As explained above, there is no reason why one specific industry sector should be subject to different treatment than others.

There may be some concern that the removal of item c) from the exclusion list would lead to a flood of applications from the resource industry seeking support for routine exploration activities such as described in item c), In this circumstance, the proposed guidelines and examples for the new R&D tax incentive could contain a statement that standard prospecting, exploring and drilling for minerals or gas do not meet the definition of R&D. Equally there should be statements that standard development of new software does not constitute R&D, and that standard improvements in agricultural practice do not constitute R&D.

In conclusion, we argue that a blanket exclusion applied to mineral or natural gas exploration is unreasonable and that all cases should be considered on their merit where there are potential advances in technologies.

We would be pleased to respond to any enquiries regarding this submission.

Yours sincerely

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* The **Australian Geoscience Council** (www.agc.org.au) comprises the Presidents or CEOs of eight major geoscientific societies in Australia with a total geoscience membership of ~9000 comprising industry, government and academic professionals in the fields of geology, geophysics, geochemistry, mineral and petroleum exploration, hydrogeology, environmental geoscience, engineering geology and geological hazards.

The member societies of the Australian Geoscience Council are

- the Association of Applied Geochemists,
- the Petroleum Exploration Society of Australia,
- the Australasian Institute of Mining and Metallurgy,
- the Australian Geoscience Information Association,
- the Australian Institute of Geoscientists,
- the Australian Society of Exploration Geophysicists,
- the Geological Society of Australia, and
- the International Association of Hydrologists (Australian Chapter).