

EXPOSURE-DRAFT

1 Inserts for
2 **Tax Laws Amendment (2013 Measures**
3 **No. 2) Bill 2013: quarterly R&D credits**
4

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5
Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1.		
2. Schedule ??	The day this Act receives the Royal Assent.	
3.		

6 **Schedule ??—Quarterly R&D credits**

7 **Part 1—Main amendment**

8 *Taxation Administration Act 1953*

9 **1 After Part 2-10 in Schedule 1**

10 Insert:

11 **Part 2-15—Quarterly credits of refundable tax**
12 **offsets**

13 **Division 48—Quarterly credits**

14 **Table of Subdivisions**

15		Guide to Division 48
16	48-A	Object
17	48-B	Participating in the quarterly credits system
18	48-C	Tests for participation
19	48-D	Working out and paying quarterly credit amounts
20	48-E	End of year reconciliation

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1	48-F	Ending participation
2	48-P	Other matters

3 **Guide to Division 48**

4 **48-1 What this Division is about**

5	<p>You can apply to participate in the quarterly credits system for an income year if you expect to be entitled to refundable tax offsets for the income year that are covered by the system.</p> <p>Participating gives you quarterly credits towards your likely refund from those tax offsets. These credits will either be based on your refund from a recent income year, or on a varied amount chosen by you after estimating your refund for the current year.</p> <p>A reconciliation happens after the current year's assessment. General interest charge may be payable if you chose to base your credits on a varied amount and those credits are too high.</p>
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15 **Subdivision 48-A-Object**

16 **Table of sections**

17	48-3	Object
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18 **48-3 Object**

19 The object of this Division is to benefit the Australian economy by
20 improving entities' cash flow by enabling them to realise the
21 benefit of certain expected refundable tax offsets on a quarterly
22 basis during the income year.

23 **Subdivision 48-B—Participating in the quarterly credits system**

24 **Table of sections**

25	48-5	Participating in the quarterly credits system
26	48-10	Refusing participation
27	48-15	Applying to participate

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48-5 Participating in the quarterly credits system

(1) The Commissioner may, on application, allow you to participate in the *quarterly credits system for:

- (a) each of the *instalment quarters in an income year, other than any that ended more than 14 days before the day the Commissioner receives your application; and
- (b) one or more specified *tax offsets covered by section 48-100.

Note: If you are dissatisfied with a decision under this subsection, you may object against it in the manner set out in Part IVC (see section 48-700).

(2) The Commissioner must notify you in writing of:

- (a) the Commissioner's decision under subsection (1); and
- (b) if the decision refuses to allow you to participate—the reasons for the decision.

48-10 Refusing participation

(1) The Commissioner must, under subsection 48-5(1), refuse to allow you to participate for:

- (a) any of the *instalment quarters, and a specified *tax offset, if the Commissioner is aware that you fail a test in Subdivision 48-C necessary for that participation; or
- (b) a specified instalment quarter, and a specified tax offset, if during that instalment quarter you have already withdrawn under section 48-400 from participating in the *quarterly credits system for that tax offset.

Note 1: The Commissioner may allow you to participate to the extent that paragraph (a) or (b) does not prevent this.

Note 2: This subsection applies separately for each tax offset mentioned in your application.

(2) The Commissioner may, under subsection 48-5(1), refuse to allow you to participate for one or more specified *instalment quarters and *tax offsets if:

- (a) you fail to give the Commissioner any information in accordance with section 48-15; or
- (b) for a tax offset listed in table item 20 (about R&D) in section 48-100—during the income year:
 - (i) you failed to give *Innovation Australia any information in accordance with section 28H of the *Industry Research and Development Act 1986*; or

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- 1 (ii) Innovation Australia refused under
2 paragraph 28AA(1)(d) of that Act to make a finding
3 under subsection 28A(1) of that Act about you and all or
4 part of an activity.

5 **48-15 Applying to participate**

- 6 (1) An application to participate in the *quarterly credits system for
7 one or more *instalment quarters in an income year, and one or
8 more *tax offsets, must be:
9 (a) in the *approved form; and
10 (b) given to the Commissioner before the 15th day after the end
11 of the income year.
- 12 (2) The Commissioner may request you in writing to give specified
13 information to the Commissioner about your application.
- 14 (3) The request may be for the information to be given:
15 (a) in the *approved form; and
16 (b) within 14 days after the request was made, or within a further
17 period allowed by the Commissioner.

18 Note: A failure to give the information in accordance with this subsection
19 may result in the Commissioner refusing to allow you to participate
20 (see subsection 48-10(2)).

21 **Subdivision 48-C—Tests for participation**

22 **Table of sections**

23	48-100	Tests for participation
24	48-105	Reasonable receipt test
25	48-110	Complying taxpayer test
26	48-115	Excusing instances of noncompliance
27	48-120	Applying for noncompliance to be excused

28 **48-100 Tests for participation**

29 To participate in the *quarterly credits system for one or more
30 *instalment quarters in an income year and a *tax offset listed in the
31 table, you must pass each of the following tests:

- 32 (a) the reasonable receipt test in section 48-105;
33 (b) the complying taxpayer test in section 48-110;
34 (c) any extra test listed in the table for the tax offset.
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Relevant *tax offsets and any extra tests

Item	Participating in the *quarterly credits system for this *tax offset:	requires you to pass these extra tests (if any):
20	the *tax offset to which entities become entitled under section 355-100 (about R&D) of the <i>Income Tax Assessment Act 1997</i>	you must have been entitled to a tax offset under that section for at least one of the last 5 income years

1 **48-105 Reasonable receipt test**

2 It must be reasonable to expect that:

- 3 (a) you will become entitled to the *tax offset for the income
4 year; and
5 (b) the tax offset will be subject to the refundable tax offset
6 rules.

7 **48-110 Complying taxpayer test**

8 (1) You pass the complying taxpayer test in this section if:

- 9 (a) there is total compliance with subsection (2); or
10 (b) each instance of noncompliance with subsection (2) is
11 covered by one of the following subparagraphs:
12 (i) it has been excused under subsection 48-115(1);
13 (ii) it is the subject of a pending application to be so
14 excused;
15 (iii) the period for making such an application about it is yet
16 to end (see subsection 48-120(1)).

17 (2) For there to be total compliance with this subsection:

- 18 (a) each of the entities listed in subsection (3) must, during the
19 income year, be complying with its obligations under:
20 (i) *taxation laws; and
21 (ii) any laws listed in subsection (4) for the *tax offset; and
22 (b) each of those entities must have an established history of
23 compliance with its obligations under those laws over the last
24 5 income years; and
25 (c) it must be reasonable to expect that each of those entities will
26 continue to comply with its obligations under those laws in
27 the future.

28 Note: Outstanding tax-related liabilities, outstanding tax returns and
29 convictions of tax offences are examples of noncompliance.

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- 1 (3) The entities are as follows:
2 (a) you;
3 (b) each entity *connected with you;
4 (c) each *affiliate of yours, or each entity of which you are an
5 affiliate;
6 (d) each of your partners if you are a partnership;
7 (e) each of your *general partners if you are a *corporate limited
8 partnership;
9 (f) each person in the person's capacity as a trustee if you are a
10 trust and the person is your trustee;
11 (g) each individual in his or her capacity as a director (within the
12 meaning of the *Corporations Act 2001*), if:
13 (i) you; or
14 (ii) an entity covered by any of paragraphs (b) to (f) in
15 relation to you;
16 is a body corporate and the individual is one of its directors;
17 (h) each individual in his or her capacity as a member of an
18 unincorporated association's or body's committee of
19 management, if:
20 (i) you; or
21 (ii) an entity covered by any of paragraphs (b) to (f) in
22 relation to you;
23 is an unincorporated association or body and the individual is
24 a member of its committee of management.

- 25 (4) The extra laws for the *tax offset are as follows:
26

Extra laws that must be complied with

Item	For this *tax offset:	the extra laws are:	which are administered by:
20	the tax offset listed in table item 20 (about R&D) in section 48-100	Part III of the <i>Industry Research and Development Act 1986</i>	*Innovation Australia

27 48-115 Excusing instances of noncompliance

- 28 (1) The Commissioner may, on application, excuse one or more
29 instances of noncompliance with subsection 48-110(2).

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Note: If you are dissatisfied with a decision under this subsection, you may object against it in the manner set out in Part IVC (see section 48-700).

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4 (2) In deciding whether to excuse that noncompliance, the
5 Commissioner must have regard to:
6 (a) the consequences of that noncompliance; and
7 (b) the consequences of any other instances of noncompliance
8 with subsection 48-110(2) by any of the entities listed in
9 subsection 48-110(3); and
10 (c) the likelihood of each of those entities complying in the
11 future with its obligations referred to in
12 subsection 48-110(2); and
13 (d) the likely consequences if any of those entities does not so
14 comply; and
15 (e) to the extent that any of the above paragraphs involves
16 noncompliance with an obligation under a law listed in
17 subsection 48-110(4)—the views of the administering agency
18 listed in that subsection for that law.
- 19 (3) The Commissioner may, under subsection (1), refuse to excuse that
20 noncompliance if you fail to give the Commissioner any requested
21 information in accordance with section 48-120.
- 22 (4) The Commissioner must notify you in writing of:
23 (a) the Commissioner’s decision under subsection (1); and
24 (b) if the decision refuses to excuse that noncompliance—the
25 reasons for the decision.
- 26 (5) A decision under subsection (1) continues in force for any future
27 income years that you apply to participate in the *quarterly credits
28 system.

29 **48-120 Applying for noncompliance to be excused**

- 30 (1) An application for the Commissioner to excuse an instance of
31 noncompliance with subsection 48-110(2) must be made:
32 (a) either in your application under section 48-15, or later in the
33 *approved form; and
34 (b) if made later in the approved form—within 14 days after the
35 day the instance of noncompliance happened or started, or
36 within a further period allowed by the Commissioner.
- 37 (2) The Commissioner may request you in writing to give specified
38 information to the Commissioner about your application.

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1 (3) The request may be for the information to be given:

2 (a) in the *approved form; and

3 (b) within 14 days after the request was made, or within a further
4 period allowed by the Commissioner.

5 Note: A failure to give the information in accordance with this subsection
6 may result in the Commissioner refusing to excuse that
7 noncompliance (see subsection 48-115(3)).

8 **Subdivision 48-D—Working out and paying quarterly credit** 9 **amounts**

10 **Table of sections**

11	48-200	Quarterly credit amounts
12	48-205	Standard amount
13	48-210	Choosing a varied amount
14	48-215	Disallowing proposed varied amounts
15	48-220	Notifying the Commissioner of proposed varied amounts
16	48-225	When quarterly credit amounts are payable to you
17	48-230	When quarterly credit amounts are payable by you
18	48-235	The amount's <i>quarterly credit due day</i>

19 **48-200 Quarterly credit amounts**

20 If you are participating in the *quarterly credits system for an
21 *instalment quarter in an income year (the *present year*) and one or
22 more *tax offsets (the *present tax offsets*), your *quarterly credit*
23 *amount* for the instalment quarter and the present tax offsets is:

24 (a) any varied amount applying under section 48-210 for the
25 instalment quarter and the present tax offsets; or

26 (b) otherwise—the standard amount worked out under
27 section 48-205.

28 Note: If you recommence participating in the quarterly credits system,
29 paragraph (a) covers any varied amount applying for the instalment
30 quarter under your earlier participation in the system.

31 **48-205 Standard amount**

32 (1) If:

33 (a) for the most recent income year (the *reference year*) for
34 which the Commissioner has made an assessment of your
35 income tax, you were entitled to *tax offsets of the same
36 kinds as each of the present tax offsets; and

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- 1 (b) those reference year tax offsets were subject to the refundable
2 tax offset rules; and
3 (c) the reference year is one of the last 2 income years
4 immediately before the present year;
5 the standard amount worked out under this section is $\frac{1}{4}$ of the
6 lesser of:
7 (d) the total amount of those reference year tax offsets; and
8 (e) the total of your *tax offset refunds (for tax offsets of any
9 kind) for the reference year.

10 Note: If the instalment quarter is the first in the present year, the reference
11 year will usually be a different year to that for later instalment
12 quarters.

- 13 (2) Otherwise, the standard amount worked out under this section is
14 nil.

15 **48-210 Choosing a varied amount**

- 16 (1) You can choose to notify the Commissioner under section 48-220
17 of a proposed varied amount for the *instalment quarter and the
18 present tax offsets.

19 Note 1: If you do, your notice must include a proposed varied amount for each
20 later instalment quarter in the income year (see
21 paragraph 48-215(1)(a)).

22 Note 2: A later notice can propose a replacement varied amount for those later
23 instalment quarters.

- 24 (2) An amount you so notify for an *instalment quarter is the varied
25 amount applying under this section for that instalment quarter and
26 the present tax offsets if that amount is the most recent that:
27 (a) has been so notified for that instalment quarter; and
28 (b) has not been disallowed by the Commissioner.
29 That amount may be a nil or negative amount.

- 30 (3) The Commissioner may disallow a proposed varied amount.

31 Note: If you are dissatisfied with a decision under this subsection, you may
32 object against it in the manner set out in Part IVC (see
33 section 48-700).

- 34 (4) The Commissioner must notify you in writing of:
35 (a) a decision under subsection (3) to disallow a proposed varied
36 amount; and
37 (b) the reasons for the decision.

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48-215 Disallowing proposed varied amounts

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- (1) The Commissioner must, under subsection 48-210(3), disallow each proposed varied amount included in your notice under section 48-220 if:
 - (a) that notice does not include a proposed varied amount for each *instalment quarter in the present year for which:
 - (i) you are participating in the *quarterly credits system; and
 - (ii) a *quarterly credit amount is yet to become payable; or
 - (b) for any of the proposed varied amounts included in that notice (the *test amount*), the sum of:
 - (i) the test amount; and
 - (ii) any of the other proposed varied amounts that are for earlier instalment quarters in the present year; and
 - (iii) your *quarterly credit amounts payable for any earlier instalment quarters in the present year;is less than nil or is likely to significantly exceed the amount worked out under subsection (2).
 - (2) To work out the amount under this subsection:
 - (a) estimate the amount likely to be the end of year amount under section 48-355 (about reconciling amounts) for the present year; and
 - (b) work out how much of that estimate proportionately relates to those *instalment quarters in the present year, up to (and including) the instalment quarter for which the test amount is proposed, for which you are participating in the *quarterly credits system.
 - (3) The Commissioner may, under subsection 48-210(3), disallow each proposed varied amount included in your notice under section 48-220 if you fail to give the Commissioner any requested information in accordance with section 48-220.
 - (4) The Commissioner must not, under subsection 48-210(3), disallow the proposed varied amounts included in your notice under section 48-220 if:
 - (a) neither subsection (1) nor (3) applies; and
 - (b) each of those proposed varied amounts is less than or equal to the amount that would otherwise be your *quarterly credit amount for the relevant *instalment quarter and the present tax offsets.
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48-220 Notifying the Commissioner of proposed varied amounts

- (1) A notice of one or more proposed varied amounts must be:
- (a) in the *approved form; and
 - (b) given to the Commissioner before the 15th day after the end of the earliest of the *instalment quarters to which the amounts relate.

Note: You must keep records in relation to the varied amount (see section 262A of the *Income Tax Assessment Act 1936*).

- (2) The Commissioner may request you in writing to give specified information to the Commissioner about the notice.

- (3) The request may be for the information to be given:

- (a) in the *approved form; and
- (b) within 14 days after the request was made, or within a further period allowed by the Commissioner.

Note: A failure by you to give the information in accordance with this subsection may result in the Commissioner refusing to allow the proposed varied amounts (see subsection 48-215(3)).

48-225 When quarterly credit amounts are payable to you

- (1) The Commissioner must, on behalf of the Commonwealth, pay you your *quarterly credit amount for an *instalment quarter and the present tax offsets on or before the later of the following days:

- (a) the 28th day of the month after the end of the instalment quarter unless all or a part of a December falls within the last month of the instalment quarter;
- (b) if all or a part of a December falls within the last month of the instalment quarter—the next 28 February;
- (c) if a request referred to in subsection (2) is made of you within the 21 days before the day referred to in paragraph (a) or (b)—the 28th day of the month after that in which you comply with the request.

Note 1: See Division 3A of Part IIB for the rules about how the Commissioner must pay the amount. Division 3 of Part IIB allows the Commissioner to apply the amount as a credit against tax debts that you owe to the Commonwealth.

Note 2: Interest is payable under Part IIIAB of the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in paying your quarterly credit amount.

- (2) For the purposes of paragraph (1)(c), the requests are as follows:

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- 1 (a) a request by the Commissioner under subsection 48-15(2) or
2 48-220(2) relating to the *instalment quarter or any of the
3 present tax offsets;
4 (b) a request covered by the following table:

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Other requests for information that may cause a later due day

Item	If the present tax offsets include:	a request of you by:	under this provision:	for information about:
20	the tax offset listed in table item 20 (about R&D) in section 48-100	*Innovation Australia	section 28H of the <i>Industry Research and Development Act 1986</i>	the making of a finding under subsection 28A(1) of that Act about you and an activity

6 **48-230 When quarterly credit amounts are payable by you**

- 7 (1) However, if your *quarterly credit amount for the *instalment
8 quarter and the present tax offsets is a negative amount, you are
9 liable to pay the Commonwealth that amount (expressed as a
10 positive amount).

11 Note: The amount will only be a negative amount if you choose a varied
12 amount that is a negative amount.

- 13 (2) That amount is due on the *quarterly credit amount's *quarterly
14 credit due day.

15 Note: For provisions about collection and recovery of the amount, see
16 Part 4-15.

- 17 (3) If any of that amount (the *varied amount*) remains unpaid after the
18 time by which it is due to be paid, you are liable to pay the *general
19 interest charge on the unpaid amount for each day in the period
20 that:

- 21 (a) starts on the *quarterly credit amount's *quarterly credit due
22 day; and
23 (b) ends on the last day any of the following remains unpaid:
24 (i) the varied amount;
25 (ii) general interest charge on any of the varied amount.

26 **48-235 The amount's quarterly credit due day**

27 The *quarterly credit due day* for a *quarterly credit amount is:

- 28 (a) if that amount is a positive amount—the later of the days
29 referred to in paragraphs 48-225(1)(a) to (c); or
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(b) if that amount is a nil or negative amount—the day that would have been the later of the days referred to in paragraphs 48-225(1)(a) to (c) were that amount a positive amount.

Subdivision 48-E—End of year reconciliation

Table of sections

48-300	Debit equal to the total quarterly credits paid
48-305	When the debit is due
48-350	Liability to GIC on excess quarterly credits worked out using varied amounts
48-355	Reconciled amount for the variation quarter

48-300 Debit equal to the total quarterly credits paid

(1) You are liable to pay the Commonwealth an amount (a *debit*) under this section if:

- (a) you are participating in the *quarterly credits system for one or more *instalment quarters in an income year and one or more *tax offsets; and
- (b) on a particular day (the *assessment day*), the Commissioner makes an assessment:
 - (i) of the total of your *tax offset refunds for the income year; or
 - (ii) that you can get no such refunds for the income year.

Note: The debit will be offset by a credit equal to the total of your tax offset refunds.

(2) The debit is equal to the sum of your *quarterly credit amounts for those *instalment quarters and those *tax offsets, less any of those amounts that have been repaid (whether as described in section 48-420, 48-425 or otherwise).

(3) The Commissioner must give you notice of the debit.

Note: This could be done by including the debit in the notice of your assessment referred to in paragraph (1)(b).

48-305 When the debit is due

(1) Parts of the debit may be due on different days.

(2) So much of the debit as does not exceed the total of your *tax offset refunds for the income year is due on the assessment day.

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1 Note: This part of the debit will be offset by the credit equal to the total of
2 your tax offset refunds.

- 3 (3) So much of the debit (if any) as exceeds the total of your *tax
4 offset refunds for the income year is due on the day your income
5 tax for the income year:
6 (a) is due; or
7 (b) would have been due if you were liable to pay income tax for
8 the income year.

9 Note 1: For the day income tax is due, see section 5-5 of the *Income Tax*
10 *Assessment Act 1997*.

11 Note 2: For provisions about collection and recovery of this excess, see
12 Part 4-15.

- 13 (4) If so much of the debit as is covered by subsection (3) (the *excess*)
14 remains unpaid after the time by which it is due to be paid, you are
15 liable to pay the *general interest charge on the unpaid amount for
16 each day in the period that:
17 (a) starts on the day the excess was due to be paid; and
18 (b) ends on the last day any of the following remains unpaid:
19 (i) the excess;
20 (ii) general interest charge on any of the excess.

21 **48-350 Liability to GIC on excess quarterly credits worked out using** 22 **varied amounts**

- 23 (1) You are liable to pay the *general interest charge under this section
24 if:
25 (a) you are participating in the *quarterly credits system for an
26 *instalment quarter (the *variation quarter*) in an income year
27 and one or more *tax offsets; and
28 (b) your *quarterly credit amount for the variation quarter and
29 those tax offsets is a varied amount covered by
30 paragraph 48-200(a); and
31 (c) the amount (the *reconciled amount*) worked out under
32 section 48-355 for the variation quarter and those tax offsets
33 is less than 85% of the sum (the *total credits*) of:
34 (i) the varied amount; and
35 (ii) your quarterly credit amounts for any earlier instalment
36 quarters in the income year.
- 37 (2) You are liable to pay the *general interest charge on the difference
38 between the total credits and the reconciled amount.
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- 1 (3) You are liable to pay the charge for each day in the period:
2 (a) starting on the *quarterly credit due day for the varied
3 amount; and
4 (b) ending on the earlier of:
5 (i) if you have a quarterly credit amount for one or more
6 later *instalment quarters in the income year—the
7 quarterly credit due day for the first of those later
8 quarterly credit amounts; and
9 (ii) the day the Commissioner makes the assessment
10 referred to in subsection 48-300(1) for you and the
11 income year.
- 12 Note: Subparagraph (b)(i) includes the case where you have a nil or negative
13 quarterly credit amount for a later instalment quarter.
- 14 (4) The Commissioner must give you written notice of the *general
15 interest charge to which you are liable under subsection (2). You
16 must pay the charge within 14 days after you are given that notice.
- 17 Note 1: Sections 28A and 29 of the *Acts Interpretation Act 1901* explain how
18 a notice may be given.
- 19 Note 2: The Commissioner may remit the charge, see section 8AAG.
- 20 (5) If any of the *general interest charge to which you are liable under
21 subsection (2) remains unpaid at the end of the 14 days referred to
22 in subsection (4), you are also liable to pay the general interest
23 charge on the unpaid amount for each day in the period:
24 (a) starting at the end of those 14 days; and
25 (b) ending on the last day any of the following remains unpaid:
26 (i) the unpaid amount;
27 (ii) general interest charge on the unpaid amount.

28 **48-355 Reconciled amount for the variation quarter**

- 29 The amount worked out under this section for the variation quarter
30 and those *tax offsets is the greater of:
31 (a) the sum of the standard amounts worked under
32 section 48-205 for:
33 (i) the variation quarter; and
34 (ii) any earlier *instalment quarters in the income year for
35 which you are participating in the *quarterly credits
36 system; and
37 (b) the amount worked out from the following formula:
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$$\frac{\text{Number of instalment quarters so far}}{4} \times \text{End of year amount}$$

where:

end of year amount means the lesser of:

(a) either:

(i) the total amount of those *tax offsets and any other tax offsets for which you are participating in the *quarterly credits system for an earlier *instalment quarter in the income year; or

(ii) nil, if you are not entitled to any of the tax offsets referred to in subparagraph (i) for the income year; and

(b) the total of your *tax offset refunds (for tax offsets of any kind) for the income year.

number of instalment quarters so far means the number of *instalment quarters in the income year, up to (and including) the variation quarter, for which you are participating in the *quarterly credits system.

Subdivision 48-F—Ending participation

Table of sections

48-400	Withdrawing participation
48-405	You must withdraw if you later fail a test
48-410	Revoking participation if a default event happens
48-420	Collecting and recovering quarterly credits paid for quarters for which you no longer participate
48-425	Recovering quarterly credits paid by you for quarters for which you no longer participate

48-400 Withdrawing participation

(1) You may withdraw from participating in the *quarterly credits system for any or all of the *instalment quarters (whether past, current or future) in the income year and one or more *tax offsets.

Note: You will need to repay any quarterly credit amounts paid to you for instalment quarters that you later withdraw from (see section 48-420).

(2) A withdrawal must be a notice:

(a) in the *approved form; and

(b) given to the Commissioner before the 15th day after the end of the income year.

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1 (3) The withdrawal takes effect, for the *instalment quarters and *tax
2 offsets specified in it, when it is given to the Commissioner.

3 Note: You may apply to participate again in the quarterly credits system for
4 later instalment quarters in the income year.

5 (4) A withdrawal is irrevocable.

6 **48-405 You must withdraw if you later fail a test**

7 *Basic rule*

8 (1) You contravene this subsection if:

9 (a) you are participating in the *quarterly credits system for one
10 or more *instalment quarters in an income year and one or
11 more *tax offsets; and

12 (b) you fail a test in Subdivision 48-C necessary for that
13 participation for one of those tax offsets; and

14 (c) your participation for that tax offset is not revoked under
15 section 48-410; and

16 (d) you do not, within 28 days after failing that test, withdraw
17 from participating in the quarterly credits system for all
18 instalment quarters in the income year, and that tax offset, in
19 accordance with section 48-400.

20 Note 1: This subsection applies separately for each tax offset to which the
21 failure referred to in paragraph (b) is relevant.

22 Note 2: Others will be taken to have contravened this subsection if you are a
23 partnership, trust or unincorporated association or body, see
24 Division 444.

25 *Strict liability offence*

26 (2) You commit an offence of strict liability if you contravene
27 subsection (1).

28 Penalty: 60 penalty units.

29 Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

30 Note 2: Section 4K of the *Crimes Act 1914* applies to an offence against this
31 subsection, so you commit an offence for each day after that 28 day
32 period that you do not withdraw from the quarterly credits system.

33 *Administrative penalty*

34 (3) You are liable to pay to the Commissioner a penalty of 20 penalty
35 units if you contravene subsection (1).

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1 Note 1: Division 298 in this Schedule contains machinery provisions for
2 administrative penalties.

3 Note 2: This administrative penalty is not payable if you are prosecuted under
4 subsection (2) for the same contravention (see section 8ZE).

5 **48-410 Revoking participation if a default event happens**

6 (1) The Commissioner may, by notice in writing given to you, revoke
7 your participation in the *quarterly credits system for any or all of
8 the *instalment quarters (whether past, current or future) in the
9 income year and one or more *tax offsets if:

10 (a) at any time during the income year:

11 (i) you fail a test in Subdivision 48-C necessary for that
12 participation; or

13 (ii) for a tax offset listed in table item 20 (about R&D) in
14 section 48-100—*Innovation Australia refuses under
15 paragraph 28AA(1)(d) of the *Industry Research and*
16 *Development Act 1986* to make a finding under
17 subsection 28A(1) of that Act about you and all or part
18 of an activity; or

19 (b) you do not lodge your *income tax return for the income year
20 with the Commissioner on or before the required day.

21 Note: If you are dissatisfied with a decision under this subsection, you may
22 object against it in the manner set out in Part IVC (see
23 section 48-700).

24 (2) A revocation takes effect for the *instalment quarters and *tax
25 offsets specified in the notice.

26 (3) A notice under subsection (1) must include the reasons for the
27 revocation.

28 **48-420 Collecting and recovering quarterly credits paid to you for** 29 **quarters for which you no longer participate**

30 (1) If:

31 (a) on a particular day (the *payment day*), you are paid a
32 *quarterly credit amount for an *instalment quarter in an
33 income year and one or more *tax offsets; and

34 (b) under this Subdivision, you cease to participate in the
35 *quarterly credits system for that instalment quarter and one
36 or more of those tax offsets;

37 you are liable to repay the Commonwealth that amount.

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1 (2) That amount is due on the payment day.

2 Note: For provisions about collection and recovery of that amount, see
3 Part 4-15.

4 (3) If any of that amount (the *repayable amount*) remains unpaid after
5 the time by which it is due to be paid, you are liable to pay the
6 *general interest charge on the unpaid amount for each day in the
7 period that:

8 (a) starts on the payment day; and

9 (b) ends on the last day any of the following remains unpaid:

10 (i) the repayable amount;

11 (ii) general interest charge on any of the repayable amount.

12 **48-425 Recovering quarterly credits paid by you for quarters for** 13 **which you no longer participate**

14 If:

15 (a) on a particular day (the *payment day*), you pay an amount
16 under section 48-230 for an *instalment quarter in an income
17 year and one or more *tax offsets; and

18 (b) under this Subdivision, you cease to participate in the
19 *quarterly credits system for that instalment quarter and those
20 tax offsets;

21 the Commissioner must, on behalf of the Commonwealth, repay
22 that amount to you on or before the 14th day after the day the
23 notice is given that causes that cessation.

24 Note 1: See Division 3A of Part IIB for the rules about how the Commissioner
25 must pay that amount. Division 3 of Part IIB allows the Commissioner
26 to apply that amount as a credit against tax debts that you owe to the
27 Commonwealth.

28 Note 2: Interest is payable under Part IIIAB of the *Taxation (Interest on*
29 *Overpayments and Early Payments) Act 1983* if the Commissioner is
30 late in repaying that amount.

31 **Subdivision 48-P—Other matters**

32 **Table of sections**

33 48-700 Objecting to decisions

34 48-800 Alternative constitutional basis

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1 **48-700 Objecting to decisions**

2 A person who is dissatisfied with a decision of the Commissioner
3 under any of the following provisions may object against it in the
4 manner set out in Part IVC:

- 5 (a) subsection 48-5(1);
- 6 (b) subsection 48-115(1);
- 7 (c) subsection 48-210(3);
- 8 (d) subsection 48-410(1).

9 **48-800 Alternative constitutional basis**

10 (1) Without limiting its effect apart from this subsection, this Division
11 has the effect it would have if:

- 12 (a) subsection (2) had not been enacted; and
- 13 (b) a *quarterly credit amount could only be worked out for an
14 entity that:
 - 15 (i) is a *constitutional corporation; or
 - 16 (ii) has its registered office (within the meaning of the
17 *Corporations Act 2001*) or principal place of business
18 (within the meaning of that Act) located in a Territory.

19 (2) Without limiting its effect apart from this subsection, this Division
20 has the effect it would have if:

- 21 (a) subsection (1) had not been enacted; and
- 22 (b) *quarterly credit amounts could only be worked out in respect
23 of activities, or parts of activities, conducted or to be
24 conducted:
 - 25 (i) solely in a Territory; or
 - 26 (ii) solely outside of Australia; or
 - 27 (iii) solely in a Territory and outside of Australia; or
 - 28 (iv) for the dominant purpose of supporting *core R&D
29 activities conducted, or to be conducted, solely in a
30 Territory.

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1 **Part 2—Innovation Australia’s role**

2 ***Industry Research and Development Act 1986***

3 **2 Subsection 4(1)**

4 Insert:

5 *instalment quarter* has the same meaning as in the *Income Tax*
6 *Assessment Act 1997*.

7 **3 Subsection 4(1)**

8 Insert:

9 *quarterly credits system* has the same meaning as in the *Income*
10 *Tax Assessment Act 1997*.

11 **4 Subsection 4(1)**

12 Insert:

13 *update cut-off day* has the meaning given by subsection 28BA(4).

14 **5 Section 26A**

15 Omit “The R&D entity can seek an advance finding to get”, substitute
16 “The Board may make an advance finding to give”.

17 **6 Section 26A**

18 Omit “The R&D entity can seek a”, substitute “The Board may make
19 a”.

20 **7 Section 28**

21 Omit “An R&D entity can seek” (wherever occurring), substitute “The
22 Board may make”.

23 **8 Section 28A**

24 Repeal the section, substitute:

25 **28A Advance findings about the nature of activities**

26 (1) The Board may make one or more findings to the following effect
27 about an activity and an R&D entity:

28 (a) that all or part of the activity is a core R&D activity;

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- 1 (b) that all or part of the activity is a supporting R&D activity in
2 relation to one or more specified core R&D activities for
3 which the entity has been or could be registered under
4 section 27A for an income year;
- 5 (c) that all or part of the activity is neither:
6 (i) a core R&D activity; nor
7 (ii) a supporting R&D activity of a kind covered by
8 paragraph (b).
- 9 Note 1: A finding is reviewable (see Division 5).
- 10 Note 2: A finding binds the Commissioner for the purposes of income tax
11 assessments and the provision of quarterly credits (see
12 subsections 355-705(2) and (3) of the *Income Tax Assessment Act*
13 *1997*).
- 14 (2) The Board must not make a finding under subsection (1) about an
15 activity and an R&D entity unless the Board is satisfied that the
16 activity:
17 (a) is being conducted, or has been completed, during the income
18 year applying under subsection (3); or
19 (b) is yet to be conducted, but that it is reasonable to expect that
20 the activity will be conducted in any or all of the following
21 income years:
22 (i) the income year applying under subsection (3);
23 (ii) either of the next 2 income years.
- 24 (3) The income year applying under this subsection is either:
25 (a) the income year in which the process of considering whether
26 to make the finding starts; or
27 (b) the most recent income year before that income year if:
28 (i) paragraph 28AA(1)(a) or (b) caused that process to
29 start; and
30 (ii) the R&D entity's application, or the Commissioner's
31 request, (as appropriate) specifies that the income year
32 applying under this subsection is to be that most recent
33 income year; and
34 (iii) the R&D entity has not applied to register activities
35 under section 27A for that most recent income year.
- 36 Note: The process of considering whether to make the finding starts when
37 the application or request is made, or when the Board starts
38 considering whether to make the finding on its own initiative.
- 39 (4) If the Board makes a finding under subsection (1) about an activity
40 that is being conducted, or has been completed, during the income
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1 year applying under subsection (3), the Board may specify in the
2 finding the times to which the finding relates.

- 3 (5) This section has effect subject to section 32B (findings cannot be
4 inconsistent with any earlier findings).

5 **9 After section 28A**

6 Insert:

7 **28AA Causing advance findings to be made**

8 (1) If:

- 9 (a) an R&D entity applies for one or more findings under
10 subsection 28A(1) about an activity and the R&D entity; or
11 (b) the Commissioner requests one or more findings under
12 subsection 28A(1) about an activity and an R&D entity;

13 the Board must:

- 14 (c) make one or more findings under that subsection about all or
15 part of the activity and the R&D entity; or
16 (d) if justified in accordance with the decision-making
17 principles—refuse to make a finding under that subsection
18 about all or part of the activity and the R&D entity.

19 Note 1: For requirements of applications by R&D entities, see section 28G.

20 Note 2: Refusing to make a finding is reviewable (see Division 5).

21 Note 3: Section 32A deals with the decision-making principles.

- 22 (2) The Board may also make a finding under subsection 28A(1) on its
23 own initiative in accordance with any applicable decision-making
24 principles.

25 Note: Section 32A deals with the decision-making principles.

26 **10 At the end of Subdivision B of Division 3 of Part III**

27 Add:

28 **28BA Updates about possible advance findings**

29 (1) If:

- 30 (a) the Commissioner requests, or the Board on its own initiative
31 is considering whether to make, one or more findings under
32 subsection 28A(1) about an activity and an R&D entity; and
33 (b) the Board is aware that the R&D entity is participating in the
34 quarterly credits system for an instalment quarter; and

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- 1 (c) the findings would be relevant to that participation; and
2 (d) the Board realises it will not finish the process of considering
3 whether to make the findings before the update cut-off day
4 (see subsection (4)) for the instalment quarter;
5 the Board must, before the end of that day, update the
6 Commissioner about the progress of that process.
- 7 (2) After it updates the Commissioner, the Board may stop that
8 process if the Commissioner has not requested it to be continued.
- 9 (3) An update under subsection (1) does not prevent the Board from:
10 (a) making, or refusing to make, any or all of the findings; or
11 (b) making contrary findings under this Part.
- 12 (4) The *update cut-off day* for the instalment quarter is:
13 (a) the 21st day of the month after the end of the instalment
14 quarter unless all or a part of a December falls within the last
15 month of the instalment quarter; or
16 (b) if all or a part of a December falls within the last month of
17 the instalment quarter—the next 21 February.

11 Subsection 28C(1)

18 Repeal the subsection, substitute:

- 19 (1) The Board may make one or more findings to the following effect
20 about an activity and an R&D entity:
21 (a) that all or part of the activity is an activity (the *overseas*
22 *activity*) that meets the conditions in section 28D;
23 (b) that all or part of the activity is not an activity that meets the
24 conditions in section 28D.

25 Note 1: A finding is reviewable (see Division 5).

26 Note 2: An effect of a finding under paragraph (a) is that a tax offset may be
27 available for expenditure incurred on the overseas activity after the
28 finding comes into force (see Division 355 of the *Income Tax*
29 *Assessment Act 1997*, in particular paragraphs 355-210(1)(d) and (e)
30 of that Act).
31

32 12 At the end of Subdivision C of Division 3 of Part III

33 Add:

34 28DA Causing overseas activity findings to be made

- 35 (1) If:
-

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-
- 1 (a) an R&D entity applies for one or more findings under
2 subsection 28C(1) about an activity and the R&D entity; or
3 (b) the Commissioner requests one or more findings under
4 subsection 28C(1) about an activity and an R&D entity;
5 the Board must:
6 (c) make one or more findings under that subsection about all or
7 part of the activity and the R&D entity; or
8 (d) if justified in accordance with the decision-making
9 principles—refuse to make a finding under that subsection
10 about all or part of the activity and the R&D entity.
- 11 Note 1: For requirements of applications by R&D entities, see section 28G.
12 Note 2: Refusing to make a finding is reviewable (see Division 5).
13 Note 3: Section 32A deals with the decision-making principles.
- 14 (2) The Board may also make a finding under subsection 28C(1) on its
15 own initiative in accordance with any applicable decision-making
16 principles.
17 Note: Section 32A deals with the decision-making principles.

13 Subsection 28E(1)

18 Repeal the subsection, substitute:

- 19 (1) If an R&D entity has acquired, or has acquired the right to use,
20 particular technology wholly or partly for the purposes of one or
21 more R&D activities conducted, or to be conducted, during one or
22 more income years, the Board may make a finding to the effect:
23 (a) that the technology is core technology for the R&D activities;
24 or
25 (b) that the technology is not core technology for the R&D
26 activities.
27

28 Note 1: A finding is reviewable (see Division 5).

29 Note 2: A finding under paragraph (a) means that a tax offset will not be
30 available for expenditure incurred in acquiring, or in acquiring the
31 right to use, the technology for the R&D activities (see
32 subsection 355-225(2) of the *Income Tax Assessment Act 1997*).

33 14 Subsections 28E(3) and (4)

34 Repeal the subsections.

35 15 At the end of Subdivision D of Division 3 of Part III

36 Add:

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28EA Causing core technology findings to be made

(1) If:

(a) an R&D entity applies for a finding under subsection 28E(1) about the R&D entity, one or more R&D activities and particular technology; or

(b) the Commissioner requests a finding under subsection 28E(1) about an R&D entity, one or more R&D activities and particular technology;

the Board must:

(c) make a finding under that subsection about the R&D entity, the R&D activities and the technology; or

(d) if justified in accordance with the decision-making principles—refuse to make a finding under that subsection about the R&D entity, the R&D activities and the technology.

Note 1: For requirements of applications by R&D entities, see section 28G.

Note 2: Refusing to make a finding is reviewable (see Division 5).

Note 3: Section 32A deals with the decision-making principles.

(2) The Board may also make a finding under subsection 28E(1) on its own initiative in accordance with any applicable decision-making principles.

Note: Section 32A deals with the decision-making principles.

16 Section 28F (heading)

Repeal the heading, substitute:

28F Notice of findings or of decisions refusing to make findings

17 Subsections 28F(1) and (2)

Repeal the subsections, substitute:

(1) The Board must notify an R&D entity in writing of any findings, and of any decisions refusing to make findings, under this Division that relate to the R&D entity.

18 Subsection 28F(3)

Omit “or (2)”.

19 Subsection 28F(3) (note)

Omit “applicant’s”, substitute “R&D entity’s”.

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20 Subsection 28F(4)

Omit “the notice if the notice includes one or more certificates”, substitute “each notice under subsection (1) of a finding”.

21 Subsection 28G(1) (heading)

Repeal the heading, substitute:

Applications by R&D entities for findings

22 Subsection 28G(2)

Omit “An”, substitute “However, an”.

23 Subsection 28H(1)

Repeal the subsection, substitute:

(1) The Board may request an R&D entity in writing to give such specified information, or specified kinds of information, to the Board as the Board believes could be relevant to the making of a finding under this Division relating to the R&D entity.

(1A) However, if as described in section 28B another entity applied for the finding on behalf of the R&D entity, the Board must first request in writing the information or kinds of information from that other entity.

24 Subsection 28H(2)

Omit “The request”, substitute “A request under subsection (1) or (1A)”.

25 Subsection 28H(2) (note 3)

Repeal the note, substitute:

Note 3: A failure to give the information may result in a refusal to make a finding. It may also result in the revocation of the R&D entity’s participation in the quarterly credits system (see paragraph 48-410(1)(a) and subsections 48-110(1) and (4) in Schedule 1 to the *Taxation Administration Act 1953*).

26 Subsection 28H(3)

Omit “The request”, substitute “A request under subsection (1) or (1A)”.

27 Subsection 28H(4)

After “subsection (1)”, insert “or (1A)”.

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28 Section 30A (table items 11 to 13)

Repeal the items, substitute:

11	An advance finding about the nature of an activity	Subsection 28A(1)
11A	Refusing to make an advance finding about the nature of an activity	Paragraph 28AA(1)(d)
12	A finding about an activity to be conducted outside Australia	Subsection 28C(1)
12A	Refusing to make a finding about an activity to be conducted outside Australia	Paragraph 28DA(1)(d)
13	A finding about particular technology	Subsection 28E(1)
13A	Refusing to make a finding about particular technology	Paragraph 28EA(1)(d)

29 At the end of section 32A

Add:

; (d) whether making a finding under Division 3 on its own initiative is justified.

30 Paragraph 47(2A)(c)

Omit “or the *Income Tax Assessment Act 1997*”, substitute “, the *Income Tax Assessment Act 1997* or Division 48 in Schedule 1 to the *Taxation Administration Act 1953*”.

31 At the end of subsection 47(2A)

Add:

Note: Division 48 in Schedule 1 to the *Taxation Administration Act 1953* is about crediting the R&D tax offset on a quarterly basis.

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1 **Part 3—Other amendments**

2 ***Income Tax Assessment Act 1936***

3 **32 After subsection 262A(2AAE)**

4 Insert:

5 (2AAF) Subsection (1) applies to an entity for whom a varied amount
6 applies under section 48-210 in Schedule 1 to the *Taxation*
7 *Administration Act 1953* even if the entity is not carrying on a
8 business.

9 ***Income Tax Assessment Act 1997***

10 **33 Subsection 63-10(1) (table item 40)**

11 Repeal the item, substitute:

40	*Tax offset:	You can get a refund of the
	(a) that is subject to the refundable	remaining amount
	tax offset rules (see Division 67);	
	and	
	(b) for which you are not	
	participating in the *quarterly	
	credits system for any *instalment	
	quarter in the income year	

42	*Tax offset:	You can get a refund of the
	(a) that is subject to the refundable	remaining amount
	tax offset rules (see Division 67);	
	and	
	(b) for which you are participating in	
	the *quarterly credits system for	
	at least one *instalment quarter in	
	the income year	

12 **34 Subsection 355-100(1) (table item 2)**

13 Before “an *exempt entity”, insert “at any time during the income year”.

14 **35 Subsection 355-705(1)**

15 Omit all the words after “the finding binds the Commissioner”,
16 substitute:

17 for the purposes of:

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-
- 1 (c) assessments of the R&D entity for the income year or years
2 (as appropriate); and
3 (d) for a finding under section 28E of that Act—the R&D
4 entity’s participation in the *quarterly credits system for the
5 *instalment quarters in the income years.

36 Subsections 355-705(2) and (3)

6 Repeal the subsections, substitute:

7
8 *Advance findings about activities yet to be completed*

9 (2) If:

- 10 (a) *Innovation Australia makes a finding under
11 subsection 28A(1) of the *Industry Research and Development*
12 *Act 1986* about all or part of an activity; and
13 (b) Innovation Australia gives the Commissioner a certificate
14 under that Act setting out the finding; and
15 (c) the activity is being conducted, or is yet to be conducted,
16 during the income year applying under subsection 28A(3) of
17 that Act for the finding;

18 the finding binds the Commissioner for the purposes of:

- 19 (d) assessments of the R&D entity for the income year and the
20 next 2 income years; and
21 (e) the R&D entity’s participation in the *quarterly credits
22 system for the *instalment quarters in the income year or in
23 the next 2 income years.

24 *Advance findings about completed activities*

25 (3) However, if that activity is completed during the income year
26 applying under subsection 28A(3) of that Act for that finding, that
27 finding binds the Commissioner for the purposes of:

- 28 (a) assessments of the R&D entity for the income year; and
29 (b) the R&D entity’s participation in the *quarterly credits
30 system for the *instalment quarters in the income year.

37 Subparagraph 355-710(1)(a)(iii)

31 Repeal the subparagraph, substitute:

- 32 (iii) a finding under section 28A or 28C of that Act about an
33 R&D entity and all or part of an activity conducted or to
34 be conducted during one or more income years; or
35

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38 Subsection 995-1(1)

Insert:

quarterly credit amount has the meaning given by section 48-200 in Schedule 1 to the *Taxation Administration Act 1953*.

39 Subsection 995-1(1)

Insert:

quarterly credit due day has the meaning given by section 48-235 in Schedule 1 to the *Taxation Administration Act 1953*.

40 Subsection 995-1(1)

Insert:

quarterly credits system means the system described in Division 48 in Schedule 1 to the *Taxation Administration Act 1953* for providing quarterly credits during an income year for certain *tax offsets to which entities expect to be entitled for the income year.

41 Subsection 995-1(1) (definition of *tax offset refund*)

After “item 40”, insert “or 42”.

Taxation Administration Act 1953

42 Subsection 8AAB(4) (after table item 44)

Insert:

44A	48-230 in Schedule 1	<i>Taxation Administration Act 1953</i>	negative quarterly credit amounts
44B	48-305 in Schedule 1	<i>Taxation Administration Act 1953</i>	part of debit exceeding total tax offset refunds
44C	48-350 in Schedule 1	<i>Taxation Administration Act 1953</i>	excess quarterly credit amount worked out using varied amounts
44D	48-420 in Schedule 1	<i>Taxation Administration Act 1953</i>	quarterly credit amounts for quarters for which you no longer participate

43 Subsection 250-10(2) in Schedule 1 (after table item 135)

Insert:

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135A	negative quarterly credit amounts	48-230 in Schedule 1	<i>Taxation Administration Act 1953</i>
135B	debit equal to total quarterly credit amounts paid	48-300 in Schedule 1	<i>Taxation Administration Act 1953</i>
135C	quarterly credit amounts for quarters for which you no longer participate	48-420 in Schedule 1	<i>Taxation Administration Act 1953</i>

1 **44 Subsection 286-75(2) in Schedule 1**

2 After “these Acts”, insert “or provisions”.

3 **45 At the end of subsection 286-75(2) in Schedule 1**

4 Add:

5 ; or (d) subsection 48-405(1) in this Schedule.

6 **46 Paragraph 298-5(c)**

7 After “Division 16”, insert “or 48”.

8 **47 Subsection 355-65(4) in Schedule 1 (table item 6)**

9 Repeal the item, substitute:

6 *Innovation Australia

is for the purpose of administering any

*Commonwealth law relating to:

(a) venture capital; or

(b) research and development (including related tax incentives).

10 ***Taxation (Interest on Overpayments and Early Payments)***
11 ***Act 1983***

12 **48 After Part IIIAA**

13 Insert:

14 **Part IIIAB—Interest on delayed payments under**
15 **quarterly credits system**
16

17 **12BA Definitions**

18 In this Part:

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1 **assessment day** means the day the Commissioner makes an
2 assessment (within the meaning of the *Income Tax Assessment Act*
3 *1997*):

- 4 (a) of the total of the entity's tax offset refunds (within the
5 meaning of the *Income Tax Assessment Act 1997*) for the
6 year of income for which the quarterly credit amount is
7 payable; or
8 (b) that the entity can get no such refunds for that income year.

9 **due day**, for a quarterly credit system amount, means:

- 10 (a) if the amount is a quarterly credit amount (within the
11 meaning of the *Income Tax Assessment Act 1997*)—the
12 amount's quarterly credit due day (within the meaning of that
13 Act); or
14 (b) if the amount is an amount repayable under section 48-425 in
15 Schedule 1 of the *Taxation Administration Act 1953*—the last
16 day the amount is repayable under that section.

17 **instalment quarter** has the same meaning as in the *Income Tax*
18 *Assessment Act 1997*.

19 **quarterly credit system amount** means:

- 20 (a) a quarterly credit amount (within the meaning of the *Income*
21 *Tax Assessment Act 1997*); or
22 (b) an amount repayable under section 48-425 in Schedule 1 of
23 the *Taxation Administration Act 1953*.

24 **RBA** has the same meaning as in section 8AAZA of the *Taxation*
25 *Administration Act 1953*.

26 **RBA surplus** has the same meaning as in section 8AAZA of the
27 *Taxation Administration Act 1953*.

28 **12BB Interest for late refunds of RBA surpluses after amounts** 29 **become payable**

30 (1) If:

- 31 (a) a quarterly credit system amount is payable to an entity; and
32 (b) the Commissioner has allocated that amount to an RBA of
33 the entity; and
34 (c) on that amount's due day, the Commissioner is required
35 under subsection 8AAZLF(1) of the *Taxation Administration*
36 *Act 1953* to refund to the entity an RBA surplus for that
37 RBA; and
-

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1 (d) the refund takes place after that due day;
2 then interest is payable by the Commissioner to the entity on the
3 amount refunded.

- 4 (2) Interest under this Part is payable for the period:
5 (a) starting on the day after that due day; and
6 (b) ending at the earlier of:
7 (i) the day the refund takes place; and
8 (ii) the assessment day.

9 **12BC Interest for late payments of amounts**

- 10 (1) If:
11 (a) a quarterly credit system amount is payable to an entity; and
12 (b) the Commissioner has not allocated that amount to an RBA
13 of the entity; and
14 (c) the Commissioner pays that amount to the entity after that
15 amount's due day;
16 then interest is payable by the Commissioner to the entity on that
17 amount.
- 18 (2) Interest under this Part is payable for the period:
19 (a) starting on the day after that due day; and
20 (b) ending at the earlier of:
21 (i) the day that amount is paid to the entity; and
22 (ii) the assessment day.

23 **12BD Rate of interest**

24 Interest under this Part is payable at the base interest rate (within
25 the meaning of the *Income Tax Assessment Act 1997*).

26 ***Tax Laws Amendment (Research and Development) Act 2011***

27 **49 Subsection 2(1) (table item 7)**

28 Omit "Schedules 3A and 4", substitute "Schedule 4".

29 **50 Schedule 3A**

30 Repeal the Schedule.

EXPOSURE-DRAFT

1 **Part 4—Application and transitional provisions**

2

3 **51 Application of amendments**

- 4 (1) The amendments made by this Schedule (other than item 34) apply in
5 relation to instalment quarters starting on or after 1 January 2014.
- 6 (2) The amendment made by item 34 (about exempt entities) applies in
7 relation to assessments for income years starting on or after 1 July 2013.
- 8 (3) Despite subitem (1), paragraph 28A(3)(b) of the *Industry Research and*
9 *Development Act 1986* (as inserted by this Schedule) applies in relation
10 to processes for making findings that start in the 2013-14 income year
11 and later income years.

12 **52 Transitional—current findings of Innovation Australia**

- 13 (1) This item applies to a finding of the Board if:
14 (a) the finding was made under subsection 28A(1), 28C(1) or
15 28E(1) of the *Industry Research and Development Act 1986*;
16 and
17 (b) the finding was in force immediately before the
18 commencement of this item.
- 19 (2) The finding has effect, after the commencement of this item, as if it had
20 been made under that subsection as amended by this Schedule.