



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

19 July 2018

The Manager
Small Business Entities and Industry Concessions Unit
The Treasury
Langton Crescent
PARKES ACT 2600

By email: RnDamendments@treasury.gov.au

Dear Sir/Madam

**TREASURY LAWS AMENDMENT (RESEARCH AND DEVELOPMENT INCENTIVE) BILL
2018 AND EXPLANATORY MATERIALS**

While supporting the majority of the measures we do not agree with the intention to annually disclose claimant details. Research and development (R&D) is undertaken by companies, including small businesses, in a commercial environment. The publication of these details could jeopardise their commercial confidentiality and remove the first to market advantage for the company undertaking the R&D.

It is unclear how public disclosure of a claimant's name, ABN or ACN and notional deductions claimed will increase transparency or encourage voluntary compliance. Conversely, an unintended consequence, as it is widely recognised that there is a large and competitive R&D tax consulting industry, will be to provide a target list for R&D consultants.

Public transparency on the use of the program's funds can be achieved by more widely circulating de-identified information on a range of data sets, as has been done in the previous Innovation Australia annual reports. The sharing of R&D tax information between the ATO and other corporate regulators for better policy outcomes can also be achieved without publicly releasing claimant details.

The proposed finding process appears reasonable to identify clinical trials expenditure though timeliness and clarity will be important. We encourage the development of binding public rulings on R&D activities and sharing eligibility decisions through anonymised case studies. Of particular importance will be the guidance relating to determinations of the clinical trial expenditure exemptions. These resources will improve small businesses access to the program and reduce their compliance costs. In order to achieve the intended outcome, the language used, particularly in binding public rulings, must be in plain English and free of legalese.

Thank you for the opportunity to comment. If you would like to discuss this matter further please contact Jill Lawrence on 02 6263 1558 or at jill.lawrence@asbfeo.gov.au.

Yours sincerely

Anne Scott
Principal Adviser