



**BioMelbourne
Network**
Progressing BioIndustry

5 February 2010

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

By email: rdtaxcredit@treasury.gov.au

Dear Mr McCulloch,

The BioMelbourne Network extends thanks and support to the Government for the timely review of the Research and Development Tax Credit System and welcomes the opportunity to comment on the Exposure Draft Legislation.

The Victorian biotechnology industry is broadly supportive of the changes proposed and it is expected that the sector will see significant benefits from the proposed scheme.

The BioMelbourne Network is an independent Victorian Biotechnology Industry Association comprising of approximately 170 organisations. The Victorian biotech sector is the largest biotech community in Australia.

In mid January, the BioMelbourne Network and Ernst & Young hosted a discussion forum with six biotech company representatives, all of whom are members of the BioMelbourne Network, to review the draft legislation. This submission reflects this discussion and is generally representative of the Victorian biotechnology community.

1. The BioMelbourne Network supports the Government's intention to provide **pre-claim advice**, regarding eligibility of activities, to claimants. This would be particularly helpful to SME biotech companies who's R&D activities can sometimes be very complex and technical.
2. The BioMelbourne Network supports the removal of the requirement for **ownership of intellectual property** being held in Australia before a company can access the tax incentive scheme. This is directly applicable to a number of companies, Australian owned and multinationals, within the Network.
3. The BioMelbourne Network would like to see SME's (those without any chance of near term tax liability) gain access to quarterly **tax credit payments** to support cash flow and enable companies to plan and undertake R&D activities at a more rapid rate. Speed of development being a major consideration for the biotech industry. This could be enabled by encouraging SME's to register their intention to claim on line, in advance.

4. The BioMelbourne Network is concerned over the wording related to **Principle 5 in that: the new R&D tax incentive should target R&D that 'is in addition to what otherwise would have occurred'**. This is contrary to the fundamental principles of the biotechnology industry where research and development activity is carefully designed within limited budgets and firm timelines. If encouraging additional R&D activity is a guiding principle for the scheme, then the biotechnology sector is very unlikely to indulge in additional activity that ordinarily would not be considered. This scheme will not deliver a significant increase in R&D activity for the SME biotech sector.
5. The BioMelbourne Network supports the suggestion that there should be **exceptions to the general rule that eligible R&D activity must be conducted in Australia**. The biotech industry often must access infrastructure, facilities and expertise in its R&D activities that is simply not available in Australia, but considered both core and supportive of the R&D process. Speed of execution of these R&D services is also a major consideration for Australian biotech companies. Often overseas suppliers can deliver outcomes much faster than Australia service providers.
6. The BioMelbourne Network consultation raised concerns about **Design Question 4 : should supporting activities be capped as a proportion of expenditure on core R&D**. The biotech sector in general applies almost all of its administrative focus to supporting the R&D process. In industries (and companies) where the core purpose is research and development, a proportion of administrative overheads being eligible as supporting R&D activity is certainly reasonable.
7. The BioMelbourne Network would argue that the relationship of **licensing and patenting costs** is related to R&D activity as 'supporting' and integral to the success of the R&D program.
8. The BioMelbourne Network requests **confirmation that clinical trial activity will be eligible** and that changes to the exclusion list and definition of supporting activities would not jeopardise that. Clinical trial activity, in each of the phases, is critical to the R&D pathway.

We would be happy to discuss our comments further if you require. Once again, thank you for the opportunity to comment on the draft.

Kind regards,



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