

1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

TAXATION LAWS AMENDMENT BILL (NO. 5) 1992

FURTHER SUPPLEMENTARY
EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer,
the Hon J. Dawkins M.P.)



Research and Development Expenditure

The amendments will make further supplementary amendments to Taxation Laws Amendment Bill (No.5) 1992 to provide transitional arrangements for companies and syndicates which sought or were granted registration between 31 March 1992 and 10 June 1992 of proposed projects that involved R&D activities.

Financial impact: None

Explanation of proposed amendments

Taxation Laws Amendment Bill (No.5) 1992 (the Bill) proposes amendments to the research and development (R&D) provisions of the *Income Tax Assessment Act 1936* to give effect to the Budget announcement that deductions would be denied to companies for expenditure to government bodies or their associates where the investors are not fully at risk.

The effect of the amendments proposed by the Bill on companies or syndicates that have sought approval of R&D proposals from the Industry Research and Development Board (the IR&D Board) before 19 August 1992 is that deductions for expenditure on the projects will not be allowable if the expenditure is to a government body or associate, the investor is not fully at risk, and any finance scheme relating to the R&D activities is entered into on or after 19 August 1992.

These further supplementary amendments will extend to 30 June 1993 the period for entering into or varying finance schemes for companies and syndicates whose proposals were lodged with or approved by the IR&D Board between 31 March 1992 and 10 June 1992 (the interim period - see later notes).

Proposed section 73CB will deny deductions for R&D expenditure incurred by a company where:

- the expenditure is incurred to a government body or associate, other than a government body or associate entered on the Register of Commercial Government Bodies (under proposed section 39HA of the IR&D Act); and
- investors are guaranteed a return on or of any part of their investment.

However, proposed section 73CB will not apply to companies and syndicates if:

- the proposal to which the R&D expenditure relates falls into one of the categories which qualifies for the transitional measure (see notes on amendment 2 below); and
- any finance scheme related to the proposal is not entered into or varied after 30 June 1992.

[Amendment 1, subclause 32(2)]

Transitional arrangement

Proposed section 73CB will not apply to expenditure incurred on R&D activities by a company or syndicate where:

- any of the following events relating to a proposal which involved R&D activities occurred during the interim period:
 - registration was granted under section 39J or 39P of the IR&D Act;
 - an application was made for registration under section 39J or 39P of the IR&D Act;
 - an advance eligibility ruling was issued in relation to an application for registration under section 39J or 39P of the IR&D Act; or
 - an application for an advance eligibility ruling was made in relation to an application for registration under section 39J or 39P of the IR&D Act; and
- any finance scheme for the R&D activities relating to the projects was not entered into or varied after 30 June 1993.

[Amendment 2, subclause 32(2A)]

Sections 39J and 39P

Expenditure incurred on R&D activities is tax deductible only if the company that incurs the expenditure is registered under section 39J or 39P of the IR&D Act. Companies seek registration of proposed R&D activities under section 39J. Syndicates (ie. two or more companies jointly involved in a proposal that includes R&D activities) seek registration under section 39P.

Advance eligibility ruling

The term "advanced eligibility ruling" is defined for the purposes of the transition arrangements proposed by subclause 32(2A). An advance eligibility ruling is a statement issued by the IR&D Board in relation to a proposed application for registration under section 39J or 39P. It contains advice that the IR&D Board is of the opinion that particular activities that the company carried on or proposes to carry on are R&D activities.

[Amendment 3, clause 32(3)]

Interim period

The term "interim period" is also defined for the purposes of the transition arrangements proposed by subclause 32(2). The interim period commences on 31 March 1992 and ends on 10 June 1992.

[Amendment 4, subclause 32(3)]

CORRECTION

TO THE

SUPPLEMENTARY EXPLANATORY MEMORANDUM

FOR

TAXATION LAWS AMENDMENT BILL (NO.5) 1992

The following corrections to the Supplementary Explanatory Memorandum substitute legislative citations to correct errors which occurred at the printing stage:

Page 5:

- in the second and third paragraphs under the heading "Applications for inclusion on the Register of Commercial Government Bodies" the citations: *[Amendment 4, new subsection 39HC(1)]* and *[Amendment 4, new subsections 39HC(3) and (4)]* should be *[Amendment 4, new subsection 39HD(1)]* and *[Amendment 4, new subsections 39HD(3) and (4)]*, respectively;
- at the end of the fourth paragraph under the heading "Applications for inclusion on the Register of Commercial Government Bodies" the citation *[Amendment 4, new section 39HE]* should be inserted; and
- in the paragraph under "Deemed refusal of application after 90 days" the citation: *[Amendment 4, new subsection 39HC(2)]* should be: *[Amendment 4, new subsection 39HD(2)]*.

Page 6:

- in the first and second paragraphs under the heading "Date of effect of entry on the Register" the citations: ***[Amendment 4, new subsection 39HC(5)]*** and ***[Amendment 4, new subsections 39HC(6) and (7)]*** should be: ***[Amendment 4, new subsection 39HD(5)]*** and ***[Amendment 4, new subsections 39HD(6) and (7)]***, respectively.