THE UNIVERSITY OF
MELBOURNE

General Manager
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The Treasury
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PARKES ACT 2600

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Delivered via email to: rdtaxcredit@treasury.gov.au

To Whom it May Concern,

The new R&D tax incentives in the
Exposure Draft – Tax Laws Amendment (Research and Development) Bill 2010
A submission by Melbourne Ventures

Background

The University of Melbourne has more than 44,000 students and around 6,000 teaching, research and professional staff, and is one of the largest research organisations in Australia. Melbourne Ventures is wholly owned by the University, and provides commercial advisory and technology commercialisation services to the academic community of the University. Over recent years Melbourne Ventures has seeded the establishment of over fifteen new start up entities arising from university research in a diverse range of technologies from IT, life sciences and biotechnology. Melbourne Ventures is also active in supporting the ongoing management of a number of these companies in their early years through its New Ventures group. We therefore have a considerable base of hands-on experience in the challenge of commercialising technology.

Observations on the proposed legislation

It is well established that university start ups as a whole provide returns to the economy in the form of local skilled employment and export earnings. In 2004 Australian universities held start ups valued at over $85 million and attracted new capital of over $167M[1]. The seed stage however still requires significant support, and in our experience the R&D tax concession program is one important avenue of support, particularly for the current R&D tax concession Cash Rebate providing smaller companies with the benefit in cash form rather than as a tax deduction. The proposal to increase the rate of return from the current 37.5% to a Refundable Tax Credit of 45% is therefore, in our view, positive. The companies established by the university sector typically are very research intensive with extended periods in tax loss. Initiatives such as the R&D tax concession provide the ability to accelerate the path to market and are increasingly important in bridging the gap towards sustainable technology businesses.

[1] National Survey of Research Commercialisation for Years 2003 and 2004,

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We also welcome the proposal that tax exempt entities may now hold up to 50% of a company before the entitlement to the Refundable Tax Credit is removed, compared to the current cap of 25%. It is not uncommon at the very early stage of a company's life, before venture capital funding is received, that universities will hold more than 25% equity, and this is exactly the time when refundable R&D credits may be most valuable to the company's survival. The new 50% cap will improve the workability of this rule in practice.

One area of concern to us is that of *Core technology expenditure.* We note the proposal to remove deductions for "core technology" at paragraph 3.69 of the *Exposure Draft* released on 31 March 2010. In our experience "Core technology" expenditure for the purpose of the R&D tax concession is likely to be incurred by start ups seeking to access advanced technologies from the University sector. For such start ups, the technology may commonly be a patent that has not yet been granted (which can take up to 5 years), and therefore there may be no immediate tax deduction under Division 40 of the *Income Tax Assessment Act 1997* for the cost of the technology. The cost would usually be treated as capital expenditure which may attract no tax deduction until the asset is "disposed" of under the capital gains tax rules, or the patent is granted and therefore deductible over 20 years under Division 40. We believe this would be a disincentive for companies to take on new and innovative technologies.

In the existing legislation, the expenditure to acquire such technology may be treated as "core technology" for the R&D tax concession, meaning that the benefit may be significantly enhanced when the company operates a substantial R&D project relating to that core technology. In brief, the "core technology" expenditure may be deducted at the rate of 100% to a maximum of one third of related R&D expenditure. The benefit of this may be far more beneficial, and also far more timely in its effect. Indeed, in our view, this deduction can be a valuable incentive for companies to take on new and innovative technologies, and from a cashflow perspective can be a life line to securing follow on funding for future growth. We would therefore discourage any alterations to core technology deductions since it would reduce the incentives for early stage technology-based entities upon which our nation's innovative future depends.

I trust our points above are clear, but please do not hesitate to contact me (charles.day@unimelb.edu.au) or Simone Quin (0433 152 463 or simone.quin@unimelb.edu.au) should you have any questions. I thank you once again for the chance to participate in this consultation process.

Yours sincerely

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