



24 July 2018

Dear Sir/Madam,

Research and Development Tax Incentive Amendments

We wish to make a single comment on your latest suggested amendments.

At 3.42-3.45 (pages 31/32) of the Exposure Draft Explanatory Materials, it is suggested that the Board of ISA and its committees may delegate some or all of their functions to a member of the Australian Public Service staff assisting the Board. Our view is that while this is appropriate for some administrative program tasks, when there is a serious compliance review matter, then the delegation should (by law) remain firmly with an SES officer. If we look at any other Federal Government department responsible for an important programme, then we find that more contentious matters are always reviewed by and signed off by a very senior officer.

Our view is that the staff of ISA are hardworking and diligent particularly in the administrative areas. Their performance over the years has been exemplary. However, when it comes to more complex compliance review matters we believe that there is a shortage of competent staff, they appear to be overloaded and there are long delays in reviewing matters and making determinations.

What is worse is that the reviews in these compliance matters on occasion appear to not be fully considered. This is possibly due to the heavy work load the Case Officers' face. We have also noted a high level of staff rotation and loss of resources by the Department.

As an observation, in the Industry Research and Development Act 1986, Compilation number 27 at 20 October 2016 it introduced at section 21 (Delegation by Board) that the Board may, by resolution, delegate any or all of its functions and powers to any of the following: (e) a member of the staff assisting the Board who is an SES employee, or acting SES employee.”

Similarly, at section 22A “(1) A committee may, by resolution, delegate to a member of the committee or to a member of the staff assisting the committee who is an SES employee, or acting SES employee, all or any of its functions and powers (including a function or power delegated to the committee by the Board under subsection 21(1), despite paragraph 34AB (1)(b) of the Acts Interpretation Act 1901).”

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Interestingly the Explanatory Memorandum to that Bill stated in part that: “The amendment at item 29 (which went to sections 21/22 delegations) ... that the reason for this change included the comment that “... However, this is balanced by the limitation that a delegation by the Board to a member of the staff assisting the Board must (our highlight) be to an SES employee or acting SES employee, which will ensure an appropriate level of accountability for the performance of such functions. This item acts in conjunction with section 2B of the Acts Interpretation Act”

In the present Explanatory Material it is suggested that pressure of applications and compliance activities creates a problem. It is our experience that this has not been the case. The efficiency of the staff (as viewed by a long-term external customer, we have worked in the area since 1985 and were involved with the earlier R&D pre-1985 grant programmes) has not appeared to have changed significantly with the increasing workloads over the years. Interestingly even after the introduction of the SES staff level requirements (noted in sections 21/22 in the 2016 amendment) staff at a much lower level continued to operate as they did under the old rules. That is to say that despite the requirement for an SES person to be the Delegate, other staff (at lower levels) continued to complete that work.

Conclusion: We believe efficient staff should be extended the Delegation to undertake certain administrative functions. For compliance review matters, while the work will continue to be undertaken by Case Officers, that needs to be reviewed and signed off by persons with an appropriate level of accountability.

If you have any questions regarding this submission, please do not hesitate to contact us.

Yours sincerely,



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