

16th April 2010

Mr. Paul McCullough
General Manager
Business Tax Division
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Mr. McCullough

PROGRESSING THE NEW R&D TAX INCENTIVE – Your letter of 31 March 2010

Thank you for summarising the key changes made to the draft legislation. Having examined the latest draft, we are pleased to see that the main points raised by the ITIIC have been positively addressed, insofar that:

1. The definition of R&D has now been improved and clarified and appears much less discriminatory against software R&D. *(However, we do wish to reiterate that software innovation is not by nature 'experimental' like other scientific disciplines such as chemistry and physics, dealing with phenomena of the material world. Care needs to be taken that this wording in the legislation does not work against software innovation in qualifying for support through the R&D Tax Incentive)*
2. The exclusion tests applying to software in a business context appear to have been eliminated
3. The limitations affecting claimable 'Supporting R&D' in relation to software appear to have been removed or no longer discriminate against software and ICT companies
4. The 'Multiple Sales' condition for software development has been eliminated
5. The list of excluded activities has been amended in a positive direction.

The ITIIC therefore concludes that, in the main, our concerns have been heard.

With regard to the specific recommendations made in our first submission, the ITIIC notes with satisfaction that also these recommendations appear to have been heeded in the revised draft legislation.

With these improvements having been made, other issues come to the fore as demanding further consideration:

- The wide ranging discretion of the Board with regard to acceptance or otherwise of an R&D entity's registration appears to lead to considerable uncertainty and 'expenditure at risk' for many companies, often for years
- The guidelines and implementation rules look overly complex for R&D entities to study and fully understand. Most companies will therefore need to seek expensive professional advice before registering. For SMEs this may become a severe disincentive to register because the necessary fees for advisors will be payable whether the registration for tax credits proves successful or not.

We therefore hope the guidelines and implementation rules will be further clarified to facilitate both understanding and compliance for the benefit of all companies and, in particular, avoiding any relative disadvantage for SMEs.

Productivity, as well as innovation, is a major contributor to global competitiveness and drives the creation of national wealth. It is therefore imperative to also provide incentives beyond a narrow view of R&D to encourage the rapid *adoption* of IT and other technology by both large and small organisations. This consideration has substantially guided the submissions made by the ITIIC in this matter.

Yours sincerely



John Grant
Chair - Information Technology Industry Innovation Council