India

India offers a 200% R&D super deduction, but it is generally limited to taxpayers in the business of bio-technology or manufacturing/producing certain products.

Background

The corporate tax rate is 30% (plus the applicable surcharge and education cess).

Nature of incentives

As of 1 April 2014, the incentives for conducting R&D include the following:

- A 200% super deduction for in-house R&D expenditure, including capital expenditure (other than land and buildings). The super deduction is limited to taxpayers in the business of bio-technology or manufacturing or producing products (other than products on the negative list such as alcoholic products, tobacco products, cosmetics, toothpaste, aerated waters using blended flavouring concentrates, confectionary, record players, projectors, office machines and apparatus, steel furniture, safes, latex foam, crown corks and caps for packaging). The R&D facility must be approved by the Department of Scientific and Industrial Research (DSIR) to qualify for the super deduction. Currently the benefit is available until 31 March 2017.
- A super deduction of 125% to 200% is permitted for specified payments made to prescribed entities carrying out research and development in India.
- A 100% deduction is available for R&D expenses (other than land) that do not otherwise qualify for the above super deductions.

A deduction also is available for R&D employee salaries and materials used within the three years immediately preceding the year the business commenced.

There is no cap on the R&D benefits available in India.

A number of requirements must be met for expenditure incurred on in-house R&D to qualify for the 200% super deduction, including the following:

- The R&D unit must be located in a separate earmarked area.
- The R&D unit must have its own personnel.
- The qualifying R&D expenses may not be deducted under any other provision of the tax code.
- The facility may not be used exclusively for market research, sales promotion, quality control, testing, commercial production, style changes, routine data collection or similar activities.
- The company must maintain a separate account for each approved facility, which must be audited annually; a copy thereof must be submitted to the Secretary of the DSIR by 31 October submitted annually.
- Assets acquired with respect to development of scientific R&D facilities may not be disposed of without the approval of the Secretary of the DSIR.

Eligible industries and qualifying costs

Qualifying expenditure includes wages, supplies, utilities, and other expenses directly related to R&D. Specifically excluded expenses include G&A costs, depreciation, overhead, and allocated expenditure.

A deduction for R&D expenditure is net of any grants/gifts, donations, presents, payments or gains on the sale of R&D assets.

Expenses incurred in clinical drug trials qualify for research tax incentives only if pre-approved by the regulatory authority under a central, state or provincial act and a patent application is filed under the Patents Act (1970) for the new drug/therapy developed through the clinical trials.

IP and jurisdictional restrictions

R&D activities must be conducted in India. There is no location restriction with respect to IP.

Other concerns

If the taxpayer is in a loss situation, unused benefits may be carried forward for the following eight years, but may not be carried back.

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Nature of benefit available	Income tax benefit generally available	Specific pre-approval required from government	Refundable/ Carryforward
Super deductions	1. 200% super deduction for in-house R&D expenditure. 2. 125%-200% super deduction for payment to research institutions. 3. Deduction of R&D employee salary and materials consumed within three years immediately before the commencement of the business.	No, but there is an annual filing requirement for audit reports of the operations in R&D facilities.	If the taxpayer is in a loss situation, unused benefits may be carried forward for eight years.

R&D activities must occur in country	Cap/Limitations on benefits	IP must be retained in country	Industry eligibility restriction
Yes	No	No	The 200% super deduction is limited to taxpayers in the business of biotechnology or manufacturing and producing products (other than products on the negative list).