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The R&D Tax Incentive

Compliance Readiness

A GUIDE TO AUSINDUSTRY RISK REVIEWS AND FINDINGS

NOVEMBER 2014

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Introduction

The R&D Tax Incentive is a targeted, generous and easy to access entitlement program that helps businesses offset some of the costs of doing R&D. The program aims to help more businesses do R&D and innovate, and is available to firms of all sizes¹ in all sectors who are conducting eligible R&D.

AusIndustry and the Australian Taxation Office (ATO) are responsible for delivering the *R&D Tax Incentive* and work closely together to help companies accessing the program.

The *R&D Tax Incentive* is a self-assessment program – companies assess for themselves the eligibility of their R&D activities and associated expenditure. AusIndustry and the ATO want to make it as easy as possible for business to understand how the program works, what is eligible and how to register and claim.

This guide provides important information about AusIndustry compliance assurance activities and in particular our risk review and findings processes. It is intended to provide companies with an understanding of what to expect if selected for a risk review or a finding, or in the case of an Advance or Overseas Finding, the application and assessment process.

A better understanding of AusIndustry's compliance assurance activities will assist companies to ensure their own Compliance Readiness. Simply put, compliance readiness is about having in place the appropriate systems and processes to effectively identify, evaluate and record eligible R&D activities and their associated expenditure.

In terms of both the eligibility of R&D activities themselves and the expenditure attributed to such activities, participants in the program need to develop an understanding of their compliance obligations – both to AusIndustry (who support Innovation Australia in the administration of this program) and the ATO.

¹ The Australian Government has committed to target access to the *R&D Tax Incentive* to entities with aggregated assessable income of less than \$20 billion. This change requires legislation. More information is available from AusIndustry.

AusIndustry compliance assurance processes

Non-compliance with the *R&D Tax Incentive* can have serious consequences for a company. Some common causes of non-compliance are:

- Failure to correctly describe and register eligible R&D activities
- Failure to maintain records at the time that R&D activities were undertaken
- Failure to maintain expenditure records and/or evidence of acquittal of R&D activity costs
- Failure to reflect changes in the status of R&D projects over time in R&D activity registrations.

Sound record keeping and robust business systems within a firm will mitigate the risks of non-compliance with the requirements of the *R&D Tax Incentive*.

In other words, a company’s compliance readiness can be established well before it conducts a self-assessment of its R&D activities and registers these under the *R&D Tax Incentive*, or applies for an Advance or Overseas Finding.

In ensuring their compliance readiness, companies should have a good understanding of the review processes that are used in establishing compliance under the *R&D Tax Incentive* program and how these relate to a firm’s records. Companies with effective record keeping practices are likely to find the review process easier and a potentially valuable source of learning that can enhance their future participation in the program.

Risk reviews and findings form an important part of AusIndustry’s *R&D Tax Incentive Integrity Assurance Framework*, which is focussed on guidance-led delivery to enable effective compliance with program requirements. Innovation Australia has delegated authority to AusIndustry to undertake a range of administrative functions and certain decisions.

More information on our Integrity Assurance Framework can be found on business.gov.au.

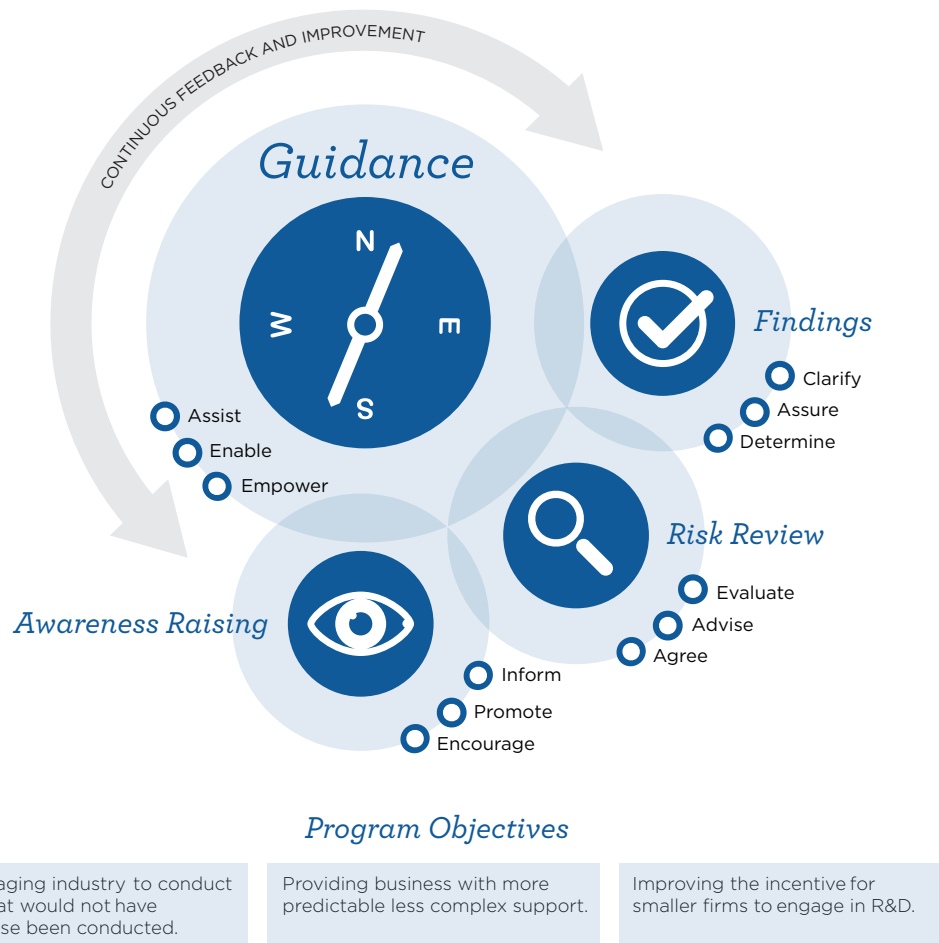


Figure This diagram, from the *R&D Tax Incentive Integrity Assurance Framework*, demonstrates how AusIndustry combines the core elements of its product and service delivery areas under the themes of guidance, awareness raising, risk review and findings.

AusIndustry risk review processes

An important part of maintaining the integrity of the R&D Tax Incentive rests in AusIndustry’s ability to effectively identify and mitigate program risks.

While the guidance-led approach seeks to enable and empower companies to effectively self-assess their eligibility under the program, compliance assurance activities remain an important aspect in AusIndustry’s approach to program integrity.

AusIndustry’s approach to risk review

As part of the risk management approach, all program participants are assessed against a range of filters to help identify possible indicators of risk. Generally, these indicators are based on:

- The scale and complexity of the R&D activities being registered and the level of claimed expenditure; and
- Industry and sectoral intelligence, prior registration information and trends, compliance history and financial ratios (for example, the ratios of R&D expenditure to turnover, R&D spend to total project spend and core activities to supporting activities).

AusIndustry also undertakes a range of risk review activities designed to evaluate and resolve identified risks at the earliest possible opportunity while minimising the impact and costs to program participants. This approach draws upon shared intelligence between AusIndustry and the ATO.

AusIndustry uses these reviews to assess whether there may be risks of non-compliance arising from a company’s self-assessment and whether there are issues that require a more in depth evaluation.

At all times, the aim is to work closely with those participants selected for risk review to gain a better understanding of the nature of the risks identified, and where appropriate, how best AusIndustry can work with a company to resolve or mitigate those risks.

Types of risk review activities

AusIndustry risk review activities include a range of products that are designed to deal with the potential risk of non-compliance either at a pre-registration or post-registration stage of compliance assurance.

These include:

- Pre-Registration Reviews
- Registration Reviews
- Desk Reviews
- Activity Reviews
- Large Business Innovation Reviews

Mutual Obligations in risk review processes

WHAT YOU CAN EXPECT FROM US

- Evaluate risks through a series of risk review processes
- Engage with you to understand more about your claimed R&D activities
- Advise you of the outcome of the review
- Work with you to agree a resolution strategy to identified risks
- Learn from the outcomes of the review and incorporate into improved guidance material or risk review approaches
- Publicise appropriately anonymised examples of risk review outcomes, both positive and negative, for the benefit of all participants.

WHAT WE EXPECT FROM YOU

- Complete applications accurately, providing sufficient information and include meaningful activity descriptions to enable us to assess your eligibility
- Maintain an open and transparent dialogue with us
- Understand your compliance obligations - including keeping appropriate records to substantiate your claims
- Provide to us requested information within practical and agreed timeframes
- Work with us to agree appropriate resolution strategies for identified risks
- Provide feedback on the review process and/or possible guidance and educational improvements.

Pre-Registration Review

The Pre-Registration Review is designed to assess risk in cases where AusIndustry’s monitoring processes have identified acute risks of non-compliance within an application for registration.

If selected for a Pre-Registration Review, the review will take place after the company has lodged its application for registration but before AusIndustry has registered the application. Typically, each year only a relatively small number of registrations are selected for such a review. Reviews are usually completed within two weeks of the registration form being lodged.

What happens as part of a Pre-Registration Review?

Normally, a company is not required to be directly involved in a Pre-Registration Review and the majority of these reviews will be conducted and completed without requiring any further information from the company.

The following steps will usually be undertaken by AusIndustry as part of the review:

- Liaison with the Australian Taxation Office (ATO) to gather relevant information about the company
- Research into the nature of activities included in the registration form
- If necessary, liaison with the company to obtain more information
- A site visit to the company to discuss the registration and view R&D projects may be undertaken.

What is the outcome of a Pre-Registration Review?

Once a Pre-Registration Review has commenced AusIndustry will only contact the company if there are issues we need to discuss or if further information is required.

Depending on the outcome of the review, the following actions may be taken:

- The application for registration is granted and there is no further action
- The application for registration is granted but further evaluation of risk takes place through additional risk review processes
- Innovation Australia will choose to make a finding about the eligibility of activities described in the application for registration (further information on this process can be found later in this guide).

Key Messages

- Pre-Registration Reviews evaluate potential compliance risks within applications for registrations
- Pre-Registration Reviews are generally used in cases where monitoring identifies an acute risk of non-compliance
- Comprehensive and accurate registration information minimises compliance risks including the likelihood of a Pre-Registration Review of your application.

Registration Review

A Registration Review evaluates the information provided by a company in its application for registration. The review process takes place after the registration has been approved by AusIndustry and is designed to identify potential compliance risks.

AusIndustry uses the review to determine whether there may be risks arising from a company's self-assessment and whether there are issues that require a more in depth evaluation.

What happens as part of a Registration Review?

Typically a company is not required to be directly involved in a Registration Review. The following steps will usually be undertaken by AusIndustry as part of the review:

- Analysis of the company's current and previous registration applications and any previous compliance activity
- An evaluation of whether the company's activity is eligible – including whether, compared to existing technology in the sector or market place the activity is, in fact, "state of the art"
- Gathering local knowledge and intelligence by AusIndustry State or Territory Offices
- Gathering information obtained from the ATO relevant to the determination of the eligibility of the company's activities
- Analysis of the company's history with AusIndustry through other programs.

What is the outcome of a Registration Review?

Once a Registration Review has been completed AusIndustry will contact the company to explain the results of the review.

There are two possible outcomes:

- No further action, however recommendations may be provided for improving the company's approach to completing future registrations; or
- Initiation of a Desk Review because issues have not been satisfactorily resolved or we have not been able to make an effective evaluation based on the information contained within the registration application.

Key Messages

- Registration Reviews evaluate potential compliance risks within registrations
- Comprehensive and accurate registration information minimises the likelihood of a negative review outcome
- In most instances, the review outcome is that no further action is required.

Desk Review

A Desk Review involves a deeper analysis of registered activities and is generally undertaken in the event that outstanding compliance risks remain following a Registration Review.

Prior to a Desk Review, AusIndustry will normally have undertaken a Registration Review, with the outcome being that there was a risk of non-compliance or that insufficient information had been provided to determine the extent of risk.

What happens if a company is involved in a Desk Review?

The following steps will usually be undertaken as part of a Desk Review:

- Contact with the company to explain the review process
- A request for specific information relating to issues identified in the Registration Review. For example, AusIndustry may request further details of experimental testing undertaken as part of an R&D project. This stage highlights the need for effective record keeping practices
- Conversations with technical and/or financial staff in relation to the provision of additional information and its content
- Further research as necessary so that AusIndustry can understand the information provided by the company.

What is the outcome of a Desk Review?

Once a Desk Review has been completed AusIndustry will contact the company to explain the results of the review. There are a number of possible outcomes:

- No further action required, however recommendations may be provided for improving a company's approach to completing future registrations or maintaining appropriate records
- Initiation of an Activity Review because issues have not been satisfactorily resolved or we have not been able to make an effective evaluation based on the information provided by the company; or
- A recommendation that the company amend its claim to overcome any identified risks.

Key Messages

- Desk Reviews evaluate compliance risks that have not been resolved through a Registration Review
- Providing clear, complete and timely information to AusIndustry that answers our questions allows us to reach an outcome quickly and with the least impact on a company's time and resources
- If your company has questions about what information is required and how best to provide that information, feel free to contact us. Our goal is to understand your R&D.

Activity Review

An Activity Review is undertaken in the event that a Desk Review does not satisfactorily resolve identified compliance risks. It is designed to give companies an opportunity to clarify potential risk issues in relation to specific registered activities.

Prior to an Activity Review, AusIndustry will normally have undertaken a Registration Review and/or a Desk Review, with the outcome of the previous reviews being either that there was a risk of non-compliance or that insufficient information had been provided to determine the extent of risk.

What happens if a company is involved in an Activity Review?

The following steps will usually be undertaken as part of an Activity Review:

- Contact with the company (and its tax agent or consultant where relevant) to explain the results of previous reviews and our reasons for undertaking an Activity Review
- Meeting with the company and its relevant staff to discuss issues and to evaluate information (such as projects and records of experiments) around specific R&D activities and where possible to view some of the key outcomes of the project. This stage will be made easier if a company has maintained robust records
- Further research by AusIndustry (for example literature searches) to understand the information provided by the company
- If required, further conversations with the company by telephone and/or exchanges of information through e-mail.

What is the outcome of an Activity Review?

Once an Activity Review has been completed AusIndustry will contact the company to explain the results of the review.

There are a number of possible outcomes:

- No further action required, however recommendations may be provided for improving a company's approach to completing future registrations or maintaining appropriate records; or
- Initiation of a Post-Registration Finding because issues have not been satisfactorily resolved or we have not been able to make an effective evaluation based on the information provided by the company; or
- A recommendation that the company amend its claim to overcome any identified risks.

Key Messages

- Activity Reviews evaluate compliance risks that have not been resolved through a Desk Review
- Activity Reviews involve visiting your company to speak directly with R&D staff about their work, and to view projects and project records
- Providing comprehensive and accurate information in response to requests from AusIndustry within required timeframes leads to timely resolution of the Activity Review process.

Large Business Innovation Review

Large Business Innovation Reviews have been designed for large businesses accessing the program. AusIndustry recognises that the program's largest participants often undertake large scale, complex and diverse research and development work. This category of review will therefore only apply to a certain type of registration and is not relevant to small and medium size businesses (SME).

What happens if a company is involved in a Large Business Innovation Review?

Typically, one or more of the following steps will be undertaken as part of a Large Business Innovation Review:

- Contact with the company (and its tax agent or consultant where relevant) to explain the objectives and agree upon key aspects of the review
- A visit to the company to meet with a mix of financial, technical and management staff to discuss and understand more about:
 - how the company uses the program to innovate, grow and sustain its business and understand its guidance needs
 - the company's governance and business systems including its approach to registration preparation including its methodology for determining eligible activities; and
 - the links between the company's financial and management accounting systems and the projects and activities registered through the program.
- Evaluation of specific compliance issues or perceived risks as identified by AusIndustry or the ATO.

What is outcome of a Large Business Innovation Review?

Once a Large Business Innovation Review has been completed AusIndustry will contact the company to explain the results of the review. Outcomes of the review may include:

- A report which details the outcomes of the review which will be made available to the company, its tax agent or consultant where appropriate, and the ATO. It may identify potential compliance issues and include recommendations on how its approach to R&D tax management could be improved to assure compliance with the program
- Ongoing contact between AusIndustry, the company and its tax agent for program-related issues; and
- In certain circumstances, for example where agreement on how to manage identified material compliance risks cannot be reached, we may choose to initiate a finding to clarify the application of the law in that particular circumstance.

Key Messages

- Through Large Business Innovation Reviews we can understand more about how large businesses use the program as well as providing a level of compliance assurance to AusIndustry and the ATO
- Large Business Innovation Reviews provide an opportunity for an ongoing point of contact between AusIndustry, companies and their tax agents.

Findings about the eligibility of R&D activities

While AusIndustry’s guidance material is designed to enable effective self-assessment, there are times when a participant, AusIndustry or the ATO will seek further clarification on the application of the law to individual circumstances.

For this reason the *R&D Tax Incentive* has a mechanism for providing advice in the form of findings. Findings enable Innovation Australia (the statutory authority ultimately responsible for administering the *R&D Tax Incentive*) and its delegates to make a determination about the eligibility of activities in specific circumstances.

What are Findings?

Findings provide practical certainty to program participants and enabling the regulators to determine the eligibility of activities is an important aspect of the program’s integrity assurance framework.

Findings can also assist companies to manage their tax risk and obtain funding certainty to enable effective planning and decision making around specific R&D projects.

The objectives of findings are to:

- provide certainty to companies about their entitlement to benefits under the *R&D Tax Incentive*; and
- provide Innovation Australia with the power to undertake compliance assurance activities to protect program integrity by determining the eligibility of specific activities.

During a findings process, AusIndustry will work closely with a company to ensure that it develops a clear understanding of the company’s claims and the basis on which they are made.

Findings are binding upon both Innovation Australia and the ATO, and both organisations must administer the *R&D Tax Incentive* in line with any findings.

Findings

WHAT YOU CAN EXPECT FROM US

- Review and assess information available to us including outstanding issues from previous risk reviews
- Work with you to develop a good understanding of your claimed R&D activities
- Work with you to agree and follow practical timeframes
- Provide timely decision making.

WHAT WE EXPECT FROM YOU

- Maintain open and transparent dialogues
- Work with us to clarify your position
- Provide to us requested information within practical and agreed timeframes.

Types of Findings

There are five types of findings which are explained in more detail in the following sections:

- Advance Findings
- Overseas Findings
- Post-registration Findings
- Findings about an Application for Registration
- Core Technology Findings.

Review and Appeals Processes

Companies whose interests are affected by decisions made by Innovation Australia may apply for an internal review of that decision. Companies that disagree with an internal review decision can also apply to the Administrative Appeals Tribunal (AAT) for a further review of that decision.

We will conduct and manage litigation in accordance with our obligations under the law and consistent with the Model Litigant Obligation, an appendix to the Legal Services Directions 2005 issued by the Attorney-General.

For further information on the appeals process see [business.gov.au](https://www.business.gov.au).

Key Messages

- Findings provide Innovation Australia with the power to determine the eligibility of activities in individual circumstances
- Certain findings, such as Advance and Overseas Findings, can be initiated by a company to provide certainty and enable effective R&D planning and decision making
- A company can appeal against a finding made by Innovation Australia.

Further detailed information on findings can be found in the *Guide to Findings* on [business.gov.au](https://www.business.gov.au).

Advance Findings

Advance Findings can provide companies with certainty about whether their R&D is eligible before they incur the costs of conducting the activities, or if they have already conducted the activities, before they register the activities and include the costs in their company tax return.

An Advance Finding is a ruling on whether all or part of an activity is a core R&D activity, a supporting R&D activity or neither of these. Advance Findings will bind Innovation Australia and the ATO for the year in which the R&D is conducted and for up to two subsequent years if the activities are being conducted over multiple years.

How does a company apply for an Advance Finding?

- Download and complete the application form which may be found on the business.gov.au website
- Submit the application form before the end of the income year in which the R&D activity is conducted
- Provide sufficient and relevant detail when completing the form to enable AusIndustry to understand the project and the basis on which your claims are made
- If requested by AusIndustry, provide additional information which supports your claims and satisfies the legislative criteria.

How will AusIndustry assess a company's application?

- An AusIndustry staff member will review and analyse the information contained within the company's application against the legislative tests
- We may request additional information from the company where necessary, for example to clarify statements made within the application or view documentation which substantiates the claims; and
- We will prepare an assessment report and present its recommendations to Innovation Australia or its delegate who will consider the report and make a decision on the eligibility of activities contained within the application.

What is the Outcome of an Advance Finding?

Once an Advance Finding has been completed we will contact the company to explain the decision. There are two possible outcomes:

- If the activities as described by the company are determined to be eligible, the finding decision is provided to the company and the ATO in the form of a legally binding certificate that establishes the nature, scope and duration of eligible R&D activities.
- Where all or a part of one or more activities are found to be ineligible this will be reflected in the certificate and the company will be advised accordingly.

Companies that disagree with an Advance Finding decision can apply for an internal review of that decision. Companies that disagree with an internal review decision can apply to the AAT for a further review of that decision.

Key Messages

- Advance Findings can give companies certainty about eligibility before they conduct their R&D activities or register them under the program
- A well prepared Advance Finding application can avoid AusIndustry from having to contact you for more information. The application should:
 - Include enough detail to assess eligibility of R&D activities
 - Differentiate between core, supporting, excluded and ineligible activities
 - Focus on what is being done in the R&D activities, not the outcomes
 - Clearly describe the hypotheses that form the basis for the R&D
 - Describe experiments that address the hypotheses.
- An Advance Finding does not replace the registration process but preparation of the application will be useful when you register your activities.

Overseas Findings

Overseas Findings can provide certainty about whether the costs associated with overseas R&D activities is eligible. Program participants must obtain an Overseas Finding if they wish to claim expenditure associated with overseas activities under the *R&D Tax Incentive*.

Overseas Findings are rulings on whether all or part of an overseas activity is a core R&D activity or a supporting R&D activity that has a significant scientific link to an eligible Australian core R&D activity. Overseas Findings bind Innovation Australia and the ATO for the year in which the R&D is conducted and for up to two subsequent years if the activities are being conducted over multiple years.

What are the conditions for receiving a finding about overseas activities?

There are four conditions to be met for a finding to be made that activities conducted outside Australia are eligible under the *R&D Tax Incentive*.

1. The activities must be covered by an Advance Finding stating that the activities are eligible R&D activities.
2. The activities must have a significant scientific link to one or more Australian core R&D activities registered or reasonably likely to be conducted and registered.
3. The activities must be unable to be conducted within Australia because of one or more of the reasons listed in the legislation.
4. Expenditure on activities conducted overseas must not exceed expenditure on certain Australian activities.

Condition 3 – The activity cannot be conducted in Australia

The third condition is that the activity cannot be conducted solely in Australia because of one of the following factors:

- conducting the activity requires access to a facility, expertise or equipment not available in Australia
- conducting the activity in Australia would contravene a law relating to quarantine
- conducting the activity requires access to a population (of living things) not available in Australia; or
- conducting the activity requires access to a geographical or geological feature not available in Australia.

The administrative process for applying for an Overseas Finding and how AusIndustry will assess an application is the same as for an Advance Finding (as described in the previous section of this guide). Note that a single application form is used for either an Advance or Overseas Finding.

Key Messages

- Overseas Findings can give companies certainty about the eligibility of overseas activities before they conduct their R&D activities or register them under the program
- Your application must identify a significant scientific link from each of your overseas activities to an Australian core R&D activity
- You must apply for a finding about overseas activities before the end of the income year in which the activities were conducted
- You should describe and be able to document the overseas activities and the overseas expenditure; and
- Supporting evidence of why the activity cannot be done solely in Australia will assist in assessing your application.

Post Registration Findings

An important element of the program's integrity rests in the ability of Innovation Australia to determine the eligible of activities in specific circumstances. Following registration, Innovation Australia can examine a company's activities to make a finding about their eligibility.

A Post Registration Finding will usually be initiated when a material risk of non-compliance has been identified by AusIndustry or the ATO, or where outstanding risks remain following a risk review process.

What happens if a company is involved in a Post Registration Finding?

Typically, the following steps will be undertaken by AusIndustry as part of a Post Registration Finding:

- AusIndustry contacts the company to initiate the Post Registration Finding and explain the process
- A review of the information available from a variety of sources including registrations and the outcomes of previous risk reviews is undertaken
- A request for additional information regarding particular projects and their activities to gain a greater understanding of a company's claims
- Arrangement of a visit to a company's offices or R&D facilities to meet with financial, technical and management staff to understand more about the project and its activities and to discuss the information provided by the company. Sometimes a visit will be arranged before we request information
- Depending on the size and complexity of the assessment, AusIndustry may engage an expert to provide an opinion on the technical aspects of the company's project and its registered activities
- AusIndustry may provide the company with a summary of its understanding of the information provided by the company. This document will provide the company with an opportunity to review AusIndustry's understanding of key issues and to provide comment or additional information, and
- AusIndustry will draw together key information, prepare a report including a recommendation on the eligibility of registered activities and make a submission to Innovation Australia or its delegate for a decision to be made.

What is outcome of a Post Registration Finding?

- AusIndustry, on behalf of Innovation Australia, will then notify the company and the Commissioner of Taxation of the finding made in relation to the registered activities which will include the reasons for the decision
- No further action required if the activities are determined to be eligible; or
- Where all or a part of one or more activities are found to be ineligible, the registration is taken to have existed in a form consistent with the finding. A company cannot claim an offset for those activities found to be ineligible. If a company has made a claim in their tax return they will need to amend it accordingly.

Companies that disagree with a Post Registration Finding can apply for an internal review of that decision.

Companies that disagree with an internal review decision can apply to the AAT for a further review of that decision.

Key Messages

- Post Registration Findings provide Innovation Australia with the ability to determine the eligibility of registered activities in certain circumstances
- If we can obtain the correct information and supporting documentation quickly, this will enable us to reach a decision and provide you with certainty as soon as we can
- A Post Registration Finding binds the ATO, if it is made within four years of the last income year in which the activity was registered
- The outcome of the finding may result in the company's tax assessment for an income year being amended to give effect to the finding.

Finding about a Registration Application

In certain circumstances, Innovation Australia may choose to make a finding about the eligibility of activities described in an application for registration. This finding is made at the time a company seeks to register activities. Only Innovation Australia may initiate this particular type of finding.

Innovation Australia may undertake a Finding about a Registration Application where there is perceived to be an acute risk of a company's registration being non-compliant with the eligibility requirements. The finding may also be initiated where identified risks have not been satisfactorily resolved as part of a Pre-Registration Review.

What happens if a company is involved in a Finding about a Registration Application?

Typically the process for undertaking this type of finding is similar to the Post Registration Finding process. Companies will be contacted to discuss their registration application and given the opportunity to submit information in support of their claims.

What is the outcome of a Finding about a Registration Application?

Typically, one or more of the following steps will be undertaken on completion of a Finding about a Registration Application:

- AusIndustry will contact the company to explain Innovation Australia's decision which could include whether all or part of an activity is an eligible R&D activity
- AusIndustry (on behalf of Innovation Australia) will register those activities which are found to be eligible. The finding is binding on the ATO for the relevant income year; or
- If some part or all of an activity within a company's registration application is found to be ineligible, it will not be registered.

Companies that disagree with a Finding about a Registration Application can apply for an internal review of that decision. Companies that disagree with an internal review decision can apply to the AAT for a further review of that decision.

Key Messages

- A Finding about a Registration Application provides Innovation Australia with the ability to determine the eligibility of activities contained within an application for registration
- A Finding about a Registration Application is typically only initiated when acute risks of non-compliance have been identified
- If some part or all of an activity within a company's registration application is found to be ineligible, it will not be registered.

Core Technology Findings

Companies may seek a finding about technology that they have purchased for their R&D activities. In this finding, Innovation Australia determines whether the technology is or is not ‘core technology’.

What is ‘core technology’?

Technology is considered to be ‘core technology’ if it is for one or more R&D activities in the following circumstances:

- Where the purpose of the R&D activities is to obtain new knowledge based on that technology
- Where the purpose of the R&D activities is to create new or improved materials, products, devices, processes, techniques or services to be based on that technology; or
- Where the R&D activities were or are an extension, continuation, development, or completion of the activities that produced the technology.

Generally expenditure on core technology or the rights to use core technology cannot be considered in calculating your entitlement to the *R&D Tax Incentive*.

The one exception is if the expenditure relates to acquiring a tangible depreciating asset used for conducting registered R&D activities. In these circumstances, a company may be entitled to a notional R&D deduction for the decline in the value of the depreciating asset.

What is the outcome of a Core Technology Finding?

Typically, one or more of the following steps will be undertaken on completion of a Core Technology Finding:

- AusIndustry will contact the company to explain Innovation Australia’s decision which will state whether the technology for R&D activities is or is not a core technology; or
- If a company has incorrectly included a claim in their tax return relating to technology that is subject to a core technology finding, it will need to amend it accordingly to give effect to the finding.

Companies that disagree with a Core Technology Finding can apply for an internal review of that decision.

Companies that disagree with an internal review decision can apply to the AAT for a further review of that decision.

Key Messages

- A Core Technology Finding seeks to determine whether the technology acquired for the purposes of R&D activities is core technology
- A Core Technology Finding can be initiated by a company, Innovation Australia or the ATO
- Expenditure on core technology generally cannot be considered in calculating your entitlement to the R&D Tax Incentive.

The R&D Tax Incentive · *Compliance Readiness*
A GUIDE TO AUSINDUSTRY RISK REVIEWS AND FINDINGS

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