aiia
australian information industry association

Senate Economics Legislation Committee Inquiry: Tax Laws Amendment (Research and Development) Bill 2013 - Targeting Access

AIIA Response

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Introduction

The Australian Information Industry Association (AIIA) is the peak national body representing Australia's information technology and communications (ICT) industry. Since establishing 35 years ago, the AIIA has pursued activities aimed to stimulate and grow the ICT industry, to create a favourable business environment for our members and to contribute to the economic imperatives of our nation. *Our goal is to "create a world class information, communications and technology industry delivering productivity, innovation and leadership for Australia"*.

We represent over 400 member organisations nationally including hardware, software, telecommunications, ICT service and professional services companies. Our membership includes global brands such as Apple, EMC, Google, HP, IBM, Intel, Microsoft, PWC, Deloitte, and Oracle; international companies including Telstra; national companies including Data#3, SMS Management and Technology, Technology One and Oakton Limited; and a large number of ICT SME's.

AIIA is pleased to provide this response to the Senate Economics Legislation Committee Inquiry into the Tax Laws (Research and Development) Amendment Bill 2013 which proposes excluding large companies from accessing the R&D Tax incentive.

Overview

As the peak organisation representing Australia's ICT sector our priority is to stimulate and grow the ICT industry, to create a favourable business environment for our members and more broadly, to contribute to Australia's economy. AIIA is strongly of the view amending the Income Tax Assessment Act 1997 to limit the research and development (R&D) tax incentive to companies with aggregated assessable income of less than $20 billion for an income year undermines this objective and fundamentally fails to understand the complexity of the innovation system and the potential impacts of the legislation as drafted. Such a proposal:

- is at odds with stated Coalition public statements on this issue;
- is globally unprecedented;
- fails to understand the critical importance of large companies to Australia's R&D system; and
- potentially discriminates against Australian companies.

AIIA's submission outlines our concerns in relation to each of these specific issues.

We would also make the point that any undermining or lack of certainty regarding current R&D arrangements for either small or large companies will dampen the inclination for the high end, value added R&D and innovation necessary to optimise the investment in, for example, NBN/high speed broadband infrastructure.

Specific Comments

Inconsistent with the Coalition's stated position

Since the issue of excluding large companies from receiving the R&D Tax Incentive was raised by the Labor Government in February 2013, the Coalition has consistently indicated that it does not support such a change.

Responding to the former Government's intention to limit access to the R&D Tax Incentive, then Shadow Minister for Industry Sophie Mirabella explicitly stated that "the announced change to the R&D tax concession casts doubt on the stability of tax policy and . . is destroying confidence in the tax incentive that makes industry responsible for its own innovation"[1]

Also in February 2013 the then Shadow Treasurer, Joe Hockey at an address to the CEDA Economic and Political Overview Conference is quoted as saying " … more recently the government announced with no warning it was funding its Orwellian titled 'Plan for Australian Jobs' package by cutting the Research and Development tax break for large companies, reaping $1 billion over four years…".

In the lead up to the 2013 Federal election the Coalition explicitly stated its policy to "get productivity up by ensuring Australian businesses have the right incentives to invest in Research and Development".[2] It has similarly strongly expressed the view that proposed Labor change to limit access to the R&D Tax Incentive is a "punitive move . . . to completely disqualify a range of large companies from receiving any incentive to invest in Australian R&D".[3]

In the lead up to the 2013 election the Coalition claimed that it "places a completely different emphasis on the importance of increased commercial R&D in Australia. At a time when there is a clear and increasing need for Australian businesses to compete globally on the basis of ingenuity and innovation, we need to be encouraging growth in R&D".[4]

To support a change in that same legislation now is clearly at odds with the government's previous positioning on this a issue and its overall commitment to stimulating a vibrate R&D capability in Australia. This proposed change presents a further example of the Government policy inconsistency and creates further uncertainty for industry.

Globally Unprecedented

To the best of our knowledge Australia is the first country in the world to discriminate against larger companies in this way – i.e. to specifically exclude such a specific and targeted subset of large companies claiming the R&D tax incentive.

1 Media release, "Industry joins coalition on R&D revenue concerns" issued 19 of February 2013
2 Coalition policy document, "Our Plan Real Solutions for all Australians", page 28.
3 Coalition policy document, "The Coalition's Policy to Boost the Competitiveness of Australian Manufacturing, page 7.
4 Ibid

Countries such as Austria, Belgium, Brazil, Canada, China, France, Hungary, India, Ireland, Israel, Japan, Malaysia, Mexico, Netherlands, Russia, Singapore, South Africa, South Korea, Spain, the United Kingdom and the United States all use R&D incentives to stimulate innovation and growth. All recognise the importance of large industry to the creation of a vibrant R&D ecosystem and none exclude large corporates from their respective R&D systems. Countries such as the UK and Singapore are in fact increasing the level of support for R&D undertaken by all companies, including large businesses – with the understanding of the broader economic benefits that can be derived by national economies generally.

Fails to understand the role of large companies to Australia's R&D system

It is well documented that large companies traditionally undertake large scale and transformational projects which frequently include significant elements of R&D. Such activities have considerable downstream impacts across supply chains and directly drive positive employment outcomes.

The OECD report " Maximising the benefits of R&D tax incentives for innovation" points out that " with lacklustre growth across much of the globe, finding new sources of growth has become a global policy priority. Innovation – which fosters competitiveness, productivity, and job creation – is an important mechanism for encouraging sustainable growth".[5] The Report makes the point that " …business R&D is heavily concentrated in large multinational enterprises (MNEs), with the top 1,500 businesses investing in R&D accounting for almost 90% of total business expenditure on R&D worldwide."[6]

The Report concludes that it is essential for policy makers to ensure that any measures aimed at fostering innovation must be targeted at young firms as well as larger and multinational companies.[7]

In any respect the introduction of the R&D Tax Incentive has already refocused and reduced claims by large companies by restricting the extent and value of eligible activities. Further changes have the potential of undermining growth and international competitiveness.

The objective of increasing R&D support for small and medium sized businesses is already being achieved with the increase of these businesses accessing the Tax Incentive – as opposed the old R&D Tax Concession.

The fact that any savings generated by the amendment will not, in any case, cycle back to R&D for small and medium sized businesses suggests that the initiative is nothing more than a cost cutting exercise.

[5] OECD report on innovation tax incentives reform, 11 October 2013.
[6] Ibid
[7] Ibid

Discriminates against Australian companies

The legislation as proposed, targets companies with 'assessable income', i.e. assessable under Australia taxation law, of more than $20b a year. The practical implication of this is for an Australian and foreign company both with income exceeding $20b, the foreign company may be eligible for R&D support whilst the Australian business will not (for foreign companies assessable income is only that derived in Australia).

The consequence of this is that in some instances there will be comparable businesses in the same market but because one is foreign owned and the other not, the Australian company will be penalised by the exclusion. This undermines the very purpose of the innovation system and over time risks diminishing Australia's R&D and innovation capability.

By not incentivising and rewarding (and indeed penalising) larger companies for undertaking R&D there is a real risk that such companies will either not undertake R&D or consider undertaking R&D in jurisdictions that will reward them.

The fact that any savings generated by the amendment will not, in any case, cycle back to R&D for small and medium sized businesses suggests that the initiative is nothing more than a cost cutting exercise.

Conclusion

Continued change and uncertainty regarding the legislative rules and policy parameters that govern R&D in Australia fundamentally undermines confidence in Australia's national R&D and innovation system. At a time when it is imperative for Australia to be an effective and competitive player in a global economy, such uncertainty is detrimental to the effectiveness of the R7D system stimulating much needed investment in high value research and development. In fact " 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".[8]

Given the intended review of the R&D Tax Incentive in 2014, AIIA is strongly of the view that any further changes to current arrangements should be considered in that context.

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[8] OECD report on innovation tax incentives reform, 11 October 2013