



The Textiles, Clothing & Footwear Industry Advisor

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Administrative changes firm SIP eligibility

Further to our last newsletter - 'Settling-in for the TCF-SIP Long Haul' - which focused on SIP Scheme enhancements as an outcome of amendments released by Industry Minister Macfarlane in late August, this issue of 'the Advisor' reports on a series of re-interpretations of administrative approach to key legislative provisions as confirmed by AusIndustry in Scheme seminars held recently in Melbourne and Sydney.

The re-interpretations have important consequences for TCF&L firms now preparing subsequent-year SIP claims. Accordingly, if you have any questions about these changes, please don't hesitate to ring me, or email queries to: gerry@tcf.net.au.

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Scoping the extent of eligibility for TCF 'Brand Support'

In the first year (Round 1 - 2000/01) of the SIP Scheme, claimants were limited in their ability to claim 'Brand Support' (Section 20) activities due to the need for their new innovative product to have a separate and definable trademark registration for each innovative product. This requirement was sustained by Scheme administrators, despite awareness of normal industry practice to the contrary, whereby, most new products were sold under an existing trademark or Brand.

There were good economic reasons for industry's behaviour, however. Having invested heavily to establish the 'core' brand, firms launching new products naturally sought to leverage off this investment as a means of containing the substantive costs associated with bringing new concepts and products to the market place.

For those making Brand Support claims, eligible material costs were also limited by administrators to the apportioned costs directly associated with the promotion of the particular technical innovation, as opposed to total costs related to each new product's introductory marketing material destined for use at trade showings.

Gladly, a commonsense approach has overcome these two limitations. From the 2001/02 claim year (Round 2), AusIndustry have advised firms will be able to claim a broader range of eligible Brand Support costs, as long as the new innovative product is sold under a 'new or existing' trademark, or other form of intellectual property (IP) registration.

Further, trade show or in-store promotional material costs will also be fully eligible, even if this material does not fully focus on the technical innovation underpinning the new product. TCF Services welcomes the new administrative approach to this area of eligibility, and suggests that in better aligning administrative interpretation with industry practice, firms have been provided with an improved environment of confidence when planning to undertake significant risk expenditures to promote and commercialise new products.

The experience also confirms earlier advice by TCF Services to its clients, that firms should frame and submit their claims for SIP benefits on the basis of a solid reading of Scheme entitlements, as outlined in the SIP legislation. Further, firms should be prepared to contest administrative challenges to claims through the successive appeals mechanisms, as laid down for Internal Review and the AAT.

Strong vigilance, in terms of a willingness to contest what firms believe is correct within the law, not only contributes to the confirmation of individual-firm rights and benefits, but also to a more workable Scheme that benefits the industry as a whole, as well as contributing to the longer-term achievement of the Government's TCF&L industry objectives.

Getting the cycle of 'Market Research' right

Whilst the SIP Scheme does not support upfront Market Research in terms of surveying customers needs and the undertaking of demographic studies in new markets, AusIndustry have nevertheless confirmed that 'product concept testing' will now be considered eligible for Scheme benefits. What does this really mean?

Essentially, if a firm is engaging in the development of a new product, it may also be able to claim eligible expenses related to testing of the concept when undertaken in other than a semi- or fully-completed physical product form. For example, in 'mock-up' form.

To be eligible, product concept testing would need to relate to either market acceptance and/or feedback relative to the new innovative design features or functions embedded in the product. TCF Services considers such an avenue of activity would be of particular interest to the Carpet, Footwear or technical textiles sectors.

One proviso to the new market acceptance approach is that, if the product concept is foregone due to poor response and no physical trials are actually undertaken after this initial testing stage, then AusIndustry would find it difficult to pay on a claim as it would deem no innovation has been delivered, or attempted to be delivered.

A broader view of TCF&L buildings

Many SIP claimants have expressed surprise at the limitations applied by administrators when seeking to match new investments in TCF plant and equipment, and the structures to house such equipment. This has also now been relaxed.

For companies intending to construct a new building (as opposed to purchasing an existing building) for the purposes of either manufacturing or warehousing and distribution activities, a new interpretation is proposed.

The change will allow claimants (who must be the 'financial owner' of the building) to claim the percentage of the floor plan as a consequence of the efficient housing of the 'new process' which must include new equipment, but may also now include any existing equipment that supports the new production or distribution process.

Further apportionment may, however, be required if the distribution or warehousing process also supports other than local manufactured products.

Integrating production with 'warehousing and distribution'

As reported in the last 'Advisor', there has been a breakthrough in this area with 'racking' now being accepted as eligible for SIP benefits. As such, some claimants can expect to receive additional benefits relating to their submissions in the first claim year, as a consequence of a successful appeal against former administrative decisions.

The change in approach is not, however, only limited to racking. It also applies to any new plant, equipment, tools, apparatus or IT hardware or software. Again apportionment may apply if the equipment also supports imported product.

Round 1 SIP Scheme performance measures

For Round 1 of the SIP Scheme, and against the 437 firms understood to have initially been registered, AusIndustry has confirmed that 210 firms were actually paid a grant, whilst 50 firms lodged claims, but did not meet the \$200,000 eligibility threshold. A further 20-30 late claims are believed to have been received, which will be paid out in the next financial year.

Of the 210 paid claims, the breakdown of expenditures was \$300 million in Type 1 (including the pre-Program years), \$65 million in Type 2, and \$50 million in Type 3. Breaking

these figures up by sector, SIP benefits went roughly 36% to Clothing & Footwear, 36% to Textiles, 16% to Carpet manufacturers, 6% to Technical Textiles, 4% to Leather, and 1% each to Dyeworks and Finishers. One or two substantive residual claims are still working their way through the appeals process and - if upheld - may ultimately affect these initial sectoral shares, particularly, that held by Textiles.

Considering the angst created by Government at the outset of the SIP's creation over the need for the Scheme to reflect World Trade Organisation requirements to cap grants at 5% of eligible sales, it is interesting that only 60 companies have 'capped out' in terms of maximum grants being paid.

Accepting that the industry is essentially 'mature' (ie: not too many new entrants), the low level of capped claimants supports a view that overall Scheme funding should be sufficient to see it the Scheme out to Round 5 (2004/05), irrespective of recent legislative amendments.

Industry Minister Macfarlane's politically smart decision to set modulation at unity (1) for the three years 2001/02 to 2003/04 now appears well based, with 2004/05 set to be a modulation year. Any unspent funds will then be added to the allocation for final payments to be made by the Government in the 2005/06 financial year. As previously advised, the SIP Budget for payments in 2002/03 (relating to Round 2 claims), has been set at \$130.1m.

Bilateral trade agreements undoing the TCF sector plan

Speaking at the APEC Leaders CEO Summit in Los Cabos (Mexico) 25 October, Prime Minister Howard said Australia would soon grant tariff and quota free access for 50 of the world's poorest countries, including for TCF products. The new concession applies to the world's poorest citizens living in the Least Developed Countries (LDCs).

Also on the Prime Minister's tariff-free access list was East Timor, which has yet to be formally designated an LDC by the United Nations. Howard confirmed the initiative would be implemented swiftly, with access free from tariffs and quotas becoming available to LDCs and East Timor on 1 July 2003. According to Howard, "this initiative sends a signal to the rest of the world that we are serious about getting the most disadvantaged to share the fruits of trade liberalisation to help them trade their way out of poverty."

The current Customs LDC list comprises: Afghanistan, Angola, Bangladesh, Benin, Bhutan, Botswana, Burkina Faso, Burundi, Cambodia, Cape Verde, the Central African Republic, Chad, Comoros, the Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, the People's Democratic Republic of Lao (formerly Laos), Lesotho, Liberia, Madagascar, Malawi, the Maldives, Mali, Mauritania, Mozambique, the Union of Myanmar (formerly Burma), Namibia, Nepal, Niger, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Somalia, Sudan, the United Republic of Tanzania, Togo, Uganda, the Republic of Yemen, and Zambia.

Places treated as LDC's include: American Samoa, French Polynesia, Guam, the Mariana Islands, New Caledonia, Palau, Pitcairn Island, the Tokelau Islands, and Wallis and Futuna Islands. Further bilateral trade agreements are under negotiation by the Howard Government with Singapore, Thailand and the United States of America, with the latter agreement expected to see some substantive form by 2004, towards the conclusion of the current Presidential term.

The Textiles, Clothing & Footwear Industry Advisor (C) 2002 [Business Communications Group] brings you the latest facts, analysis and contacts regarding Australia's TCF industries and related Government assistance and support programs.

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