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# R&D ADVISORY

## FACT SHEET

### R&D INCENTIVE

The R&D Incentive is a program designed to encourage companies to conduct eligible R&D activities in Australia.

There are two core incentives offered:

INCENTIVE AIMED AT:	INCENTIVE OFFERED:
Companies with an aggregated turnover of less than A\$20 million per annum (provided they are not controlled by income tax exempt entities)	43.5%* refund on eligible R&D expenditure
All other eligible entities	38.5% non-refundable tax offset

Entities may be able to carry any unused offset amounts forward to future income years

\*Subject to change.

This fact sheet is general information only, current at the date of publishing. Please note that this is not to be considered tax advice and should not be relied upon by any party. Tax advice should be obtained specific to your entity's particular circumstances.

A sample calculation of the R&D Incentive for companies with an aggregated revenue off less than A\$20 million\*

R&D EXPENDITURE	A\$1,000,000
Profit	A\$0 (or Loss)
Incentive type	43.5%* cash refund
Refund amount	A\$435,000 (43.5% of expenditure)

To qualify for this incentive of a 43.5% refund on eligible R&D activities, you must:

1. Have a registered Australian entity (R&D entity) that incurs all of the costs related to the R&D
2. Have less than A\$20 million in combined revenue for the Australian subsidiary, overseas parent company and any connected or affiliated entities
3. Invest more than A\$20,000 in eligible R&D

*If you'd like to see sample calculations for other scenarios, just ask CoSec.*

The R&D Incentive is jointly administered by the Australian Tax Office (ATO) and the Department of Industry, Science, Energy and Resources (AusIndustry).

You must register your R&D activities with AusIndustry before you claim the refund. AusIndustry is responsible for determining the eligibility of R&D activities, and the ATO will determine if the expenditure claimed in your tax return for your R&D activities is eligible for the refund.

*CoSec's in-house R&D Advisory Services Team has the experience to guide you through this compliance. We can expertly prepare the application to AusIndustry registering your R&D activities, ensuring that all eligible R&D activities are identified so that all eligible expenditure can be claimed on your income tax return.*

### ELIGIBLE ENTITIES

Only R&D entities are eligible to claim an R&D refund. R&D entities include any of the following:

- A company incorporated under Australian law
- A company incorporated under a foreign law but an Australian resident for income tax purposes
- A company incorporated under a foreign law and you are both:
  - A resident of a country that Australia has a double tax agreement with, that includes a definition of 'permanent establishment'
  - Undertaking business in Australia through a permanent establishment as defined in the double tax agreement

The following are not considered R&D entities and therefore will not be eligible for an R&D refund :

- An individual
- A corporate limited partnership
- An exempt entity (where your entire income is exempt from income tax)
- A trust (with the exception of a public trading trust with a corporate trustee)

If you are an R&D entity, you may also need to consider the special rules applied to consolidated groups and R&D partnerships. Other conditions may also apply, depending on who's behalf you are conducting the R&D activities .

*Most foreign companies that enter the Australian market to conduct R&D and access of the R&D Incentive establish a wholly owned Australian subsidiary. CoSec can incorporate your Australian subsidiary and provide all necessary ongoing management. Our expertise will ensure that you maximise your eligibility to receive the R&D Incentive.*

## ELIGIBLE ACTIVITIES

Your eligibility to claim the R&D refund will also depend on where you are conducting your R&D activities and, importantly, what those activities are.

## WHERE YOU ARE CONDUCTING YOUR R&D ACTIVITIES

Generally, only R&D activities conducted within Australia qualify for the R&D Incentive, but there are some exceptions. R&D activities conducted overseas can qualify if AusIndustry deems that they meet certain conditions, including:

1. The overseas R&D activity must have a 'significant scientific link' to core R&D activities in Australia
2. The overseas R&D activity must be unable to be conducted in Australia, usually because of lack of access to a facility, expertise, specific population, or equipment in Australia, or if the activities contravene Australian biosecurity laws
3. The expenditure on the overseas R&D activity must be less than the expenditure incurred on core R&D activities in Australia

## WHAT R&D ACTIVITIES YOU ARE CONDUCTING

To be eligible for the R&D Incentive, your R&D activities must be classified as either core R&D activities or supporting R&D activities.

## CORE R&D ACTIVITIES

Core R&D activities are experimental activities:

- Whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, and can only be determined by applying a systematic progression of work that:
  - Is based on principles of established science
  - Proceeds from hypothesis to experiment, observation and evaluation, and leads to logical conclusions
- That are conducted for the purpose of generating new knowledge (including improved materials, products, devices, processes or services)

Some of the activities that are specifically excluded from being classified as core R&D activities are:

- Market research or testing for sales promotion
- Minerals exploration
- Management studies or efficiency surveys
- Research in social sciences, arts or humanities
- Complying with statutory requirements or standards
- Reverse engineering
- Computer software for internal administration

## SUPPORTING R&D ACTIVITIES

Supporting R&D activities are directly related to core R&D activities. Certain activities also qualify if they have been undertaken for the dominant purpose of supporting core R&D activities. Activities that must satisfy the dominant purpose requirement are those that produce, or are directly related to producing, goods or services; or are excluded from being core R&D activities.

*CoSec's in-house R&D Advisor will work with you to identify the scope of your core and supporting R&D activities. We also have the expertise to determine whether an overseas finding is appropriate and beneficial, and write the application if necessary.*

## USING AUSTRALIAN RESEARCH SERVICE PROVIDERS

Research Service Providers (RSPs) are entities registered by AusIndustry as being capable of providing scientific or technical expertise and resources to perform R&D on behalf of other companies.

## THE BENEFITS OF USING AN AUSTRALIAN RESEARCH SERVICE PROVIDER

- RSPs provide companies with access to expertise in Australia's public and private R&D organisations, and the benefits of services supported by R&D facilities, equipment and infrastructure
- RSPs assist in improving the overall effectiveness of Australia's R&D effort through collaboration
- Companies using a RSP have the assurance that this entity has met a set of criteria relating to their ability to provide quality R&D services
- Research conducted through an RSP will typically constitute eligible activities and expenditure for the R&D Incentive

## OTHER SERVICE PROVIDERS AND IN-HOUSE RESEARCH

- Other non-RSP service providers can still be engaged to conduct eligible research activities.
- Companies can also conduct their own research in-house, providing it follows the required process to be considered eligible.

## REGISTERING FOR THE R&D INCENTIVE

If your company is an R&D entity and you're interested in claiming an R&D refund in your company's income tax return, you must first register your R&D activities with AusIndustry.

You must do this:

- For every income year you want to claim the offset
- Within 10 months of the end of your company's income year
- Prior to claiming the R&D refund in your company income tax return

CoSec can provide you with a complete range of services for your Australian subsidiary, including:

- Company Incorporation
- Resident Company Officers
- A Registered Office
- Financial & Tax Compliance Services

*Our dedicated in-house R&D Advisory Services will expertly guide you through the process, from preparation of required documentation and identifying eligible activities, through to registering with the relevant authorities and completing your claim in your income tax return. For a competitive fixed fee, we'll project manage the entire application process on your behalf, maximising your opportunities.*

## R&D FACTS

### FREQUENTLY ASKED QUESTIONS

*How much is the maximum refund for conducting eligible R&D activities in Australia?*

The refund can be up to 43.5% of all eligible R&D expenditure, depending on your group's aggregated turnover.

*What is the minimum amount we must spend on R&D to claim the refund?*

The minimum R&D expenditure threshold is A\$20,000. This threshold is waived, however, if R&D is contracted to a registered Research Services Provider.

*What is the maximum refund available for R&D expenditure?*

There is no expenditure cap for the R&D Incentive, however, for any R&D expenditure above A\$100 million, companies will only be able to claim a refund at the company tax rate for the portion of expenditure in excess of A\$100 million.

*How does the turnover (revenue) of the business affect the refund?*

Once a company's aggregated turnover reaches A\$20 million, the benefit becomes a non-refundable tax offset. Aggregated turnover may include the Australian entity's turnover combined with the turnover from other associated entities (including the overseas parent and other entities controlled by the parent). This is dependent on several factors, such as shared ownership and control. We can provide you with specific advice regarding your aggregated turnover.

*Does the company have to be profitable in order to receive the refund?*

No. There is no requirement for the company to be profitable to claim the benefit, however, the profit/loss position of the company will have an effect on the amount and form of the refund.

*Do we need a registered Australian entity?*

Yes. The refund is paid through the Australian company tax system directly to the 'R&D entity' responsible for conducting the R&D.

*Does the R&D expenditure have to be borne by the Australian entity?*

Yes. The only expenditure eligible for a refund are those made by the Australian company.

### ***Do we need to hire local staff in Australia?***

No. The Australian company does not need staff to be able to claim the refund. You may use Australian third parties (such as Clinical Research Organisations) to provide services that are eligible expenditure items and claimable for the refund. However, the cost of staff hired by the Australian company may be eligible to the extent that their roles form part of the R&D activities.

### ***What type of R&D is eligible for the benefit?***

Generally, activities that are eligible under the R&D Incentive are experimental activities, for which you are unable to determine the results in advance based on current knowledge or experience and which are carried out for the purpose of creating new knowledge. Our brochure contains more detailed information about this. We can help you determine whether or not your activities will qualify for the R&D Incentive before you begin the process.

### ***Can I claim for R&D that was conducted overseas?***

Possibly. R&D activities that are conducted overseas face strict requirements in order to be regarded as eligible expenditure. In this case, you are also required to lodge an Overseas Finding with AusIndustry before approval can be granted to claim those expenses. This is basically an application in advance of the activities being conducted.

### ***Does the Intellectual Property (IP) need to be held by the Australian entity?***

Not necessarily. Where the R&D activities are conducted through a 'permanent establishment' (the R&D entity) of a foreign business in Australia and are conducted for the foreign company and not for the permanent establishment, the IP and derived IP may be held by the parent company. Determining whether or not you can take advantage of this exception will need to be assessed on a case-by-case basis. In each case, the R&D entity will need to be registered with AusIndustry within the prescribed timeframes. There will also need to be a written agreement setting out the conduct of the R&D activities and engagement of the R&D entity, and the R&D activities must be conducted solely in Australia.

### ***Does the R&D entity have any limitations on how it is funded, such as debt or equity?***

There are no specific requirements or restrictions regarding the funding of the R&D entity. We strongly recommend talking to us to determine the best mechanism for funding the Australian entity.

### ***What is the timeline for claiming the benefit?***

Registration for the R&D Incentive must be lodged within 10 months of the end of your company's financial year, and prior to claiming the R&D refund in your company's income tax return. For example, if your company uses a financial year ending on 31 December, claims must be lodged by 31 October of the following year.

R&D refunds are processed through the company's income tax return, with refundable amounts generally paid 4-6 weeks from the date of lodgement.

### ***Does claiming the benefit affect when I need to lodge the company tax return?***

No. There are Australian Tax Office (ATO) requirements for company Income Tax Return filing dates, and these can affect the timing of making an R&D Incentive claim. The Income Tax Return will include an R&D Schedule, that CoSec prepares as part of our package of services.

### ***What information is required?***

Documentation of your R&D activities and related expenditures is a key requirement to verify the eligibility of activities conducted for an R&D refund claim, but there is no standardised format for this documentation. Most companies have existing documentation that satisfies the requirements. This can range from reports from Research Service Providers/CROs, to emails, calendars, photos and even computer screenshots. We will also need certain documentation indicating proof of expenditure for relevant activities. It is especially important that we have the agreements between the R&D entity and the and service provider(s), as well as the reports detailing results of the R&D activities conducted.

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