TD 98/1 - Income tax: does 'expenditure on research and development activities'. in subsection 73B(27A) and sections 73C and 73D of the Income Tax Assessment Act 1936 , include 'core technology expenditure'?

This cover sheet is provided for information only. It does not form part of *TD 98/1 - Income tax: does 'expenditure on research and development activities'. in subsection 73B(27A) and sections 73C and 73D of the Income Tax Assessment Act 1936 , include 'core technology expenditure'?*

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Generated on: 26 November 2026, 07:42:10 AM

Australian Taxation Office

Taxation Determination TD 98/1

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: does 'expenditure on research and development activities', in subsection 73B(27A) and sections 73C and 73D of the *Income Tax Assessment Act 1936*, include 'core technology expenditure'?

1. It has been claimed that expenditure on research and development activities does not include expenditure on core technology, on the basis that 'core technology expenditure' is expressly excluded from the definition of 'research and development expenditure' in subsection 73B(1).

2. We disagree with this view. The general phrase, 'expenditure on research and development activities', as used in subsection 73B(27A) and sections 73C and 73D, is the not the same as the defined phrase, 'research and development expenditure'. We think the general phrase more correctly takes its meaning from the definition of 'research and development activities' in subsection 73B(1).

3. Expenditure on acquiring, or acquiring the right to use, core technology that comes within the definition of 'core technology expenditure' in subsection 73B(1), is expenditure on an activity that comes within either paragraph (a) or (b) of the definition of 'research and development activities'.

4. The express exclusion of 'core technology expenditure' from the definition of 'research and development expenditure' is to allow for the specific operation of subsections 73B(12), (12A) and (12C), and to exclude this expenditure from being deductible under subsection 73B(14). It was not meant to affect the operation of subsection 73B(27A), or sections 73C or 73D.

5. Thus, subsection 73B(27A) and sections 73C and 73D may apply in respect of 'core technology expenditure'.

> **Note:** Section 73D does not apply to amounts received as 'recoupments', as defined in section 20-25 of the *Income Tax Assessment Act 1997*, in the 1997-98 or a later year of income. Subdivision 20-A of this Act applies instead.

Commissioner of Taxation
4 February 1998

FOI INDEX DETAIL: Reference No. I 1015529 Previously issued as Draft TD 94/D21

Related Determinations:

Related Rulings: IT 2635

Subject Ref: core technology expenses; research and development expenses

Legislative Ref: ITAA36 73B; ITAA36 73B(1); ITAA36 73B(1)(a); ITAA36 73B(1)(b); ITAA36 73B(12); ITAA36 73B(12A); ITAA36 73B(12C); ITAA36 73B(14); ITAA36 73B(27A); ITAA36 73C; ITAA36 73D; ITAA36 73D(1A); ITAA97 20-A; ITAA97 20-25

Case Ref:

ATO Ref: NAT 94/8239-3; NAT 98/482-5

ISSN 1038 - 8982