

5 June 2020

The Hon. Josh Frydenberg MP
Treasurer
House of Representatives
Parliament House
PO Box 6022
CANBERRA ACT 2600

By email: josh.frydenberg.mp@aph.gov.au

CC: Ms Maryanne Mrakovcic, Deputy Secretary Revenue Group, Treasury:
Maryanne.Mrakovcic@treasury.gov.au

Dear Treasurer,

Certainty for the R&D Tax Incentive

The National Tax Liaison Group (**NTLG**) is the Australian Taxation Office's (**ATO**) longest standing consultative forum, focusing on strategic taxation matters of national interest. The primary objective of the NTLG is to provide a wide range of stakeholders with the opportunity to discuss the strategic direction of the tax system and to deliver opportunities for improvements to the administration of the tax system. The NTLG's membership is comprised of senior ATO and Treasury officers and representatives of the major tax, law, and accounting professional associations. Details of the activities of the NTLG, including its membership, can be found [here](#).

Chartered Accountants Australia and New Zealand, Corporate Tax Association, CPA Australia, Institute of Public Accountants, Law Council of Australia and The Tax Institute (together **the Joint Bodies**) are the external members of the NTLG. We write to you as the peak professional accounting and tax practitioner bodies in Australia representing the tax profession at this critical time.

We previously wrote to you on 7 April 2020 ([link to submission](#)) with our concerns in relation to current uncertainty surrounding the measures contained in *Treasury Laws Amendment (Research and Development Tax Incentive) Bill 2019 (R&D Bill)*. The relevant part has been extracted in the attached Appendix.

Delays to the progression of the R&D Bill have occurred as a result of the planned hearings for the inquiry into the R&D Bill run by the Senate Standing Committee on Economics (**Committee**) being postponed as a result of the COVID-19 pandemic. The Committee is now not scheduled to report until 7 August 2020.

The measures in the R&D Bill generally apply to income years commencing on or after 1 July 2019. With the Committee unlikely to report until 7 August 2020 at the earliest, the R&D Bill will most likely not be enacted before 30 June 2020, creating uncertainty for taxpayers seeking to make research and development tax claims in the 2019-20 and 2020-21 income years. Apart from the need for certainty, we note that for many Start-ups, the R&D funding mechanism may be the only source of substantial financial support payments

available at present as they do not qualify for the JobKeeper scheme where there is no turnover. Accordingly, the refundable R&D tax offset is a critical, existing funding program on which these companies are reliant to continue their important R&D activities for the benefit of Australia.

Claimant companies should be put in a position of certainty to allow them to lodge their 2019-20 R&D claims from 1 July 2020.

In this regard, we resubmit our previous request for confirmation from the Government as a matter of priority:

- that R&D tax claims made in relation to the 2019-20 and 2020-21 income years will be subject to the current enacted legislation; and
- that the start date for *Treasury Laws Amendment (Research and Development Tax Incentive) Bill 2019* will be deferred until 1 July 2021.

This will provide the necessary certainty to taxpayers for the 2019-20 and 2020-21 income years.

If you would like to discuss any of the above, please contact Tax Counsel, Stephanie Caredes, on 02 8223 0059 in the first instance.

Yours faithfully,



Peter Godber
President
The Tax Institute



Michael Croker
Tax Leader Australia
Chartered Accountants Australia and New Zealand



Michelle de Niese
Executive Director
Corporate Tax Association



Dr Gary Pflugrath
Executive General Manager, Policy & Advocacy
CPA Australia



Greg Rodgers
Chair – Business Law Section
Law Council of Australia



Tony Greco
General Manager Technical Policy
Institute of Public Accountants



Appendix

Measure	Required Outcome
<p>Research and Development – <i>Treasury Laws Amendment (Research and Development Tax Incentive) Bill 2019</i> (Cth)</p>	<p>Announce the deferral of the start date for the Bill to 1 July 2021</p> <p>Following the cancellation of the proposed public hearings on <i>Treasury Laws Amendment (Research and Development Tax Incentive) Bill 2019</i>, the Senate Economics Legislation Committee has a new reporting deadline of 7 August regarding the Bill to reform the Incentive, the same month when Parliament is now slated to next return. If the Bill does eventually pass, it will be well into the 2020/21 financial year so it is difficult to see how it can be applied retrospectively from 1 July 2019. As such, we propose that the Government confirm as a matter of priority that 2019-20 R&D tax claims will be made under the current legislation and that the start date for <i>Treasury Laws Amendment (Research and Development Tax Incentive) Bill 2019</i> be deferred until 1 July 2021.</p>