Chapter 2

Views on the policy underpinning the bill

2.1 This chapter outlines the evidence that the committee received regarding the overall policy intent behind the bill.

2.2 Swanson Reid, an R&D tax incentive advisory firm, advised that it supports the proposed amendments. Swanson Reid argued that the R&D tax incentive is over budget and that savings from the measure could allow resources to be reallocated within the Department of Industry portfolio.[1] However, submissions received by the committee from other professional services firms, corporations and industry bodies did not support the proposed policy change. For example, KPMG stated that it was 'disappointed' that the government had decided to proceed with the previous government's proposal.[2] Telstra wrote that it 'is regrettable that this taxation change appears to have been taken as a savings measure in isolation of any broader policy package to promote innovation, including R&D activities'.[3] Some of the submissions which questioned the merits of the policy, however, acknowledged the government's difficult budgetary circumstances.[4]

2.3 From the submissions that did not support the bill, the committee has identified several common arguments and areas of concern. These matters were examined further during the committee's public hearing. This evidence is discussed in the following paragraphs. Some submissions also outlined alternative options for amending the R&D tax incentive; these alternative policies are outlined at the end of the chapter.

Would the changes 'better target' access to the incentive?

2.4 The explanatory memorandum states that the bill 'better targets the R&D tax incentive to businesses that are more likely to increase their R&D spending in response to government incentives, delivering a greater return for taxpayers'.[5] It adds

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1 Swanson Reid, *Submission 7*, pp. 1, 3–4. Swanson Reid suggested that resources could be redeployed to the customer service area of AusIndustry.

2 KPMG, *Submission 1*, p. 1.

3 Telstra, *Submission 14*, p. 2.

4 For example, see Medicines Australia, *Submission 2*, p. 1; and University of New South Wales, *Submission 17*, p. 2. The December 2013 *Mid-Year Economic and Fiscal Outlook* provided the following assessment of the government's fiscal position: 'Budget deficits totalling $123 billion are now expected across the forward estimates, with a $47 billion deficit expected in 2013-14—3.0 per cent of Gross Domestic Product (GDP). Without policy change and taking no remedial action, budget deficits would be projected in each and every year to 2023-24'. Australian Government, *Mid-Year Economic and Fiscal Outlook 2013–14*, December 2013, p. 1.

5 Explanatory Memorandum, p. 3.

that there 'is broad support internationally for the view that R&D spending of small firms is more responsive than that of large firms to government incentives'.[6]

2.5 KPMG and Michael Johnson Associates, a consultancy firm specialising in R&D and other government innovation incentives, questioned these statements. They noted that the explanatory memorandum does not provide evidence in support of the contention that smaller firms are more responsive to R&D tax incentives. According to Michael Johnson Associates:

> A number of arguments can be put in counter to the assertions that small companies are more innovative than large companies and that they are more responsive to R&D incentives. These include the advantages afforded large companies through scale, deep access to supply chains and connections to research communities. The competitive environment regarding innovation outputs is one where large companies are the preferred medium to establish and compete in international markets of global dimension.[7]

2.6 KPMG countered the explanatory memorandum's claim by citing a paper written by Sir James Dyson CBE, founder of Dyson Limited.[8] Deloitte provided a specific example of where an R&D tax incentive has led to a large company undertaking additional activities in that jurisdiction:

> …the UK government, despite its ongoing recession, has recently made strong efforts to increase its lack of representation on the Top 100 Global Innovators list…by introducing its self-styled Patent Box legislation which cuts the tax rate for income derived from patented technologies to 10%. This has also been supported by a general cut in the UK corporate tax rate to 20% and other local initiatives to demonstrate its patent box incentives to internationally mobile companies … Subsequently GlaxoSmithKline recently invested £500m into its UK manufacturing operations based on the introduction of the UK patent box legislation. Recent UK filing records in late 2013 also reflect a move of many Australian technology companies (including Atlassian) to reincorporate in the UK; an early and significant indication that the Patent Box model and generous R&D tax breaks are indeed being successful in attracting its targeted internationally mobile capital to take advantage of the 10% patent box tax rate.[9]

2.7 The University of New South Wales (UNSW) also pointed to a Department of Industry report on innovation that stated:

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6 Explanatory Memorandum, paragraph 1.6.

7 Michael Johnson Associates, *Submission 3*, p. [5].

8 James Dyson, *Ingenious Britain: Making the UK the leading high tech exporter in Europe*, March 2010, cited in KPMG, *Submission 1*, p. 5. According to KPMG, Sir Dyson concluded that 'large companies undertaking R&D are likely to engage with academia and smaller companies to collaboratively undertake R&D and generally foster innovation in those around them'.

9 Deloitte, *Submission 12*, p. 4.

> [Small and medium enterprises] are lean innovators, accounting for a very small share of total investment in innovation, and are much less likely to generate new-to-world innovations. By contrast, large Australian businesses made up the majority or total investment in innovation, are much more likely to collaborate with the research sectors and generate new-to-the-world innovations.[10]

2.8 The explanatory memorandum does not provide sources to support its contention that the R&D spending of small firms is more responsive to government incentives than that of large firms. The initial policy announcement by the previous government, however, did refer to some research to support this position: a study of Norway's R&D tax incentive and a transcript of evidence given by the Organisation for Economic Co-operation and Development (OECD) to the US Senate Committee on Finance.[11] A Department of Industry official also referred to these papers at the committee's hearing.[12]

2.9 The OECD testimony considered that the aim of government incentives to encourage business investment in R&D is often to correct or alleviate the following two market failures:

- 'difficulties by firms to fully appropriate the returns to their investment';[13] and
- 'difficulties in finding external finance, in particular for small start-up firms'.[14]

2.10 The OECD considered that the available evidence—studies in Québec, the Netherlands and Norway—suggest that smaller firms appear to be more responsive to

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10 Department of Industry, *Australian Innovation System Report 2013*, p. 9; cited in University of New South Wales, *Submission 17*, p. 2.

11 Adne Cappelen et al, 'Evaluation of the Norwegian R&D Tax credit Scheme', *The Journal of Technology, Management and Innovation*, 5:3 (2010); and Dr Dirk Pilat, Head, Structural Policy Division, Directorate for Science, Technology and Industry, OECD, *Testimony to the US Senate Committee on Finance Hearing on Tax Reform Options: Incentives for Innovation*, 20 September 2011. See Australian Government, *A Plan for Australian Jobs: The Australian Government's Industry and Innovation Statement*, February 2013, p. 13 (n. 46).

12 Ms Maryann Quagliata, General Manager, Innovation Policy Branch, Department of Industry, *Proof Committee Hansard*, 21 February 2014, p. 19.

13 The OECD argued that '[r]eturns on investments in R&D are difficult to appropriate by firms as some of the resulting knowledge will leak out or "spill over" to other firms, to the benefit of society. This leads firms to 'underinvest' in innovation. Policy instruments such as intellectual property rights, grants, and R&D tax incentives can help address this problem'. Dr Dirk Pilat, Head, Structural Policy Division, Directorate for Science, Technology and Industry, OECD, *Testimony to the US Senate Committee on Finance Hearing on Tax Reform Options: Incentives for Innovation*, 20 September 2011, www.finance.senate.gov/hearings/hearing/?id=ef6a4c10-5056-a032-5212-fbf59e314035 (accessed 17 February 2014), p. 1.

14 Dr Dirk Pilat, OECD, *Testimony to the US Senate Committee on Finance Hearing on Tax Reform Options: Incentives for Innovation*, p. 1.

R&D tax incentives.[15] Additionally, at Senate Estimates in June 2013, the executive director of Treasury's Revenue Group noted that during the Business Tax Working Group process in 2012:

> …there were certainly a lot of anecdotes to the effect that for a range of very large firms the increased deduction did not drive a lot of activity.[16]

2.11 Mr Ezra Hefter, a partner at Ernst & Young, acknowledged that there 'is some truth' to the assertion that the R&D spending of small firms is more responsive to tax incentives than the spending of large firms. Even so, he added that large firms are still affected by the R&D tax incentive. Mr Hefter noted that differences between small and large firms are already reflected in the R&D tax incentive through the differential feature of the incentive that enables small firms to access a 45 per cent refundable tax offset while other firms are restricted to a 40 per cent non-refundable offset.[17]

Impact on economic activity in Australia

2.12 Related to the above discussion, submissions also questioned the impact that the proposed amendments may have on Australia's ability to attract or retain R&D investment in the global economy. They suggested that any loss of R&D could negatively impact economic growth, employment and tax revenue, and a point repeated in submissions was that the proposed amendments would encourage large companies to shift R&D activities to other countries with more favourable and more stable R&D tax arrangements. KPMG in particular clearly expressed how the two lines of argument are connected:

> Whether or not the R&D incentive encourages large companies to undertake R&D, it certainly encourages them to undertake the R&D activities in Australia (either directly or through contracted R&D with small and medium enterprises). Such activities create jobs in Australia and result in employment income, profits and transactions which are taxable in Australia.[18]

2.13 Ernst & Young argued that large multinational corporations have the greatest flexibility to choose where to undertake their R&D activities and that the attractiveness of tax incentives is one factor taken into consideration.[19] The Corporate

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15 Dr Dirk Pilat, OECD, *Testimony to the US Senate Committee on Finance Hearing on Tax Reform Options: Incentives for Innovation*, p. 7.

16 Mr Rob Heferen, Executive Director, Revenue Group, The Treasury, *Committee Hansard*, Estimates, 5 June 2013, p. 97.

17 Mr Ezra Hefter, Partner, Ernst & Young, *Proof Committee Hansard*, 21 February 2014, p. 9.

18 KPMG, *Submission 1*, p. 6.

19 Ernst & Young added that corporations 'in global trade exposed sectors such as pharmaceuticals, oil and gas, [information technology], manufacturing and finance' especially have flexibility in choosing where to undertake R&D activities. Ernst & Young, *Submission 5*, p. 6. See also KPMG, *Submission 1*, p. 3.

Tax Association noted that when a large corporation engages an external party to undertake R&D activities of its behalf:

> …the terms of engagement often include an express requirement that the R&D activities (or at least the majority of the activities) be conducted in Australia. Under the proposed changes, there is no incentive for the affected companies to conduct R&D activities in Australia.[20]

2.14 BDO Australia observed that any move by companies affected by the proposed amendments to conduct more R&D activities in other countries could result in: the loss of Australian jobs and tax revenue associated with those jobs; limited benefits and royalty streams to Australia associated with any intellectual property developed as a result of the R&D activities; and a loss of expertise.[21] Deloitte expects an initial 'severe' impact on the large corporate groups directly impacted by the proposed amendments followed by consequential effects on entities in the supply chain, such as smaller 'speciality firms with niche capability'.[22]

2.15 Submissions also considered the proposed changes in a global context. KPMG claimed that, to the best of its knowledge, Australia 'will be the first country in the world to exclude such a specific and targeted subset of large companies from claiming an R&D tax incentive'.[23] To bolster an argument that Australia's R&D tax policy is moving in a different direction to those of other countries, submissions advised that:

- the United Kingdom has expanded its R&D assistance regime despite difficult economic circumstances;[24]
- Singapore recently introduced an R&D regime with a 400 per cent tax incentive and has since increased the level of benefit available to all companies;[25]
- the French Minister for Innovation directly responded to the announcement of the R&D changes made by the previous government and 'invited large companies to undertake their R&D in France instead of Australia';[26] and

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20 Corporate Tax Association, *Submission 10*, p. 1. Telstra's submission noted that the R&D Tax Incentive 'has been one of the reasons behind Telstra's commitment to undertake the majority of our R&D work onshore, and where we partner with our vendors to undertake R&D on our behalf mandated this requirement with them'. Telstra, *Submission 14*, p. 5.

21 BDO Australia, *Submission 16*, p. 4.

22 Mr Serg Duchini, National Leader, R&D and Government Incentives, Deloitte, *Proof Committee Hansard*, 21 February 2014, p. 10.

23 KPMG, *Submission 1*, p. 3.

24 Specifically, according to KPMG, the United Kingdom has 'increased support for small companies; extended the program to large companies; enabled all companies to report R&D assistance as an 'above the line' benefit; and provided refundable benefits to both large and small companies'. KPMG, *Submission 1*, p. 3.

25 KPMG, *Submission 1*, p. 4; Ernst & Young, *Submission 5*, p. 6; Telstra, *Submission 7*, p. 3.

- Japan, as of 2013, has a 40 per cent tax credit for R&D activities.[27]

2.16 Ernst & Young summed up its concern about Australia's apparent divergence in R&D tax policy, particularly compared to countries in Asia, as follows:

> In short, as the Government prepares Australia and Australians to thrive in the "Asian Century", it appears counter-productive to be pulling back on incentivising R&D activities for our largest companies, just when the Asian region appears to be heading in the opposite direction when it comes to R&D tax policy.[28]

2.17 However, a Department of Industry official noted that there are factors other than the R&D tax incentive which influence decisions about where R&D is conducted, such as the existing R&D contacts and relationships in Australia that the large corporations have:

> Our expectation based on that is that large firms will continue to conduct R&D in Australia, as they always have, using the smaller research agencies, as they have; that they value the R&D contacts and relationships that they have in Australia; and that there are factors other than the R&D tax incentive which determine where they conduct their R&D research.[29]

2.18 The OECD's testimony to the US Senate Committee on Finance also suggested that government incentives were a secondary consideration for large multinational companies when determining where to locate their R&D activities:

> In recent years, several governments have also started to use innovation policies to attract R&D activities of multinational corporations. The reason is that in a context of growing internationalization of R&D activities, government support might make a country a relatively more attractive location for R&D investments than its competitors. However, the available evidence suggests that government support is often only of minor importance for the decisions of multinationals to locate their R&D facilities in a particular country; other factors such as access to markets and to a country's knowledge base, or the availability of researchers tend to be more important.[30]

2.19 Deloitte also acknowledged that if the R&D activities of companies targeted by the bill were reconsidered because of internal competition for funding within the

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26 David Ramli, 'France offers stable R&D incentives', *Australian Financial Review*, 12 March 2013, p. 24; cited in KPMG, *Submission 1*, p. 5.

27 Ernst & Young, *Submission 5*, p. 6.

28 Ernst & Young, *Submission 5*, pp. 6–7.

29 Ms Maryann Quagliata, Department of Industry, *Proof Committee Hansard*, 21 February 2014, p. 18.

30 Dr Dirk Pilat, OECD, *Testimony to the US Senate Committee on Finance Hearing on Tax Reform Options: Incentives for Innovation*, p. 1.

company and the tax incentive no longer being available, it would likely only affect more marginal projects:

> There is bidding for internal projects and some projects are cut. Some projects on the margin only get over because of the incentive. If you took a step back and looked at what we are trying to do from an economic perspective, a 10c in the dollar subsidy will only impact the marginal project.[31]

Impact on SMEs and collaborative R&D projects

2.20 Michael Johnson Associates questioned the impact that the changes would have on R&D collaborations large companies may undertake with other entities, such as small to medium enterprises (SMEs), co-operative research centres (CRCs) and universities. It added that collaborative R&D projects could be negatively affected if companies above the $20 billion threshold were no longer attracted to a project because they could not access the R&D tax incentive, a possible consequence being that the project is ultimately carried out with a partner 'less suited for the work on a range of key criteria such as market access, technical qualification and relevant research facilities'.[32]

2.21 Ernst & Young similarly considered that the proposed amendment could negatively impact 'innovation ecosystems'. Mr Ezra Hefter, a partner at Ernst & Young, explained:

> There is a high degree of interdependence between researchers from very large companies through to small companies through to universities. I think it is fairly well understood that the large companies have the ability to fund research that looks to the future, that steps out. They have deeper pockets and a greater ability to do that, whereas smaller companies often do not. And I think there is a real risk there for collaboration between large and small companies but also for universities and CRCs.[33]

2.22 UNSW advised that companies affected by the proposed amendments support about 30 per cent of UNSW's research effort, with $6 million contributed by these companies per annum (on average over the past seven years).[34]

2.23 When asked about the likely impact of the proposed amendments on other entities that support R&D, Department of Industry officials reiterated the view—supported by international research—that large companies will continue to undertake R&D in Australia. A Treasury officer observed that 'it is difficult to draw a conclusion':

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31 Mr Serg Duchini, Deloitte, *Proof Committee Hansard*, 21 February 2014, p. 10.

32 Michael Johnson Associates, *Submission 3*, p. [7].

33 Mr Ezra Hefter, Partner, Ernst & Young, *Proof Committee Hansard*, 21 February 2014, p. 3.

34 University of New South Wales, *Submission 17*, p. 1.

> The structure of the concession is that it is relatively more generous at smaller levels, so the question is how often the R&D activity is structured. Sometimes I think that when we talk about R&D activity it is quite a broad term. Some of it, as people probably imagine, is in a lab somewhere and fairly mobile. But it is important to point out that a lot of R&D activity is also carried out in the production process. So you can think about some elements of R&D activity that are fairly mobile and can be carried out in a range of different ways, and you can think about some elements of R&D activity as forming parts, essentially, of the production process, so then the decision is linked to the actual production of a product.[35]

Frequent changes create uncertainty

2.24 Submissions also stressed the need for stability and certainty in the R&D tax incentive. The primary basis of this concern is that the current R&D tax incentive was only introduced in 2011 (applied to the 2011–12 tax year onwards); however, an additional consideration is that the R&D tax incentive is scheduled to be reviewed in 2014 and may be reviewed again as part of the taxation white paper.[36] Ernst & Young pointed to a 2013 report by the OECD that stated:

> OECD analysis…suggests that in countries that have experienced a large number of R&D tax policy reversal, the impact of R&D tax credits on private R&D expenditure is greatly diminished. It is therefore important that governments do not repeatedly tinker with such policies to minimise policy uncertainty for firms.[37]

2.25 Medicines Australia similarly expressed concern that changing what it considers are 'globally competitive' R&D tax incentives could harm Australia's reputation 'as a stable and predictable business environment' and impact future R&D activities. Medicines Australia recommended that the current arrangements operate unchanged at least until the entire system is reviewed, although it did inform the committee that it understood the rationale for the proposed amendments in the context of the government's budgetary position.[38]

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35 Mr Hector Thompson, General Manager, Small Business Tax Division, The Treasury, *Proof Committee Hansard*, 21 February 2014, p. 18.

36 The explanatory memorandum confirms that the government will undertake a review of the R&D tax incentive in 2014. See Explanatory Memorandum, paragraph 1.7.

37 OECD Directorate for Science, Technology and Industry, 'Maximising the benefits of R&D tax incentives for innovation', October 2013, p. [5], cited in Ernst & Young, *Submission 5*, p. 3.

38 Medicines Australia, *Submission 2*, p. 1. Medicines Australia noted that its members would not be affected by the bill.

Revenue implications

2.26 Treasury estimates that the proposed amendments will increase revenue by $1.05 billion over the forward estimates period.[39] This figure is based on modelling of the direct revenue impact associated with the measure, not any flow-on effects.[40]

2.27 KPMG asserted that this estimate is 'flawed'; it argued that the proposed changes will provide 'at best a small increase in consolidated revenue now at the price of longer term growth in Australia in future' given the medium to long-term timescale of R&D investment decisions.[41] Other stakeholders found it difficult to comment on the reliability of this projection as they did not have access to Treasury's modelling.[42]

Retrospective application

2.28 The amendments are intended to commence on Royal Assent and apply to income years commencing on or after 1 July 2013.[43] As noted in chapter 1, the measure was first announced by the previous government on 17 February 2013. The explanatory memorandum notes that the commencement date is intended to be before the date of enactment. Nevertheless, it states that the measure 'would not catch taxpayers unawares because the measure was previously introduced in a bill that lapsed when the Parliament was prorogued for the 2013 federal election'.[44] However, the explanatory memorandum does warn that if 'there were a significant delay in [the bill] receiving the Royal Assent, it is possible that the measure could apply to an income year that has finished'.[45]

2.29 Several submissions disagreed with the explanatory memorandum's assessment about taxpayers' awareness of the proposed amendments.[46] Although they acknowledged that the proposal had been in the public domain since it was announced by the previous government, they argued that taxpayers could not be certain that the measures would proceed as a result of the federal election and the change of government. That the bill was being reviewed by this committee with a reporting date

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39 Mr Matthew Maloney, Manager, Costings and Quantitative Analysis Unit, The Treasury, *Proof Committee Hansard*, 21 February 2014, p. 17.

40 Mr Matthew Maloney, The Treasury, *Proof Committee Hansard*, 21 February 2014, p. 20.

41 KPMG, *Submission 1*, p. 1.

42 Mr Serg Duchini, Deloitte, *Proof Committee Hansard*, 21 February 2014, p. 5.

43 Clause 2 and schedule 1, item 3 of the bill.

44 Explanatory Memorandum, p. 3.

45 Explanatory Memorandum, paragraph 1.25.

46 See Michael Johnson Associates, *Submission 3*, p. [2]; Ernst & Young, *Submission 5*, p. 3; Deloitte, *Submission 12*, p. 7; and Minerals Council of Australia, *Submission 13*, p. [3].

of mid-March 2014 was another factor cited.[47] The Minerals Council of Australia articulated the nature of the concern as follows:

> Companies that undertook R&D spending in good faith on existing law prior to announcement will be unfairly impacted. Large multinationals that focus the majority of their R&D spend in Australia will be particularly affected. Such an outcome hardly fosters confidence in multinational companies to undertake their R&D in Australia.[48]

2.30 As noted in chapter 1, the Senate Standing Committee for the Scrutiny of Bills considered the retrospective application of the bill. That committee encountered the following difficulty:

> Senate Resolution No. 40 relates to the introduction of a bill to amend taxation law within 6 months after a government announcement of that proposal. However, the resolution does not contemplate the current circumstance in which a bill that lapsed upon Parliament being prorogued could be passed by a newly constituted parliament (whether within, or outside, the 6 month timeframe).[49]

2.31 Nevertheless, that committee accepted that a bill proposing to introduce the measure was first introduced in June 2013. As the Scrutiny of Bills Committee generally does not recommend particular action on a bill but instead raises issues for the Senate's consideration,[50] the 'question of whether the proposed approach is appropriate' was left to the consideration of the Senate.[51]

Committee comment

2.32 Generally, retrospective tax legislation is not desirable and any such legislation should ideally be limited to rare circumstances, such as to correct unintended consequences or to address integrity issues. However, the proposed amendments have been foreshadowed for some time—the previous government introduced a bill in June 2013 which, if passed, would have enacted them.

2.33 The committee appreciates the difficulties that the uncertainty associated with the passage of time and change of government may have caused for the small number of affected taxpayers and those that advise them. However, the committee is not

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47 Michael Johnson Associates, *Submission 3*, p. [2].

48 Mineral Council of Australia, *Submission 13*, p. [3].

49 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, no. 8 of 2013 (4 December), p. 48.

50 Although, this is not always the case: for examples of bills the Scrutiny Committee has requested be amended, see Senate Standing Committee for the Scrutiny of Bills, *Final Report: Inquiry into the future role and direction of the Senate Scrutiny of Bills Committee*, May 2012, p. 21.

51 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest*, no. 8 of 2013 (4 December), p. 49.

necessarily convinced that there is any significant detriment given the evidence received that suggests the R&D activities of these very large companies would have been undertaken regardless. Further, the proposed amendments could only reasonably pose uncertainty for decisions made between when the previous bill lapsed and the new bill was introduced.

Alternative approaches

2.34 The explanatory memorandum advises that the government will use an upcoming review of the R&D tax incentive, scheduled to take place in 2014, to review access to R&D support. The taxation white paper will also consider the effectiveness of existing innovation tax incentives.[52] Several submissions suggested that the proposed amendments contained in the bill should instead be considered as part of these processes.[53]

2.35 Submissions also put forward alternative proposals for consideration. Ernst & Young argued that, if the aim of the measures 'is to only provide an incentive where it is absolutely certain to sway the R&D investment decision', then a pre-approval system for large companies considering significant projects could be developed as part of AusIndustry's existing R&D advance ruling system:

> This would allow large companies to present their proposed R&D Tax activities and seek approval from government prior to expenditure being incurred, if approval is given. This would provide certainty for claimants and allow them to employ relevant staff/resources. If not approved then these companies can make an informed decision about whether it is worthwhile to proceed without an incentive or not proceed at all.[54]

2.36 Deloitte argued that if changes to the R&D tax incentive need to be made, one of the other options for changing the incentive outlined by the Business Tax Working Group in 2012 should be consulted on instead. These included:

- a reduction in the percentage rate of the R&D tax incentive from 40 per cent to 37.5 per cent; and
- imposing a cap per taxpayer on the amount of R&D expenditure eligible for the tax incentive.[55]

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52 Explanatory Memorandum, paragraph 1.7.

53 For example, see Michael Johnson Associates, *Submission 3*, p. [2].

54 Ernst & Young, *Submission 5*, pp. 8–9.

55 According to the Business Tax Working Group, companies could deduct expenditure beyond that cap under the normal deduction provisions of the tax law, an approach that 'targets the offset more towards smaller companies that are more likely to respond to R&D incentives'. Business Tax Working Group, *Discussion Paper*, 13 August 2012, www.treasury.gov.au (accessed 7 February 2014), p. 38. Deloitte gave an example $200 million per claimant group as an expenditure cap. Deloitte, *Submission 12*, p. 8.

Committee comment

2.37 The committee considers that the upcoming review of the R&D tax incentive and the taxation white paper will provide a useful opportunity for wide consultation to be undertaken on a range of issues relating to R&D and government incentives to encourage R&D. However, the future scheduled reviews do not mean that the R&D tax incentive cannot be amended in the meantime if necessary.