



October 23, 2009

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

Dear Sir / Madam

Ref: Submission for the R&D Tax Credit proposed changes

Our company, Powernet is a local software company. The existing R&D concession program has proven extremely valuable in supporting our R&D activities to date. It is simple to administer and its outcomes reasonably predictable. It has enabled us to employ ten (10) staff engaged primarily in researching and developing a new breed of internet components and applications.

This submission is to provide our concerns over the proposed changes as outlined in "The new research and development tax incentive – Consultation Paper" dated September 2009.

The three key areas (in order of priority) that I wish to comment on are:-

1. Software R&D (the test)
2. Separation between core and supporting R&D activities
3. Location of IP Ownership
4. Replacement of Accruals with Cash payments for eligibility

1. SOFTWARE (Strongly Disagree with UK System)

In the existing tax concession program, the "Multiple Sales" test is being used. The question is whether this is an appropriate and sufficient test of Software R&D. My argument is to keep this test as an adequate measure of eligibility. It supports what should be an important outcome of software R&D ie to commercialise and sell software licenses and services.

The Australian Computer Society (ACS) has released the findings of its annual 2009 Australian ICT trade update, revealing a growing annual ICT trade deficit of \$28 billion in Australia. This indicates a growing demand for ICT from Australian business and governments which represents a great opportunity for local suppliers to service this demand and help reduce the sector deficit.

Under the UK ruling, internet applications, user experience, workflow and performance improvements will not be eligible. Even activities like market research and production testing that support the commercialization process will be excluded. Most software companies conduct such R&D activities as opposed to creating new operating systems.

As there is no other Government R&D program available, the effect of the UK ruling will be to “blow torch” R&D support for the software industry, especially SME’s. Australia will end up importing more software from countries that are better supported by Investor communities (eg Silicon Valley) and their governments.

2. Separation between core and supporting R&D activities

Taking on an R&D commitment in itself is a big investment of time, effort and money. Companies need greater certainty of support from this program. This proposed change of separating core and supporting R&D activities will increase compliance cost and create greater uncertainty with no benefit to the company.

Improvements are required to provide clearer guidance to companies. This can be done through better on-line help, industry specific examples and free access to consulting services from government specialists in this area. Seminars and on-line R&D community portals will facilitate networking, sharing and exchange of information and expertise.

3. Location of IP Ownership

Surely a critical outcome of the research and development process in software is the ownership of IP and the commercial benefits that stem from there. In the new world where ICT plays a growing role, Australia should encourage IP development and ownership. Some governments (like Malaysia) fund acquisition of IP from overseas through their R&D program as they recognise the long-term benefits of IP ownership.

4. Accruals vs Cash payment for R&D expenses

This should be consistent with the tax method chosen by the company. If the company is accruals based, it should be allowed to use this as the basis for expense claims. Companies already have to wait for many months after the expense is incurred before the benefit of the tax credit is realized. Allowing accruals makes the program more effective from a cash flow point of view.

Summary

The program needs to bring the elements together that supports genuine R&D for commercial success that benefits Australians.

Yours sincerely,



Ms Lean Kaw
Director
Powernet Systems Limited