



## ATO Interpretative Decision


ATO ID 2004/973

### Income tax

## Research and Development: Additional deduction for incremental expenditure where a company has a transitional substituted accounting period in relation to the 'deduction year'

FOI status: may be released

Status of this decision: Decision Current

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## Issue

If an eligible company lodges a return of income for a period other than 12 months, will this period represent the 'year of income' (the '**deduction year**') for the purposes of determining the company's eligibility to claim an additional deduction for incremental expenditure, and also represent the 'Y<sub>0</sub> year' when calculating 'R&D spend'?

## Decision

No. The '**deduction year**' for the purposes of section 73Q of the *Income Tax Assessment Act 1936* (ITAA 1936), and the 'Y<sub>0</sub> year', when calculating the 'R&D spend' under section 73P of the ITAA 1936, for the purposes of sections 73U, 73V, 73W and 73Y of the ITAA 1936, will be the 12 month period preceding the last day of the period, for which the company will lodge its transitional period return.

## Facts

The company is an 'eligible company', as defined in subsection 73B(1) of the ITAA 1936. It undertakes research and development activities in Australia and is examining its eligibility under section 73Q of the ITAA 1936 to claim an additional deduction under section 73Y of the ITAA 1936, for a 'year of income', (referred to as 'the **deduction year**' in subsection 73Q(1) of the ITAA 1936).

The eligible company is allowed to adopt a substituted accounting period under section 18 of the ITAA 1936. A condition of granting this approval is that the eligible company will lodge a return for a transitional period other than 12 months (covering income and deductions relating to a period greater than 12 months), in relation to 'the **deduction year**'.

## Reasons for Decision

Eligibility to claim an additional deduction for incremental expenditure under section 73Q of the ITAA 1936 is determined for a 'year of income'. That is, the requirements for eligibility set down in this section need to be met for this period, (referred to in the section as 'the **deduction year**').

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 Mr BH Pascoe stated:

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, involving amounts of 'R&D spend' incurred in the 'Y<sub>0</sub>, Y<sub>-1</sub>, Y<sub>-2</sub> and Y<sub>-3</sub>' years (refer to subsection 73P(6) of the ITAA 1936, for the definitions of these last terms).

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 definition of the 'Y<sub>0</sub>' 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.

Therefore, the 'Y<sub>0</sub>' year of income, and the 'year of income' (also referred to as 'the **deduction year**') in section 73Q of the ITAA 1936, are the same 12 month period, in accordance with the interpretation of 'year of income' outlined in Norwich.

Accordingly, 'the **deduction year**,' concerning eligibility to claim an additional deduction for incremental expenditure, and the total incremental expenditure amounts of the eligible company incurred in the 'Y<sub>0</sub>' year of income, which are to be included under the definition of 'R&D spend', are determined using the eligible company's 'year of income'.

In this case, this is the 12 month period preceding the last day of the period for which the company is to lodge its transitional period return.

**Date of decision:** 19 November 2004

**Year of income:** Year ended 30 June 2004

### Legislative References:

*Income Tax Assessment Act 1936*

section 18  
section 73B  
subsection 73B(1)  
section 73P  
subsection 73P(2)  
subsection 73P(6)  
paragraph 73P(6)(a)  
section 73Q  
subsection 73Q(1)  
section 73R  
section 73S  
section 73T  
section 73U  
section 73V  
section 73W  
section 73X  
section 73Y

### Case References:

*Norwich Superannuation Services Pty Ltd v. Federal Commissioner of Taxation*

(1998) 41 ATR 1091

99 ATC 2015

**Related ATO Interpretative Decisions**

ATO ID 2003/989

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**Keywords**

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