



ATO Interpretative Decision

ATO ID 2003/991

Income Tax

Research and Development: additional deduction for incremental expenditure where a company has a transitional substituted accounting period

FOI status: may be released

Status of this decision: Decision Current

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Issue

If an eligible company in one of the three years prior to the deduction year, has lodged a return of income for a period other than 12 months, will this period represent any of the 'Y-1, Y-2 or Y-3' years when calculating 'R&D spend'?

Decision

No. The 'Y-1, Y-2 and Y-3' years will be the 12 month periods preceding the eligible company's 'Y0' year (the 'year of income' of the eligible company), when calculating 'R&D spend' for the purpose of sections 73T, 73U, 73V, 73W and 73Y of the *Income Tax Assessment Act 1936* (ITAA 1936).

Facts

The eligible company undertakes research and development activities in Australia, and is seeking to determine its entitlement to an additional deduction for incremental tax expenditure (section 73Y of the ITAA 1936).

The eligible company is allowed to adopt a substituted accounting period under section 18 of the ITAA 1936 (the year of income for which the additional deduction under section 73Y of the ITAA 1936 is sought).

The eligible company lodged a transitional substituted accounting period return, covering income and deductions for a period greater than 12 months, in one of the three years prior to the deduction year.

Reasons for Decision

The definition of 'R&D spend' in subsection 73P(2) of the ITAA 1936 refers to the 'incremental expenditure' of the

eligible company, for a relevant 'year of income'.

The meaning of 'year of income' was considered in the AAT decision of *Norwich Superannuation Services Pty Ltd v. FC of T* (1998) 41 ATR 1091; 99 ATC 2015 (*Norwich*), where BH Pascoe stated at 2018:

I am further satisfied that the reference to "year of income" or part of a year of income must mean a period of a year as is generally understood as a period of 12 months.

Sections 73P to 73Y of the ITAA 1936 relate to eligibility for, and claiming of an additional deduction for certain incremental research and development expenditure. Sections 73R to 73W of the ITAA 1936 require certain calculations to be made, incorporating therein amounts of 'R&D spend' incurred in the 'Y0, Y-1, Y-2 and Y-3' years.

The definition of the 'Y0' year of income in paragraph 73P(6)(a) of the ITAA 1936 is

the year of income for which an eligible company is working out its assessable income and deductions.

The 'Y-1, Y-2 and Y-3' 'years of income' are defined in subsection 73P(6) of the ITAA 1936 as being the 'year of income' one, two and three years (respectively) prior to the Y0 'year of income'. They are, therefore, the 'years of income', (being 12 month periods, in accordance with the interpretation of 'year of income' as outlined in *Norwich*), that are one, two and three years prior to that of the 'Y0' year of income of the eligible company.

Accordingly, the incremental expenditure amounts of the eligible company which are to be included under the definition of 'R&D spend' are determined using the eligible company's 'Y0' 'year of income' and the three 12 month periods preceding it, representing the 'Y-1, Y-2 and Y-3' years of income.

Date of decision: 13 October 2003

Year of income: Period from 1 December 2001 to 30 November 2002
Period from 1 December 2002 to 30 November 2003

Legislative References:

Income Tax Assessment Act 1936

- subsection 73B(1)
- subsection 6(1)
- subsection 73B(13)
- subsection 73B(14)
- section 73L
- subsection 73L(1)
- subsection 73L(2)
- subsection 73L(3)
- section 73P
- subsection 73P(6)
- section 73W
- section 73R
- subsection 73R(1)
- section 73S
- section 73T
- section 73U
- section 73V
- section 73X
- section 73Y
- section 73Z

Case References:

Norwich Superannuation Services Pty Ltd v. FC of T
(1998) 41 ATR 1091
99 ATC 2015

Related ATO Interpretative Decisions

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Keywords

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