

## **R&D Tax Credit Consultation Paper: Quarterly Credits AMWU Comments**

In order to secure support and have its R&D Tax Credit legislation pass through the Senate and receive Royal Assent a year ago in 2011, the Commonwealth Government, through then Industry and Innovation Minister Kim Carr, agreed to a proposal to improve the cash flow of small firms (SME's with less than \$20m in turnover). A similar proposal was part of the Cutler review of the Innovation System.

Under this proposal, those firms eligible to receive the 45% refundable R&D tax credit would be able to receive quarterly installments (or offsets against tax payable) rather than waiting a year to access funds from their eligible R&D activities.

The AMWU supports in principle this initiative to improve the cash flow of SME's undertaking R&D.

More than 4,000 manufacturing firms are likely to claim the R&D tax credit in coming years and most of these manufacturers have turnover of less than \$20 million. In the current climate where many manufacturers are experiencing a squeeze on cash flow, accessing the R&D refund available on a quarterly basis rather than waiting to the end of the income year will make a difference for a number of cash flow constrained firms.

As the Consultation Paper suggests:

*Quarterly credits are designed to assist small and medium sized companies expecting to receive a refund of the R&D refundable tax offset for the current income year to anticipate that refund on a quarterly basis. Quarterly credits will be accessible for each quarter commencing on or after 1 January 2014. Quarterly credits will improve cash flow, and enhance incentives to invest in R&D. The proposed design seeks to minimise additional compliance obligations and maintain tax system integrity.*

The AMWU supported the concept of quarterly tax credit claims. Our main concerns with the R&D legislation was with the "dominant purpose test" and how it would make ineligible R&D activities previously allowable for manufacturing R&D. We were also concerned that the regulation of the program did not hinder the objective.

In that light, we note that while firms will self assess, they will need to register for quarterly credits with Innovation Australia and, following the processing of the claim, receive a quarterly credits notification number. This number gets the firm through the door at ATO who will calculate the company's quarterly credit amount for the income year, based on the latest year for which the company's income tax has been assessed. "For each quarter of the income year, in making the quarterly credits, the ATO will offset the quarterly credit amount against any existing tax liabilities the company may have and transfer any surplus credit to the company's nominated income tax financial institution account."

We appreciate the intent of this procedure however, to encourage participation, efforts should be taken to minimize the processing times through Innovation Australia and the ATO. We note that processing might be further delayed by audit or through Innovation Australia's processes to determine eligibility of the core or supporting R&D activities. Similarly, there could be delays as a result of requests for advance rulings. Originally it was intended that all advanced rulings would be processed within 90 days, and we would encourage best efforts be taken to meet this timeframe.

The consultation paper states:

*"Quarterly credits have been designed with a view to minimising additional compliance obligations for companies. It is not expected that there will be further significant record keeping obligations in addition to what is already required for the R&D Tax Incentive and the tax system more generally. "*

The review committee established to ensure the R&D tax credit scheme works, without any unintended consequences has had a preliminary meeting and we urge this body to ensure that the regulation of the scheme meets this test.

The AMWU is disappointed that quarterly access to refunds only starts in 2014. This delay comes at a time when many manufacturers are facing a cash flow squeeze. However, that was a matter decided some time ago when it was determined that simply having a history with the previous R&D tax concession was insufficient prequalification for the quarterly credit and that firms had to be participants in the new system before being eligible to claim quarterly.

The bottom line from the AMWU's perspective is that we support the position adopted by the non-government members of the Prime Minister's Manufacturing Taskforce who emphasized that it will be **“important to monitor the initial operation of the new R&D tax incentive arrangements to remedy unintended consequences as there are risks that the new dominant purpose test and feedstock provisions will undermine R&D spending and the scheme may be difficult to comply with”**. It is these risks, rather than what is proposed to administer quarterly payments that are the real threats in the new system.