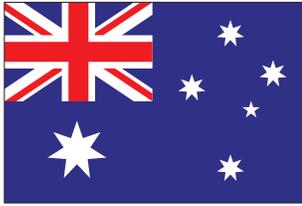


Australia



Background

The standard corporate income tax rate is 30%, although the rate for small businesses (defined below) is reduced to 28.5% (effective 1 July 2015).

Nature of incentives

Australia's corporate income tax regime includes the following R&D tax incentives:

- A refundable volume-based tax credit of 45% of eligible R&D expenditure is available for small companies, i.e., companies with gross receipts of less than AUD 20M that are not controlled (>50%) by exempt entities. Receipts of connected and affiliated entities are taken into account in determining the gross receipt threshold. Small companies that report the tax credit cannot deduct the qualifying expenditure included in calculating the tax credit.
- A 40% nonrefundable tax credit for all other eligible entities.

Effective 1 July 2014, the R&D tax incentive is claimable only at the above rates on eligible expenditure amounts up to AUD 100M. R&D expenditure in excess of that amount is claimable, but only at the relevant corporate income tax rate.

Excess nonrefundable R&D tax credits can be carried forward indefinitely, but not carried back. The ability to use carried forward R&D tax credits is subject to ownership or same business continuity tests and may be reduced by certain amounts of non-taxable income.

Eligible industries and qualifying costs

Eligibility is broad and is not limited to particular industries. Entities that are resident in Australia for tax purposes due to incorporation, central management and control, or under the residence tie-breaker article of a Double Tax Agreement (DTA) can be considered eligible R&D entities. A foreign resident entity with an Australian permanent establishment (PE) under a DTA also can be an eligible R&D entity.

Qualifying expenditure may include staff costs, direct costs, overhead, supplies, tax depreciation and certain capital expenditure on activities that are defined as core or supporting R&D activities. Interest payments and building costs are specifically excluded. Fees paid to contractors to perform research on the taxpayer's behalf are qualified research expenses as long as the work performed by the contractor is directly related to the R&D activities.

Research credits are adjusted to account for government grants used to fund qualified research. If the funding is for an R&D expenditure made by the taxpayer, then 200% of the amount of the grant is treated as funding the research and reduces otherwise qualified research expenses.

Australia offers volume-based tax credits ranging from 40%–45%, but proposed legislation may reduce the current rates.

Additional adjustments are made if the R&D results in the output of commercially viable products or goods. This may occur if a new manufacturing process is developed through R&D and needs to be tested at a full commercial scale. If the output from the tests is scrapped, then the cost of the materials (e.g., feedstock) and other operating expenses incurred to conduct the trial run would be qualified research expenses. If, however, the output is sold or applied to further use by the taxpayer, special rules apply to reduce the net benefit of the research credit.

Core R&D activities generally are experimental activities whose outcome cannot be known or determined in advance based on current knowledge, information and experience, that are conducted for the purpose of generating new knowledge. Certain activities are specifically excluded from the scope of core activities, including certain exploration activities and software development for the dominant purpose of internal business administration.

Supporting R&D activities are activities that are directly related to core R&D activities. However, if an activity is on the core exclusion list or produces goods or services, it must be undertaken for the dominant purpose of supporting the core R&D activities to be eligible.

IP and jurisdictional restrictions

Multinational companies can take advantage of the Australian R&D tax incentive provisions in a number of cross-border situations. For tax years commencing on or after 1 July 2011, and where certain conditions are satisfied:

- Australian-based R&D activity can be funded by related overseas companies;
- IP rights relating to eligible R&D activity generally do not need to be retained in Australia; and
- Up to 50% of the total project costs of R&D activities can be physically performed outside Australia and remain eligible for benefits if an advanced overseas finding has been approved by the government.

Other concerns

Legislation has also been proposed to reduce the research credit rates for small businesses from 45% to 43.5%, and for all other taxpayers from 40% to 38.5%. The proposed legislation, if passed in its present form, would be effective from 1 July 2014.

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Australia

Nature of benefit available	Income tax benefit generally available	Specific pre-approval required from government	Refundable/ Carryforward
Tax credit	<ol style="list-style-type: none"> 1. Refundable tax volume-based credit of 45% of eligible expenditure incurred where aggregate gross receipts are less than AUD 20M and company is not greater than 50% controlled by exempt entities; or 2. Nonrefundable tax credit of 40% of eligible expenditure incurred for all other entities. 	Taxpayers must file an application for registration of R&D activities within 10 months of the tax year end.	A refundable tax credit is available for SMEs in an amount equal to 45% of the eligible R&D expenditure (but the expenditure is not deductible). SMEs have gross receipts of less than AUD 20M (affiliated companies are considered) and are not controlled (>50%) by exempt entities.

R&D activities must occur in country	Cap/Limitations on benefits	IP must be retained in country	Industry eligibility restriction
Up to 50% of the total project costs of R&D activities can be physically performed outside Australia and remain eligible for benefits if an advance overseas finding has been approved by the government.	No	No	No