IT 2552A - Addendum - Income tax: research and development (R&D) - costing of expenditure

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Addendum

Income tax: research and development (R&D) - costing of expenditure

The Australian Taxation Office is restructuring, renumbering and rewriting the income tax law in plain language. The Parliament is amending the income tax law progressively to reflect these aims. As new laws come into effect, Taxation Rulings about old laws are being brought into line with them.

This Addendum amends Taxation Ruling IT 2552, in relation to the 1997-98 or a later income year (with the exception of paragraph 15), as follows:

1. **At Paragraph 15 [2nd dot point]**

   Omit '(section 82KTF)'; insert '(section 28-20 of the *Income Tax Assessment Act 1997* (''ITAA 1997''))'.

2. **At Paragraph 16 [5th dot point]**

   After 'service loans to associates).'; insert ' Note that interest expenditure incurred after 23 July 1996 is excluded from the definition of 'research and development expenditure'.'

3. **At Paragraph 17 [13th dot point]**

   Omit 'Fringe benefits and Fringe Benefits Tax'.

4. **After Paragraph 30**

   Insert new Paragraph 31:

   'Section 82KZBC, subsection 51(1) and section 69 of the ITAA 1936, to which this Ruling refers, express the same ideas as sections 28-20, 8-1 and 25-5, respectively, of the ITAA 1997.'

5. **At the Legislative References**

   Omit '73B'; substitute 'ITAA 1936 73B'.

6. **At Appendix E**

(a) In Comment to Question 2 omit 'seven years' in 3rd line; substitute 'five years'.

(b) In Comment to Question 3 omit paragraph 2; substitute 'If particular activities are found to be ineligible by the IRD Board so that expenditure incurred in respect of that project is not deductible under section 73B then it is our usual practice not to amend any claim made in the relevant assessments until any rights of review have been exhausted and the certificate issued by the IRD Board becomes final. Interest will be payable under section 170AA of the ITAA 1936 from the date the tax is payable in respect of the assessment that is to be amended, up until the date on which the amended assessment is eventually made. No penalty tax will be imposed under Part VII of the ITAA 1936 unless the tax shortfall arising from the debit amendment assessment has been brought about by some form of culpable behaviour on the part of the taxpayer concerning the section 73B claim.'.

(c) In Comment to Question 6 omit 'seven years;' in last sentence; substitute 'five years;'.

(d) In Comment to Question 8 omit 'sec 51(1)' in 1st dot point; substitute 'section 8-1 of the ITAA 1997'; insert at end '(refer Taxation Determination TD 95/44)'.

(e) In Question 9 omit the question and comment.

(f) In Question 10 omit '10'; substitute '9'; omit the two paragraph answer; substitute 'Companies with R&D claims may become the subject of an audit through the normal audit selection processes. ATO auditors may request specialist assistance from the IRD Board. The IRD Board can also independently initiate assessments of the eligibility of R&D projects claimed by companies.'.

(g) In Question 11 omit '11'; substitute '10';omit '150%'; substitute 'R&D concession'; after the Comment paragraph insert 'Expenditure incurred on managing your tax affairs is deductible under section 25-5 of the ITAA 1997'.

(h) In Question 12 omit '12'; substitute '11'; in Comment to Question 12 omit 'specific'; substitute 'private binding'; after 'relevant income tax return'; omit 'or seek a request for the Commissioner's interpretation of the law'.

(i) In Question 13 omit '13', substitute '12'; in Comment to Question 13 omit 'In particular, please see R&D Tax Concession Guidelines Nos 1, 10 and 14.'.

Commissioner of Taxation
18 August 1999

ATO references:
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