

By Email

General Manager
Small Business Tax Division
Treasury

8 May 2013

Dear Sir / Madam

Re: Submission re consultation on ED legislation for proposed quarterly R&D credits

We appreciate the opportunity to respond to your renewed request for submissions on the issues that will arise in respect of the proposed quarterly credits provisions that will interact with the refundable R&D tax offset rules under Division 355 of the *Income Tax Assessment Act 1997*.

It is pleasing to see that the arrangements set out in the Exposure Draft (ED) legislation are much improved from those originally proposed in the consultation paper and reflect many of the suggestions made in our submission of 31 August 2013. We concur that the revised ED legislation now reflects a more simple approach whilst retaining a necessary element of integrity issues.

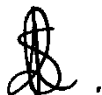
However we set out below some final suggestions that we believe could address some of the remaining compliance issues arising:

- It would be useful to have an exception from the history rule (which requires an R&D claim in 1 of the last 5 income years) for private companies in their first year of operation which satisfy the other requirements (somewhat akin to the exception to the FDT offset penalty component in ss.205-70(5) as introduced in 2005).
This would ensure that genuine start-ups can access the quarterly refunds at least a year earlier than under current proposals. These are the very entities who most require access to increased cash-flow and who are targeted by the new R&D tax incentive program.
- It would also be beneficial if the final legislation could provide for a Commissioner's discretion to waive GIC if amounts are varied beyond acceptable levels but this ended up being due to events beyond the control of the company (akin to ss.205-70(6)).

We hope that these short suggestions prove useful in the drafting of the proposed final legislation on this issue.

Should you wish to discuss our submission in greater detail, please do not hesitate to contact either me on (03) 9671 7376 or alternatively Roisin Arkwright on (02) 9322 7412.

Yours sincerely



Serg Duchini
Director, Deloitte Tax Services Pty Ltd