



Multibase WebAustralis Pty Ltd
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General Manager
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

rdtaxcredit@treasury.gov.au

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Dear Sir/Madam

This submission is in relation to the proposed R&D tax credit exposure draft legislation treatment of software development.

I am a major shareholder of, and manage, a 30 person software development and hosting company in Macquarie Park, NSW. We have been undertaking R&D activities since our formation in 1983, benefiting from and leveraging for our customer's benefit, the tax concessions which apply to eligible R&D.

As a result of our activities, government and businesses ranging from the very large to the very small have benefited. For example, our database and development software was used in the 1980s to count Australian federal elections, it has been in use for many years in Wesfarmers treasury, it was core to the float of www.travel.com.au, the first Internet based business to list on the ASX, and is core to managing national department and provincial government accounts in PNG.

The proposed changes to the current R&D regime will now severely reduce our ability to claim a tax concession for R&D activity because of considerable and onerous additional requirements:

- Require compliance with a new dual test demanding novelty and high levels of technical risk, an approach that has been rejected in all other global jurisdictions and the OECD.

We believe this condition should be scrapped and the current '...AND/OR...' condition retained. Reasons for this:

- The difficulty of defining the degrees of what does and does not constitute the element of 'innovation', which in itself can be an extremely complex and highly contentious issue and may ultimately be subject to personal interpretation.
- The difficulty of proving what is or is not 'innovation' when no patent exists. How does one prove or otherwise, that the outcome is innovative and that there is no other competitive product out there bearing same level of sophistication or innovation?
- The cost and burden of proof a company would have to undertake may greatly diminish its desire to partake in R&D.
- How will an assessor with no high level of associated technical knowledge be able to pass judgement on what is or is not innovative in a highly specialised field? Will the government support this new enterprise by entering a new phase of training and employing highly skilled and knowledgeable assessors undertaking the task of determining eligibility, or will this scheme, like so many others fail to meet expectations because compliance cannot be guaranteed due to highly restrictive definitions and inadequate resources? Compliance should be a guaranteed outcome by virtue of setting realistic benchmarks.
- The element of High Level of Technical risk is a far better measure in such circumstances and provides a better gauge of the high level of development that a company has had to undertake.

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- Require R&D activities to pass four interlocking threshold tests, adding considerable administrative burdens to our small business;
- Require a distinction between core and supporting R&D activities according to new test criteria;

Commercial reality dictates that development of core processes, as distinct to pure research, very often blends in with support requirements.

Questions that arise here are:

- How will a company be expected to differentiate between 'core' and 'supporting' R&D activities?
 - At what stage will the cost of maintaining the records relating to the costs associated with both types of R&D for each project become a significant add-on project cost to a company by virtue of it being extremely time consuming and meticulously demanding.
 - Would a company, as many now already do, consider that the uncertainty of getting an expected dollar outcome from the government far outweighs the potential benefits, hence will either not proceed with the projects or not claim and hence 'short change' the project's potential?
 - In reality this concept could prove to be a compliance nightmare, resulting in much time and money spent by private enterprise as well as assessors on 'finding needles in haystack's' and could strongly influence many companies to rethink their position with respect to R&D commitment.
- Specifically exclude software services (other than software development) from legitimate R&D activity.

We endorse the abolition of the 'multiple sale rule', however, why are we looking at adopting a restrictive UK model when Australia has so much to gain from formulating a leadership position in this fast growing field of technology?

- The field of software development is surging ahead in leaps and bounds. It is difficult to predict what will or will not be researched or developed within the next 12 months let alone next decade. It is therefore not practical to impose limitations and exclusions on software companies which may in the near future become meaningless and outdated and possibly even now don't reflect reality.
- The mere fact that a system already exists, be it manual or automated, should not automatically mean that further software development by a company excludes R&D. Often there is R&D involved.
- Systems of integration of pre-existing modules may have degrees of complexity and carry considerable innovation and require considerable development. No new software project these days is developed from the ground up. Pre-existing modules are always involved. This proposed change is equivalent to saying that all buildings have to be made of individually handcrafted bricks!

R&D is fundamental to the development of a vibrant digital technology. The federal government has stated that building smart applications in health, education and agriculture is one way to lift our economic growth. However, at the same time, the conflicting messages sent to small and medium companies who are currently developing those applications through R&D activities, is a real disincentive to any further effort.



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The R&D sector and professional advisors to the ITC industry opposed these changes vigorously in 2009. It could appear that our concerns have so far been ignored.

In an effort to capture all R&D activities across all industries, the proposed legislation shows a complete ignorance of the realities of the contemporary, global, software development industry.

Yours sincerely,

A handwritten signature in black ink, appearing to read "S. Atkins".

Steve Atkins
Managing Director
Multibase WebAustralis Pty Ltd