

23rd October 2009

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

Dear Sir/Madam

RE: Submission on Consultation Paper for proposed New R&D Tax Incentive Changes

Object Consulting is Australia's leader in delivering enterprise business solutions through the innovative use of component technologies such as Enterprise Java, .NET and Open Source. Our expertise is in the timely, cost-effective delivery of large-scale applications for major organisations.

Object sees the future of software engineering in the creation of Intellectual Property that either aids in software development, or has commercial application in a particular industry.

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

The three main areas of concern for our business and the points I wish to comment on are:

1. Separation between core and supporting R&D activities
2. Location of IP Ownership
3. The issue of Software R&D – (the test)

Separation between core and supporting R&D activities

It is not as simple to practically separate core and supporting R&D activities when developing software. The successful development, delivery and commercialisation of any software product are dependent on both the core and supporting activities.

The separation of these activities was changed many years ago, there is no reason to turn back time and increase the amount of investment an organisation needs to make in terms of time, effort and money whilst working to achieve results from the R&D commitments it is making. Compliance costs, administrative costs, risks and benefits of undertaking R&D will increase the uncertainty and provide no benefit to companies undertaking R&D activities.

Location of IP Ownership

I strongly disagree that consideration will not be taken into account on whether IP from an eligible R&D activity is owned in Australia or overseas. Australia needs to encourage IP development and ownership

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as it is what sets us apart from our competitors. It is IP and knowledge that has most value for any organisation and the most critical outcome of the R&D development process in the software industry.

If ownership of IP is domiciled by foreign owned companies or overseas, then the “spill-over” advantages will not benefit the Australian economy but will be forgone to overseas economies. Shouldn't the desired benefit of the R&D tax program be the overall outcome this system will bring to the Australian economy and the benefits that the “spill-over” is most likely to generate?

The issue of Software R&D – (the test)

A possible change to the test for R&D on Software may need to be reviewed and it is appreciated that the “multiple sales” test which was introduced some 20 years ago did not fully consider the extent of development of e-commerce, however the UK system is also inappropriate as it excludes many software projects which could ultimately reap benefits for the Australian economy.

I believe the Multiple Sales test currently being used is an adequate measure. The ultimate outcome is for the software R&D to be commercialised and sold whether in the form of licences or services. By adopting the UK or a similar system, Australia will end up encouraging the importation and purchase of software from overseas corporations and countries better supported by investor communities like Silicone Valley.

Software as a Service has changed the way in which many software development companies now operate especially with the introduction of Cloud and Web based computing and the technologies brought about from these changes. Such technologies have changed the way in which we commercialise our software. The changes see us licensing access or usage to technology that is hosted in the Web or Cloud rather than licensing or selling a software application or module.

The changes you propose are deterring companies from investing in these types of technologies or commercialising their R&D; and this certainly won't place the Australian economy at the forefront or benefit our country against its competitors to be perceived on a global scale as a provider of software solutions.

Thank you for allowing and accepting our submission on the R&D tax incentive. We hope that a final outcome takes the above into consideration and supports the commercialisation of R&D and the desired need for research and development practices to ultimately benefit Australian organisations and the economy on a whole.

Yours Sincerely,



Gerry Carroll
Managing Director
Object Consulting Pty Ltd