

ATO and AusIndustry clamp down on non-compliant R&D Tax applications – are your claims defensible?

As an outcome of the ever increasing number of R&D Tax Incentive claimants (over 15,000) and annual benefits paid (over \$3 billion), the Government announced further reductions to the R&D Tax benefits in the May budget and has further ramped up their audit and review activities to ensure proper integrity measures are applied after rejecting many claims and seeking repayment of benefits paid in prior years.

Whilst the Australian based Incentive continues to provide the most generous rate of return anywhere in the world for companies under \$20m in annual revenue, it has become increasingly important to seek the right guidance to gain a proper understanding of the complex web of legislative requirements when claiming the Incentive. If you are incorrectly self-assessing the nature of your R&D activities or overstating expenditure you are in danger of finding your company on the radar.

Following the release of four earlier ATO Taxpayer Alerts specifically targeting ineligible activities and expenses being claimed, the joint administrators of R&D Tax Incentive (ATO and AusIndustry) have established new audit teams and processes to crackdown on R&D Tax compliance. This is evidenced by the recent upsurge in both pre and post registration reviews from AusIndustry and tax return audits conducting by the ATO who, recently stated that "it will take legal action against those who wilfully misuse the R&D Tax Incentive".

Over the past year or more we have observed:

- A much harder line emerging from multiple ATO Tax alerts being issued targeting non-compliant R&D activity and expenditure claims.
- ATO working more closely with AusIndustry to identify taxpayers and consultants involved in aggressive R&D Tax Incentive arrangements.
- A new initiative staffed with a new team at AusIndustry conducting pre-registration reviews.
- A new initiative staffed with a new team at the ATO conducting far more strenuous and extensive ATO audits on registered R&D activities causing refund delays.
- The ATO successfully winning cases at AAT against companies who could not substantiate the nature of their R&D activities or expenditure claims via proper record keeping.
- A high rejection rate for advance or overseas findings applications.
- A number of R&D tax agents being de-registered or liquidated by multiple retrospectively rejected clients seeking fee reimbursements.
- One of the 'big four' accountants is understood to have written several cheques refunding commission to clients whose R&D claims have been retrospectively rejected.
- An 80% claim rejection rate from the first round of ATO audits conducted under the new audit regime.



If you are undertaking R&D activities please call (as above) or email:

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