



**Sentiens Pty Ltd**

**ABN 41 105 158 183**

**36 Parliament Place**

**West Perth, WA, 6005**

**Postal: PO BOX 842**

**West Perth, WA, 6872**

**T: +61 8 9481 1950**

**Sentiens.com**

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General Manager  
Business Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

To Whom It May Concern

On behalf of Sentiens Pty Ltd, I welcome this opportunity to provide feedback on the exposure draft of the Tax Laws Amendment (Research and Development) Bill 2010 released 18 December 2009 ("the exposure draft").

I would like to present a brief introduction of our innovative company, its strategic objective and then the two innovative R & D projects - HealthSteps and PsychAssess and the reasons for the innovation i.e. solution focus.

### ***Introduction***

Sentiens Pty Ltd is an Australian company with 20 employees that provides innovative mental health service delivery solutions to improve critical problems such as chronic illness and relapse. To address the delivery of service, it is in the forefront of using technology to develop solutions for the population. Critical to Sentiens' market leading position in the provision of mental health care solutions is its multi-faceted and multi-disciplinary approach. The Sentiens approach involves consultancy of the highest competency and integrity in conjunction with innovative and unique internet-based assessment, monitoring and treatment solutions. The strategic application of information technology is critical to Sentiens' sustainable competitive advantage and achieving its health outcomes objectives. Each element of the business utilises software and web-applications to streamline business processes and deliver services. While our web-based software applications are critical to the success of Sentiens' health business, our suite of electronic health solutions are designed for commercial application by individual consumers and/or larger health entities. Sentiens' commercialisation strategy will position the electronic health solutions for individual

consumption (retail) and wholesale acquisition by large health entities.

### ***Sentiens Strategic Objective***

Sentiens' strategic objective is to be recognised by health care consumers, health professionals, and stakeholders as a leading provider of health solutions and specialists in cost effective health delivery through its unique and innovative technology systems. Sentiens aims to promote health in the population by delivering products and services in innovative ways that meet the health requirements of consumers and patients, as well as health professionals, health service providers, and other key stakeholders. Our principle objectives are to:

- Improve the health and wellness of the population;
- Continue to innovate and develop leading health provision models through traditional and internet-based delivery mediums; and
- Build sustainable value for Sentiens' customers and enhance shareholder value.
- Increasing the capacity of primary care to manage health problems more effectively; and
- Introduce information technologies to manage patients throughout the continuum of care, within primary, secondary and tertiary care.

### ***HealthSteps***

HealthSteps is an internet-based medical record and monitoring system that delivers patient education, therapy and provides an infrastructure for e-consultations. It helps patients take more control of their health by:

- Increasing their ability to make informed decisions regarding their treatment and help-seeking behaviour;
- Providing health promotion modules to prevent relapse and decrease the hospital admission;
- Reduce the incidence to illness;
- Providing information about best practice care and an understanding of the reasons treatment may not be working; and
- Assisting in the dialogue between patient and clinician regarding reputable information about disorders.

HealthSteps provides an ongoing view of patient progress to accommodate sophisticated self-management and augmented management by all clinicians involved with the patient.

There are clinical and cost benefits associated with being able to identify and respond to problems quickly. Clinicians and case managers can see relapse evolving and intervene early and effectively. These systems have clearly shown improved treatment adherence and facilitation of better outcomes, thereby playing a critical role in the management of chronic

disorders. HealthSteps progressively gathers important information that improves the care delivery process and allows for health outcomes to be measured on an ongoing basis. It provides a longer term basis for naturalistic evidence based research and implementation of a new information system.

Importantly, the internet delivery model overcomes many of the obstacles encountered by current best practice mental health solutions, namely patients who reside in remote and rural areas, those who face transport issues, those with physical conditions and other potential obstacles that render healthcare delivery a difficult proposition.

HealthSteps enhances health outcomes to achieve the business' strategic objectives by providing patients and their clinicians with:

- A way of planning and implementing treatment goals;
- Integrated periodic assessment and monitoring;
- Treatment adherence reminders by email;
- A system to provide information and connect to case management services (automated and active/operator-assisted case management by dedicated case managers);
- Patient-centric disorder specific information and information directly related to relapse prevention, informing of best practise treatment, and problem solving when treatment programmes aren't working;
- Information written to facilitate and strengthen the treatment alliance with the managing treatment team;
- Online therapy which facilitates and shortens treatment by providing significant online resources for clinicians and the same online material for patients. This enables online treatment through e-consultations and homework through an online diary;
- Specific information about particular mental health problems and symptoms and treatment options to help patients function as informed and active participants in managing their condition;
- Relapse prevention education; and
- Online consultations and case management.

### **PsychAssess**

- PsychAssess is an assessment tool that facilitates comprehensive history-gathering, condition assessment, and predictive modelling of treatment needs, which streamlines clinical assessment and treatment. This product will greatly assist clinicians in their assessment of patients and triage these patients to an appropriate treatment plan. PsychAssess is designed for internet delivery, and it is therefore able to facilitate the assessment of patients who reside in remote and rural areas, those

who face transport issues, those with physical conditions and other potential obstacles that render healthcare delivery a difficult proposition.

- PsychAssess is a collection of questionnaire assessment tools that generate a comprehensive psychological profile of a patient, gather pertinent background information, and provide a baseline to monitor patient treatment progress. On completion, the system will generate a report that enables efficient and effective clinical diagnosis and provides the patient with a tool to assist their understanding of their specific condition(s).
- Sentiens has been innovating in the ways General Practitioners could assess their mental health patients and ventured into creating an assessment module called PsychAssess light. The strategic objective for this module is to provide General Practitioners with a tool for rapid assessment which is in line with the Federal Government policy and at the same time create partnerships with General Practitioners.
- The PsychAssess and HealthSteps systems are synergistically linked to drive Sentiens' strategic objective to be a leading provider of health solutions and a specialist in cost effective health delivery through its unique and innovative technology systems. The PsychAssess system is an assessment tool that can be completed by the patient prior to the initial assessment consultation with a doctor or specialist. The PsychAssess report provides a diagnostic summary of the patient's condition which expedites the clinician's assessment and triage, and treatment recommendations. The clinician may prescribe a condition specific HealthSteps disorder management programme as part of the patient's treatment plan. The HealthSteps programme provides scheduled education and disorder management, as well as questionnaires and a monitoring function, which together enhances patient self-efficacy in the management of their condition, and provides the tools to better enable clinicians to manage acute, relapsing and chronic illnesses efficiently and cost effectively.

***Sentiens' Solution focus is to:***

- Reduce health administrative errors and costs;
- Empower health consumers;
- Provide clinical resources to health professionals;
- Optimise clinical and administrative efficiency;
- Promote patient and employee self-management;
- Identify high risk groups in the population and target specific interventions to these groups;
- Manage chronic disorders more effectively (chronic diseases contribute approximately 80% of health costs); and
- Increase the efficiency of health systems by:

Decreasing the use of high cost health services (current over-reliance on tertiary health facilities, e.g. hospitals).

Sentiens has accessed the current R & D Tax Concession program and the proposed changes could endanger the continuity of its research capacity and threaten the viability of the company. Sentiens is in the forefront of innovative healthcare products and these are the company's core products and business. Reduction in the accessibility of the Tax Concession will most likely reduce R & D by at least by 50%, and reduce the speed at which Sentiens will undertake its projects. In its conception days, Sentiens used an offshore company for R&D purposes for financial incentives but as it grew and was able to access the R& D tax concession in Australia, the research undertakings were brought to Australia. Carrying out the research projects in Australia benefitted Australians in many ways, most importantly employment and the quality of the products. The general culture of clinicians being able to practice research in Australia was great, preventing brain drain.

However, if the proposed changes go through the legislation, Sentiens will be exploring the possibility of taking its R & D offshore for the viability of the company. This will result in staff retrenchment, both administration and research staff. Australia's R & D culture will be tarnished if we take R & D offshore which counteracts the promotion of Science in schools as most of the R & D is Science related.

Since the quality of R & D will most likely be an issue if our R & D is undertaken offshore, Sentiens will be very weary as to what portion of R & D it will do overseas. In general, Sentiens has been very proud of its R & D undertakings and the consumers of its products are very satisfied. Australia could lead the world in some of its innovative products with further assistance from the Government.

Our company commends the Government's stated intent in delivering a "more generous, more predictable, and less complex tax incentive", however we do not believe the legislation achieves this intent in its present form.

Whilst we understand the Government's intention to tighten eligibility in order to focus incentives on worthy activities which will benefit the broader Australian economy, we believe the combination of *the high number* of tightening measures contained in the exposure draft serves to drastically reduce the generosity, accessibility and attractiveness of the R&D Tax Incentive program.

### **Major concerns**

Within the exposure draft, there are now five key ways in which eligibility has been significantly tightened and claims will be curtailed, making the system *less generous, more complex and less predictable* to Australian businesses.

- I. The requirement for 'considerable novelty' in place of 'innovation' – this both raises the bar for eligibility of potential claimants, while increasing uncertainty by replacing a well understood and defined term. Innovation is a well understood term, and the

relationship between innovation, productivity and growth is similarly well understood, across OECD countries and in a local context. The shift in term seems to favour the “blue sky” R&D common in academic settings over business innovation – the incremental improvements which are vital to business competitiveness;

2. The introduction of the “and” test for the eligibility test of considerable novelty and high levels of technical risk. We believe that this change to the definition will lead to the exclusion of many genuine R&D activities that should be supported and are currently eligible for support under the existing R&D tax concession. As a stand alone measure, this change may be acceptable, but in combination with the other new eligibility restrictions, it will exclude too many meritorious R&D endeavours and overall support for innovation will be considerably reduced. If this change is to be adopted, then other proposed restrictions should not be introduced otherwise the aim of the new tax credit to provide a more generous concession will not be fulfilled.
3. The introduction of the “dominant purpose” test for supporting activities. This represents a significant tightening over the existing test in the current program, which only requires that a support activity be carried out for “a” purpose directly related to the core R&D activities. This new test will greatly reduce the amount of eligible support activities that may be claimed, and will also impose a severe evidentiary burden on claimants of the new R&D tax credit. Many support activities will have a commercial purpose as well as an R&D purpose and providing evidence that one purpose is clearly dominant over the other will be almost impossible in many cases. This introduces considerable uncertainty over the eligibility of claimed supporting activities and is highly undesirable as a consequence. Please note, this uncertainty is acknowledged in the discussion of the new test in the Explanatory Memorandum.
4. The apparently arbitrary exclusion of a large number of activities from being either core or supporting activities, via the repurposing of the former s73B(2C) of the Income Tax Assessment Act 1936 (ITAA 1936). We believe that this change, while having obvious negative consequences for the computer science and information technology industries in Australia, also has (possibly unintended) consequences, including that:
  - a. s355-35 (2)(l) renders clinical trials ineligible as they are performed for (amongst other purposes) the preparation of a regulatory requirement of the Therapeutic Goods Administration;
  - b. the expansive drafting of s355-35(2)(h) suggests that manufacturing industries will have eligible R&D processes, including trials, drastically reduced;
  - c. s355-35(2)(i) is broadly drafted and confusing.
  - d. s355-35(2)(o,p,q and r) which will result in the exclusion of the majority of IT related R&D from obtaining support under the program.

5. The “augmented feedstock provisions”, effectively limit R&D Incentives to the net expenditure on the R&D activities. This obviously decreases the generosity of the incentive, however it has other major consequences:
  - a. it makes the incentive less predictable, as the value of the output may be clawed back at a future date, making budgeting projects and accounting for incentives difficult (i.e. how would one carry the potential liability?);
  - b. it favours failure over success. We believe that having taken on the technical and financial risk of an R&D activity, a claimant should not be negatively treated at an indeterminate point in the future due to the disposal of the outputs of R&D;
  - c. the scope of what is included in the “output’s cost” should not include labour and plant depreciation. A company takes on a real *opportunity cost* by diverting staff and assets from normal duties to an R&D activity – this cost is in fact never fully recovered, even if the outputs of R&D are sold. The current feedstock provisions of the R&D Tax Concession, which deal only with material inputs and energy, amply claw back incentives on profitable trial activities.

### Submission Request

There is, presently, a unique opportunity to draft the legislation precisely and specifically to meet the policy intent – this opportunity should not be missed. Given the above issues and complexities in the current exposure draft, we submit that the Government should:

1. **Leave in place the well understood term – Innovation in the definition and remove the term considerable novelty;**
2. **Delete the exclusions list and thereby not use it as a means to limit supporting activities, or, if absolutely necessary to achieve policy objectives, redraft s355-35(2) to clarify those activities which are intended to be excluded;**
3. **Remove the specific exclusions on computer software to ensure that genuine R&D undertaken that is information technology related is supported by the R&D tax credit program going forward; and**
4. **Revert to the existing feedstock provisions of s73B of the ITAA 1936 which, we believe, effectively limit incentives to net cost of trials or alternatively quarantine some specific activities from being treated as input costs in the augmented feedstock provisions. We request that two categories of costs be quarantined (and not included in the feedstock calculation) being labour and plant depreciation.**

If the above changes are made to the exposure draft, the Government will be able to achieve its objectives for the new tax credit – that is, implement a more generous, more predictable and less complex incentive that targets additionality and spillovers whilst maintaining revenue neutrality.

However, if the Exposure Draft is implemented in its current form, the direct outcome would be a significant lowering of the support for innovation in Australian businesses. As a result, the Government risks losing scientific, information and engineering and other technical industries (and jobs) offshore, as well as reducing the development of products, technologies and processes which will boost productivity – the very lever which the Government has stated will support an aging population. Reduced effectiveness and uptake of the R&D Tax Incentive will also negatively affect Australia's Business Expenditure on R&D ("BERD").

If you would like to discuss this submission, please feel free to contact me on 08 9481 1950.

Yours sincerely

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**Hakeem Khan**  
**Operations Manager, Sentiens Pty Ltd**

**Cc:** Senator Kim Carr – [senator.carr@aph.gov.au](mailto:senator.carr@aph.gov.au)  
James O'Toole - [james.otoole@treasury.gov.au](mailto:james.otoole@treasury.gov.au)  
Tony Weber – [tony.weber@innovation.gov.au](mailto:tony.weber@innovation.gov.au)  
Sharyn Sturgeon – [sharyn.sturgeon@abs.gov.au](mailto:sharyn.sturgeon@abs.gov.au)  
Martin.Jacobs – [martin.jacobs@treasury.gov.au](mailto:martin.jacobs@treasury.gov.au)  
Sophie Mirabella – [sophie.mirabella.mp@aph.gov.au](mailto:sophie.mirabella.mp@aph.gov.au)  
Wayne Swan – [wayne.swan.mp@aph.gov.au](mailto:wayne.swan.mp@aph.gov.au)