Dear Sir / Ms,

Exposure Draft - Tax Laws Amendment (2013 Measures No. 2) Bill 2013: quarterly R&D credits

Thank you for the opportunity to make a submission on the above exposure draft ("the ED") and its accompanying explanatory memorandum.

Pitcher Partners is one of the largest accounting associations outside the Big Four. Our specialisation is advising smaller public companies, large family businesses and small to medium enterprises - which we refer to as "the middle market" in this submission.

General comments

While the announcement of quarterly R&D tax credit payments is welcome news for small businesses, we believe that the 'red tape' surrounding these tax credits could be an impediment to their take up.

In particular, there is a 'history test' requirement which will mean that start-up companies will be ineligible if they have not been entitled to an R&D tax offset in at least one of the last five income years - which is counter-productive in our view, as start-up companies are exactly the type of company that could benefit the most from additional funding for their R&D activities.

In addition, even if companies do pass the 'history test' they still have to pass the 'reasonable receipt' and 'complying taxpayer' tests - the latter of which could prevent companies that may otherwise qualify from doing so if an entity that is connected with them has a poor compliance record.

Companies will also need to accurately predict their R&D expenditure if they want to vary their quarterly credit entitlements, this is because they will incur the general interest charge ("GIC") on the excess of the varied amount over their actual credit entitlement for each quarter. No GIC will be incurred however, where the actual credit entitlement (which is determined at the end of the year) is at least 85% of the varied amount.

Our View

Based on this announcement we would be cautious in advising companies to enter into the system.

We fear that the 'red tape' surrounding the system may either discourage companies from entering into the system in the first place or prevent them using anything other than the so-called standard amount 'safe harbour' - which is based on the refund that a company received in the previous income year.

In our view, start-up companies should be able to access the regime from the earliest possible time – i.e. from the first year in which they incur R&D expenditure.

We also submit that the fact that an entity connected with a R&D company has a poor compliance record should be of minimal, if any, relevance, to whether the R&D company can obtain quarterly R&D tax credits – if the R&D company itself has a good compliance record it should not matter what another taxpayer does or does not do in terms of their compliance obligations.

Contacts for more information

Please contact either Ali Suleyman (ali.suleyman@pitcher.com.au / 03 8610 5520) or me (peter.braine@pitcher.com.au / 03 8610 5541) if you have any questions regarding this submission.

Regards

Peter Braine | Executive Director

Pitcher Partners Advisors Proprietary Limited
Level 19, 15 William Street, Melbourne VIC 3000 | www.pitcher.com.au
T: 03 8610 5541 | F: 03 8610 5999 | M: 0408 601 155 | peter.braine@pitcher.com.au