

SUMMARY: R&D Tax Incentive Roundtable

Meeting	R&D Tax Incentive Roundtable			
Meeting Date	Thursday 22 April 2021	Secretariat: ATO	Start Time: 1300	End Time: 1430
Co-Chairs	Jade Hawkins - Assistant Commissioner – Private Wealth Australian Taxation Office (ATO) Kirsty Gowans - General Manager – Research and Development Tax Incentive Department of Industry, Science, Energy & Resources (AusIndustry)			
Attendees	Donna Bagnall (Chartered Accountants Australia and New Zealand) Paul Suppree (Corporate Tax Association) Maria von Lucken (The Tax Institute) Alex McCauley (StartupAus) Rebecca Schot-Guppy (Fintech Australia) Ron Gauci (Australian Information Industry Association) Peter Komocki (Medicines Australia) Russell Ascott (AB & H Technology Services) Michael Webb (Indirect Tax Consulting) Paul McMullan (Compliance Group) Gary Shapiro (Rimon Advisory) Jessica Olivier (RSM Australia) Nicola Purser (BDO) Emma Westaway (Boeing) Kimberley Simpson (Cochlear) Ross Lyons (Minerals Council of Australia) Dr Harry Rolf (Academy of Technological Sciences and Engineering) Chloe Chadwick (Universities Australia) Mike Pope (Business Council of Australia)			
Guest Speakers	Thomas Gilbert (AusIndustry) Dr Annelise Appleton (AusIndustry)			

Agenda Items	Presenter(s)
1. Welcome 1.1. Rollcall 1.2. Action Items from November Roundtable 1.3. Introductions (by Jade and Kirsty)	Jade Hawkins (ATO) and Kirsty Gowans (AusIndustry)
2. Reflections of 2020 2.1. Insights from the ATO and AusIndustry during COVID-19 2.2. Discussion on the R&DTI 2020-21 reforms (commencing on or after 1 July 2021) 2.3. Insights from attendees following the 2020 year (any issues / blockers)	ATO and AusIndustry

Agenda Items	Presenter(s)
<p><i>The following questions were provided to Roundtable attendees for discussion at agenda item 2.3:</i></p> <p>The impact of COVID-19 meant 2020 was a challenging year and we appreciate the R&D community was also impacted. We are keen to understand the impacts, what were the major challenges? Were changes made that actually improved your experience? Specifically:</p> <p>Q1. Are you able to share how companies adapted to the major challenges? Did companies make significant changes to their practices –short term and/or ongoing? What were the main obstacles?</p> <p>Q2. How were the R&D activities of companies impacted? For example: where some of their activities were overseas, has this slowed the progression of their R&D project?</p> <p>Q3. What level of impact do you think COVID is still having on companies undertaking R&D? To what extent are companies moving out of recovery from the impacts of COVID?</p>	
<p>3. ATO update</p> <p>3.1. Legislative reforms</p> <p>3.2. COVID-19 recovery response</p>	Jade Hawkins (ATO)
<p>4. AusIndustry update</p> <p>4.1. ICT Reforms</p> <p>4.2. Integrity Framework updates</p> <p>4.3. Latest guidance materials</p>	Kirsty Gowans (AusIndustry)
<p>5. Any outstanding items and close</p> <p>5.1. Dates for next roundtable</p>	Jade Hawkins (ATO)

Action Items from November 2020 Roundtables	Ownership	Due Date
The transparency data format and how the ATO will treat those entities with a substituting accounting period for the R&D Tax Incentive legislation	ATO	Answer when the ATO finalises it's view on this measure
The feedback and timing of when the Tax Determination 2020/21 on the interaction between JobKeeper and the at-risk clawback provisions will be finalised?	ATO	Answer to the Roundtable attendees

1. Welcome, Action Items from the November 2020 Roundtable, Introductions (by Jade Hawkins and Kirsty Gowans)

- The Chair (Jade) opened the meeting, welcomed attendees and welcomed Kirsty Gowans, General Manager of the Research and Development Tax Incentive Branch at AusIndustry, as co-chair for the meeting.
- No action items from the November 2020 Roundtable meeting.
- The ATO Chair (Jade Hawkins) introduced herself as the Assistant Commissioner at the Australian Taxation Office and has corporate responsibility for the R&D program in addition to looking after tax technical advice more broadly across a number of different business lines.

2. Reflections of 2020

- The ATO Chair offered insights of ATO responsibilities including development, implementation and administration of the majority of the COVID stimulus and budget measures announced by the government in 2020 and how they had to quickly pivot without any additional resources from their business as usual activities and redirect their resources and efforts into the new stimulus programs of work.
- The ATO Chair reflected that the ATO's ability to recognise issues as they arose and address them in a time-effective way was something the ATO did really well, in turn also re-envisaging how we do things, considering what COVID-19 meant for the R&D industry and what the ATO could do in their capacity when looking at the expenditure issues the ATO administers. Including what the ATO could do to make things easier and help people in a time when they had so many other things they were having to deal with.
- The AusIndustry Chair provided insights where they also needed to pivot very quickly to cope with the rapidly changing circumstances, finding ways to be flexible in the administration and delivery of the program and, on reflection, there was an extraordinary amount of research and development and innovation right across the economy.
- The AusIndustry Chair reflected on their significant year of growth and learning, and that AusIndustry will now focus on its continued delivery of the R&DTI program, to be as effective as possible and work in partnership with business to achieve that.
- Roundtable members provided the following insights to the group:
 - praising the ATO in its responsiveness to some of the issues that arose during the 2020 year including: developing the JobKeeper program, job hiring credits, responding to issues associated with people working from home, FBT, FIFO arrangements, arranging extensions of time for lodging the R&D applications and advanced findings;
 - businesses needing to pivot and adapt quickly due to travel restrictions;
 - a member requested the need for more clarity on software guidelines with the ATO Chair mentioning the Software Industry workshop scheduled on 28 April 2021 in Sydney, will provide an opportunity for the ATO and their co-administrator to listen to the perspectives of industry and for industry to hear firsthand the sorts of things from both an AusIndustry and ATO perspective where they find difficulties; and
 - it was noted was that COVID-19 provided Australia with an opportunity to have more clinical trials done in Australia and the industry is trying to pivot and strengthen that part of our sector. Members noted that they were pleased that the new reforms assisting in strengthening the R&D Tax Incentive at this time when the focus on areas like life sciences and general innovation to lead Australia's economic recovery from an innovation perspective to reinvigorate the R&D space, with any incentives and support and encouragement that the Treasury can subsequently further give would be most welcome.
- Members also raised the following issues including:
 - difficulties in gathering data due to travel restrictions for clients who had site specific R&D processes; and
 - length of response times for overseas findings.

3. ATO update

- The ATO Chair provided an update to the group on the ATO approach to the administration and implementation of the new legislation, particularly how the ATO is starting to see an interest around the transparency measure involving the publishing of R&D information from 2024.
- The ATO Chair noted that the ATO will update their website with more guidance following the 1 July 2021, at the time the new legislation comes into effect.

- The ATO Chair further explained the issues around the transparency measure
- Questions were raised from Roundtable members including:
 - The detail of the transparency data and,
 - When publishing the data transparency on the 30 June 2024 or for 30 June 2022, with companies who have data covering periods like 31 December 2022, would they be published in the data after 30 June 2025, or are you looking in multiple publications?
 - The ATO advised that they were still working through the delivery of publishing the data and would provide a response to the group once the ATO has a settled view on how they will be treating those entities with a substituting accounting period for the R&D Tax Incentive legislation.
- The ATO Chair provided an update from an R&D perspective on their COVID-19 recovery response on the first things they considered was to lessen any high impacts on their R&D population and what the ATO could do to make things easier during the COVID period. This included taxpayers being given the option to put their compliance activities on hold. The ATO is re-engaging with those taxpayers in the last few months to get them back on track and progress forward. Cases considered egregious cases were progressed as normal.
- The ATO implemented a daily triage of their high-risk refunds and a national call-over of R&D cases to expedite the process of a client's claim.
- The ATO also recognised that some of the things planned, including updating our web material, were put on hold during COVID-19 while they turned our minds to the more pressing things that we actually needed to immediately address, for example the JobKeeper [TD 2020/D1](#) *Income tax: notional deductions for research and development activities subsidised by JobKeeper payments*.
- ATO learning included ways to do things better and not cause any problems for people during COVID-19. The ATO recognises the opportunity to improve the way that it does things and these considerations will continue going forward.
- Questions were raised from Roundtable members including:
 - What is the feedback and timing of when the Tax Determination 2020/D1 on the interaction between JobKeeper and the at-risk clawback provisions will be finalised?
 - *Jade Hawkins was unable to provide a response and will take this question as an action item and come back to the group.*
 - Guidance on eligible expenditure which is an outstanding action item?
 - *Jade Hawkins reiterated that whilst the ATO does not like to use COVID-19 as an excuse for things, updating our web guidance was put on hold owing to COVID-19. Our previous commitments are back on our agenda and the ATO is working on getting web guidance updated, which includes eligible expenditure.*
 - Guidance on eligibility that reflects the recent cases, such as Moreton Resources and PKWK?
 - *AusIndustry provided some clarification, stating that they are updating outdated software guidance and eligibility guidance and the decision made from these two cases will be appropriately reflected in their guidance material.*

4. AusIndustry update

- Kirsty Gowans, AusIndustry chair, spoke about how AusIndustry has been approaching the implementation of some of the ICT administrative reforms, including:
 - the limit on extensions of time for registrations; and
 - the new power by the ISA board to make general determinations.

- AusIndustry’s Reform Implementation and Program Improvement team within the R&DTI branch provided further information on reform work and AusIndustry’s new IT system, including a visual demonstration on the new R&D Tax Incentive customer portal which will be available to users from 27 May 2021, with companies able to submit their application from the 5 July 2021.
- The new portal will provide:
 - a more secure and up-to-date experience that's in line with contemporary expectations when dealing with government;
 - an ability to manage their registrations in Advance and Overseas Findings applications;
 - request extensions of time and withdraw or vary their applications;
 - display the status of all applications in real time and indicate when deadlines for submissions are approaching; and
 - reworded help text to better assist companies understand what information is required.
- AusIndustry mentioned that once the new portal goes live on 17 May 2021, and there will be guidance, support documents and FAQs available on the R&D Tax Incentive section of business.gov.au.

5. Any outstanding items and close

- AusIndustry and the ATO will hold the next R&D Tax Incentive Roundtable around July / August 2021 and will affirm the date closer to the time of the event.
- The ATO Chair thanked members for attending R&D Tax Incentive Roundtable, and in particular their participation in today’s Roundtable. The ATO Chair mentioned that we enjoy the opportunity to get feedback directly from industry as it is a great opportunity for us.

--End of Summaries--