

# Summary

## R&D Tax Incentive Roundtable via Webex videoconference

R&D Tax Incentive Roundtable				
<b>Meeting Date</b>	Wednesday, 1 September 2021	<b>Secretariat:</b> AusIndustry	<b>Start Time:</b> 10:30am	<b>End Time:</b> 12:20pm
<b>Co-Chairs</b>	Kirsty Gowans - General Manager – Research and Development Tax Incentive represented by Kelley Wiggins <b>Department of Industry, Science, Energy &amp; Resources (AusIndustry)</b> Jade Hawkins - Assistant Commissioner – Private Wealth represented by Brett Challans <b>Australian Taxation Office (ATO)</b>			
<b>Attendees</b>	Dean Birch ( <b>Nexia Perth</b> ) Jason Dunnachie ( <b>Deloitte</b> ) Peter Kinsman ( <b>Insight Advisory Group</b> ) Robert Krigsman ( <b>Krigsman Partners</b> ) Cheryl Kut ( <b>Group of Eight (Go8)</b> ) Sarah Lander ( <b>Michael Johnson Associates</b> ) Anne Nalder ( <b>Small Business Association of Australia</b> ) Steven Peters ( <b>KPMG</b> ) Esther Pither ( <b>CBG Systems</b> ) Luke Sheehy ( <b>Australian Technology Network</b> ) Damian Smyth ( <b>Swanson Reed</b> ) Oscar Stranz ( <b>The R&amp;D Consultancy</b> ) Sophia Varelas ( <b>PwC</b> ) John Warmington ( <b>Technology Incentive Services</b> )			
<b>Apologies</b>	Megan Jeremenko ( <b>Australian Food and Grocery Council</b> ) Greg Mullins ( <b>Research Australia</b> )			
<b>Guest Speakers</b>	Chris Enders ( <b>AusIndustry</b> ) Lyndall Milward-Bason ( <b>AusIndustry</b> ) Keelie Williams ( <b>AusIndustry</b> )			

Agenda Items	Presenter(s)
<b>1. Welcome</b> 1.1. Roll-call for WebEx Dial ins 1.2. House keeping 1.3. Acknowledgement of country 1.4. Action Items from April 2021 Roundtable	Kelley Wiggins (AusIndustry)
<b>2. Policy update</b> 2.1. Business R&D and innovation policy update	Lyndall Milward-Bason (AusIndustry)
<b>3. Program Performance</b> 3.1. DISER and ATO program performance information	Kelley Wiggins (AusIndustry) & Brett Challans (ATO)

Agenda Items	Presenter(s)
<b>4. AusIndustry update</b> <b>4.1.</b> ANAO and Board of Taxation Audits <b>4.2.</b> Customer Portal <b>4.3.</b> Guidance and determinations <b>4.4.</b> Research Service Providers (please see pre-meeting questionnaire) <b>4.5.</b> Feedback and questions	Kelley Wiggins Keelie Williams Chris Enders (AusIndustry)
<b>5. ATO Update</b> <b>5.1.</b> Legislative Reforms Implementation <b>5.2.</b> Guidance Products <b>5.3.</b> Timing of determination on Job Keeper and tax ruling on At-Risk <b>5.4.</b> Questions	Brett Challans (ATO)
<b>6. Any outstanding items and close</b> <b>6.1.</b> Other business raised at the meeting <b>6.2.</b> Dates for next roundtable	Kelley Wiggins (AusIndustry)

Action Items from September 2021 Roundtables	Ownership	Due Date
Respond to the question regarding lodgement of extension applications: -Can 14 day extension requests be submitted requests be submitted via email to AusIndustry for the first year or two while the new portal is in play?	Kelley Wiggins (AusIndustry)	Response sent to Roundtable members on 3 September 2021

## 1. Welcome and action Items from the April 2021 Roundtable (by Kelley Wiggins)

- The Chair welcomed attendees and Brett Challans (ATO) as co-chair for the meeting, and gave apologies for Kirsty Gowans and Jade Hawkins who were unable to attend.
- Action items arising from the April 2021 Roundtable were addressed by the ATO later in the meeting. These items were:
  - The transparency data format and how the ATO will treat those entities with a substituting accounting period for the R&D Tax Incentive legislation.
  - The feedback and timing on when the Tax Determination 2020/D1 on the interaction between JobKeeper and the at-risk clawback provisions will be finalised.

## 2. Policy Update (by Lyndall Milward-Bason)

- *Industry Research and Development Regulations 2011* (Regulations) and *Industry Research and Development Decision-Making Principles 2011* (Decision-making Principles) are scheduled to sunset on 1 April 2022 under the *Legislation Act 2003*.
  - Sunsetting – automatic repeal of legislative instruments after a fixed 10-year period.
- To review the performance of sunseting legislative instruments, the Department is required to formally consult relevant stakeholders.
- Public consultation on the Decision-making Principles & Regulations started on 27 August 2021 and will close on 9 September 2021.
- Submissions can be made at: <https://consult.industry.gov.au/r-d-tax/industry-research-and-development-review/>.

### 3. AusIndustry Update (by Kelley Wiggins)

- The chair advised that two program reviews are underway:
  - The Australian National Audit Office (ANAO) is examining if the R&DTI has effective registration, eligibility review and compliance arrangements. Once finalised, the ANAO report will be made publically available on their website.
  - The Board of Taxation review of the R&DTI is evaluating the dual-agency administration model to identify opportunities to reduce duplication. Public consultations are being conducted and written submissions can be made to the Board of Taxation until 15 September 2021. The Board of Taxation is expected to report back to the Government by 30 November 2021.
  
- Keelie Williams updated members on the Customer Portal (released on 5 July 2021)
  - Early results indicate that the new registration form is faster for applicants to complete.
  - Next release is scheduled for the first week of November 2021:
    - Alpha-numerical sorting will give users an easier way to find projects and activities within a list (rather than by the order in which they were created). Users can give their activities a number to better control the visual ordering.
    - The wording of eligibility messages will be rephrased and toned down.
    - Tax Agents will be able to search, sort and 'favourite' R&D entities in their client list to help personalise their experience and find clients more easily.
  - Feedback welcome at [rdti.engagement@industry.gov.au](mailto:rdti.engagement@industry.gov.au) for consideration in a subsequent release around February 2022.
  - Customer Portal Help and Support can be found at:
    - a. [www.mygovid.gov.au](http://www.mygovid.gov.au)
    - b. [info.authorisationmanager.gov.au/](http://info.authorisationmanager.gov.au/)
    - c. [business.gov.au/grants-and-programs/research-and-development-tax-incentive/apply-to-register-with-the-randd-tax-incentive](http://business.gov.au/grants-and-programs/research-and-development-tax-incentive/apply-to-register-with-the-randd-tax-incentive)
    - d. AusIndustry Contact centre – 13 28 46
  
- Chris Enders presented on R&DTI Guidance:
  - The department is committed to working with industry to provide education and guidance materials to help them correctly self-assess suitability for the R&D Tax Incentive program
  - A draft of the refreshed software guide received around 30 submissions. Examples and a new case study were welcome additions.
  - Additional examples and case studies to are welcome and can be sent to [rdti.engagement@industry.gov.au](mailto:rdti.engagement@industry.gov.au)
  - A record-keeping guide is being co-designed with assistance from a number of software companies at a co-design workshop in August 2021.
  
- Chris Enders presented on R&DTI Determinations:
  - Reforms made to the *Industry Research and Development Act 1986* gave the Board of Industry Innovation and Science Australia the power to make determinations that set out how it will apply legislation, exercise powers, or administer the program. These determinations are then binding on the Board or its delegate.
  - A determination must be capable of being applied to cases generally.
  - A Determinations Framework is being developed to drive the implementation of determinations. Determinations will be selected based on a range of factors such as the potential to provide increased certainty and stability to R&DTI participants. We are working

on a determination for phase I and II clinical trials and will announce the opportunity for public consultation through the eBulletin.

- Chris Enders facilitated a discussion on collaboration between researchers and industry to canvas ideas for promoting the Research Service Provider (RSP) element of the R&D Tax Incentive program. A summary points raised by members:
  - There is a need to better connect universities with industry projects/opportunities and make it easier for companies to identify a research institute able to assist.
  - IP ownership can be a challenging issue when collaborating.
  - Universities have a long tradition of collaboration with industry including SMEs. Universities have many good examples of successful collaborations and spin outs. They also leverage a number of government programs (CRCs, CRC-Ps, etc).
  - There can be some challenges in engaging with SMEs (and others) when capital flows are restricted (as it is presently due to the pandemic and falls in university income). There is also less financial stability in the SME sector which impacts the ability to foster and sustain longer-term relationships.
  - Access to capital is a significant issue, especially at proof of concept stage.
  - Universities are active in lodging submissions on government initiatives that impact research collaborations (eg. Patent Box).
  - Significant effort is made by the university sector to bring researchers, industry, government and investors together. Summits have been useful in bringing parties together around a particular research precinct.
  - Australia is good at research but is not as successful with translation/commercialisation.
  - There is good government support for R&D but less support around R&D translation. CRCs, Innovation Connections, Innovation Vouchers, etc are available from state and Commonwealth governments, however, there is still a need to better target gaps to get better commercial outcomes from the research being done.

#### **4. Program Performance (by Kelley Wiggins & Brett Challans)**

- Kelley Wiggins presented statistics for registrations for the 2018-2019 income year (the latest complete dataset available on account of the 10 month time limit to register activities after the end of the income year):
  - There were 12,510 registrations and a total R&D expenditure of \$12.4 billion during the 2018/19 income year.
  - SMEs represent the majority of registrations (87%) and slightly less than half (49.3%) of R&D expenditure. Large companies comprise only 13% of registrations with 50.7% of R&D expenditure.
  - The top three sectors by registrations are Services (58% of registrations and 48% of R&D expenditure); Manufacturing (30% of registrations and 32% of R&D expenditure); and Mining (only 4% of registrations but 10% of R&D expenditure).
  - The Services sector is diverse and covers roughly 14 areas. Key areas include:
    - Professional, Scientific and Technical Services – 3,410 registrations and \$2.8 billion of R&D expenditure
    - Information Media and Telecommunications – 2,174 registrations and \$1.7 billion of R&D expenditure
    - Financial and Insurance Services – 302 registrations and \$0.5 billion of R&D expenditure
  - These top three sectors account for 92.4% (11,554) of total registrations and account for 90% (\$10.6 billion) of R&D expenditure.

- Brett Challans, ATO chair, presented ATO statistics for the 2019-2020 financial year (as published in the 2019-20 Commissioner of Taxation Annual Report):
  - There were 11,485 claims and a total value of offsets of \$4.4 billion.
  - Refundable offsets were claimed by 10,017 entities totalling \$2.3 billion.
  - Non-refundable offsets were claimed by 1,468 entities totalling \$2.1 billion.
  - Claims dropped by 11.7% and the value of offsets dropped by 12% in the 2019-20 compared with the 2018-19 income period.

## **5. ATO Update (Brett Challans)**

- Legislative reforms in place from 1 July 2021 will be published on the website by the end of the year with much of the content being brought forward to before the end of the current year at the request of R&D consultants.
- The legislative requirement to publish tax entity claims occurs 2 years after the 2022 financial year meaning that the first publication will occur after 30 June 2024. This ATO is still working on the process to publish the data.
- The ATO is reviewing their website content including their guidance products. The website will be restructured to present information in a modular format and search functions will be improved. Guidance will be presented on the website to enable real time updates.
- The ATO will enhance their guidance in the following areas:
  - Apportionment of expenses – updates will include more realistic case studies and more clarity around the nexus between expenditure and activities.
  - Record keeping – updates will include case studies and more examples together with industry specific information (eg. software, start-ups, etc). Additionally, some guidance on governance issues and payments to associates will be included.
  - Feedback is welcome.
- The draft 'At Risk' ruling was open to public consultation which closed in July 2021. All feedback is being reviewed and a final ruling will be issued. There is no deadline for release at this time.
- The draft tax determination on Job Keeper will be finalised after the 'At Risk' ruling as it will be dependent on the 'At Risk' ruling.

## **6. Other Business and Close (by Kelley Wiggins)**

- A question was raised on the lodgement of extension applications:
  - Can 14 day extension requests be submitted via email to AusIndustry for the first year or two while the new portal is in play?
  - The chair made an action item to consider the question and respond to members directly. Following the meeting, a response was circulated to all Roundtable members by email on 3 September 2021 to advise that extension of time applications may only be submitted through to the portal. Requests made directly to AusIndustry via email would not be considered.
- AusIndustry and the ATO thanked members for attending.
- Minutes from the September 2021 Roundtable will be available on BGA in the next four weeks.
- The ATO will host the next R&D Tax Incentive Roundtable in March 2022.

*--End of Summary--*