2013 Asia-Pacific R&D incentives
Economic theory commonly associates accumulation of research and development (R&D) with the economic growth of a country. As such, we continue to see countries around the world tailoring their economic policies to compete for a slice of the global R&D. As governments continue to revise their policies in a bid to stay attractive and relevant, we bring to you an updated 2013 R&D incentives guide to keep abreast with these changes.

For 2013, we have the pleasure of adding Japan into this guide. The recent changes to the Japanese regime, are namely the extension and increase in the maximum tax credit for R&D to 40% and an introduction of a new tax incentive regime for foreign companies conducting new R&D operations in Japan. For the latter, qualified companies will be allowed to reduce their national corporate income tax base by 20% under the Business Location Law.

Around Asia-Pacific, there are no further significant changes except for Singapore which in 2012 updated its R&D definition to remove the exclusion on software development activities which are not intended for sale to unrelated parties. This effectively opens door and provides clarity to other industries besides the software companies in respect of eligibility for the R&D tax incentive. For example, the service sector where software technologies are increasingly employed as a tool for enhancing customer experience.

As we witness the trends in R&D shifting at an increasing pace across Asia-Pacific, keeping up to date with R&D tax policy and the tax administration process is paramount to providing your company the edge in this rapidly changing and competitive landscape.

We trust that this edition will be a useful tool and reference guide for your present and future R&D investments in this exciting region of Asia-Pacific.

Regards

Robin
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Overview
- A 45% refundable tax offset is available for eligible R&D entities with a turnover of less than $20 million per annum. A non-refundable 40% tax offset is available for all other eligible R&D entities.
- Foreign owned R&D can qualify for the 40% or 45% tax offset depending on its group turnover.
- Direct government grants and loans may also be available for projects in renewable energy, energy efficiency and clean-coal technologies.

Background
The new R&D Tax Incentive replaces the existing R&D Tax Concession for all income years starting on or after 1 July 2011.

Relief available
A 45% refundable tax offset for eligible R&D entities with a turnover of less than $20 million per annum.
There is a non-refundable 40% tax offset for all other eligible R&D entities.
Foreign owned R&D can qualify for the 40% or 45% tax offset depending on its group turnover.
Direct government grants and loans may also be available for projects in renewable energy, energy efficiency and clean-coal technologies.

Use of relief
The 40% or 45% tax offset can be used to offset the company’s income tax liability to reduce the amount of tax payable.
If the offset exceeds tax payable or the company is in a tax loss position, the tax offset can be carried forward indefinitely, subject to ownership and same business requirement tests.
A company with group turnover of less than AU$20m may choose to cash out the amount of the 45% refundable tax offset exceeding tax payable or the offset in full if the company is in a loss position.

Definition of R&D as prescribed by the corporate tax statute
Eligible R&D activities are categorised as either ‘Core’ or ‘Supporting’ R&D activities. Generally, only R&D activities undertaken in Australia qualify for the new R&D Tax Incentive.
Core R&D activities are broadly defined as experimental activities whose outcome cannot be known and which are conducted for the purpose of acquiring new knowledge.
Supporting activities may also qualify if they are undertaken to directly support the core R&D activities. Exceptions that need to pass a higher dominant purpose test are supporting R&D production trials and other ‘excluded’ activities as defined.
Software related projects may also be core or supporting R&D activities unless its dominant purpose is for internal administration, in which case it will be classified as an excluded activity. Additional eligibility test may apply.

Eligible expenditure
Eligible expenditure is defined as expenditure incurred by an eligible company during an income year, including contracted expenditure, salary expenditure and other expenditure directly related to R&D.
Core technology, interest, some plant & equipment, and feedstock costs are not eligible.
There is a non-refundable 40% tax offset for all other eligible R&D entities. Foreign owned R&D can qualify for the 40% or 45% tax offset depending on its group turnover.

Eligible entities and industries
Eligible companies are those incorporated in Australia or foreign companies resident in a country that has a double taxation treaty with Australia carrying on business through a permanent establishment in Australia.

An entity whose entire income is exempt from income tax is not an eligible entity.

No industry sectors are specifically excluded.

IP and jurisdictional requirements
Generally, companies must demonstrate the R&D activities are undertaken on their own behalf in order to claim the R&D tax Incentive.

Activities conducted by the R&D entity for one or more foreign corporations that are related to the R&D entity (called foreign owned R&D) may qualify for the R&D tax incentive provided the R&D contract arrangement is undertaken with company resident in a country with which Australia has a double taxation agreement.

Role of the tax authorities in administrating tax-based R&D incentives
The R&D Tax Incentive operates on a self-assessment basis and is jointly administered by the Australian Taxation Office (ATO) and AusIndustry.

AusIndustry regulates and monitors compliance activities in the assessment of the technical eligibility of activities, whilst the ATO regulates and undertakes compliance activities in relation to notional deductions and correlated tax offsets.

Administrative requirements
Companies must register annually with AusIndustry within 10 months of the relevant corporate financial year end.

There is also an advanced finding ruling process which enables companies to seek certainty on project eligibility prior to registration with AusIndustry. This provides companies with eligibility certainty for up to 3 years.

Companies must maintain contemporaneous records in order to substantiate their R&D Tax Incentive claim. The company’s records must be sufficient to show that the claimed activities took place and that they meet all aspects of the definition for either core or supporting R&D activities.

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2013 Asia-Pacific research and development tax relief incentives
Mainland China

Overview

- A 150% pre-tax ‘superdeduction’ can be claimed for eligible R&D activities.
- Additionally, certified High and New Technology Enterprises may pay a reduced, 15% corporate income tax rate.

Relief available

150% pre-tax ‘superdeduction’ can be claimed on qualifying R&D expenditure incurred during the year.

Additionally, government-certified High and New Technology Enterprises (HNTE) may pay a reduced rate of corporate income tax at 15% instead of the 25% statutory rate.

Use of relief

The 150% superdeduction will be deducted in the year the expenditure is incurred. If the company is in a tax loss position, losses can be carried forward for up to five years.

HNTE status, once approved, entitles the taxpayer to use the 15% corporate income tax rate for three years, subject to annual review by the tax bureau.

Definition of R&D as prescribed by the corporate tax statute

Qualifying R&D activities:

- Are carried out toward definite objectives for the purposes of procuring new knowledge of science and technology (excluding humanities and social science studies)
- Use new scientific and technological knowledge in a creative manner
- Result in improved technologies, techniques or products and services

Eligible expenditure

Eligible expenditure includes expenses on:

- Design of new products
- Formulating new technical procedures
- Technical books and materials
- Direct materials, fuel and power consumed
- Employment costs for qualified research personnel
- Depreciation and lease expenses for equipment specifically used for the R&D activities
- Amortization of selected intangible assets which are specifically used for the R&D activities
- Prototypes and trial models
- Site testing expenses for exploration activities
- Expenditure incurred on assessment, review, inspection and certification of research results

Eligible industries

Generally speaking, the R&D activities must fall under one of the following categories:

- Electronic information technology
- Biological engineering & new medical technology
- New materials & application technology
- Advanced manufacturing technology
- Aviation and space technology
- Modern agricultural technology
- New alternative energy and energy conservation technology
- New environmental preservation technology
- Marine engineering technology
- Atomic nucleus application technology
- Other new processes or new technology applicable in the traditional industries

IP and jurisdictional requirements

The company claiming the R&D incentive must have effective ownership of the IP.

Role of the tax authorities in administering tax-based R&D incentives

Any R&D claim is initially processed by the tax bureau when the taxpayer submits the annual corporate income tax return. Tax bureaus routinely conduct examinations (both scheduled and unscheduled) to ensure compliance.

Administrative requirements

Government pre-approval is required to claim R&D tax benefits. Taxpayers need to submit all relevant information such as the R&D project budget, descriptions of specific R&D projects, categories of R&D expenditure, and management or board meeting documents authorising R&D project(s) to the government as early as possible.

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Relief available
A 100% deduction is available for direct R&D expenditure, payments to approved research institutes, and capital expenditure that may not otherwise be deductible. For direct R&D expenditure, the Inland Revenue Department (IRD) takes the view that only in-house expenditure incurred on R&D qualifies for the tax deduction. As a result, where the R&D activities are sub-contracted out, the relevant expenditure will not so qualify.

Definition of R&D as prescribed in the corporate tax statute
- Any activities in the fields of natural or applied science for the extension of knowledge
- Any systematic, investigative or experimental activities carried on for the purposes of any feasibility study or in relation to any market, business or management research
- Any original and planned investigations undertaken with the prospect of gaining new scientific or technical knowledge and understanding
- The application of any research findings or other knowledge to a plan or design for the production or introduction of new or substantially improved materials, devices, products, processes, systems or services prior to the commencement of their commercial production or use

Overview
- A 100% deduction is available for direct R&D expenditure or payments to approved research institutes.
- This deduction may include certain capital expenditure which may not otherwise be deductible.

Eligible expenditure
Eligible expenditure includes payments made to an approved research institute:
- For R&D related to a taxpayer’s trade, profession or business
- The object of which is the undertaking of R&D related to the class of trade, profession or business to which the taxpayer’s trade, profession or business belongs

Additionally, expenditure on R&D related to a taxpayer’s trade, profession or business, including capital expenditure on plant or machinery purchased by a taxpayer for R&D related to his trade, profession or business is allowable in full as a deduction for the basis period during which it was incurred.

However, no deduction is allowed in respect to capital expenditure incurred by a taxpayer on land or buildings or on alterations, additions or extensions to buildings (such expenditure may nonetheless qualify for the normal tax depreciation allowances on buildings).

Recapture of eligible expenditure
When capital plant or machinery ceases to be used for R&D and is sold, the sale proceeds are assessed as trading receipt (limited to the amount previously claimed as tax deductible).

Where any rights in, or arising out of, R&D expenditure previously claimed are sold, the sale proceeds shall be treated as trading receipts (limited to the amount previously claimed as tax deductible).

Role of the tax authorities in administrating tax-based R&D incentives
Expenditure claimed is processed by the IRD.

Administrative requirements
A company is not required to seek IRD pre-approval in order to benefit from the incentives.

If eligible, a company can claim a deduction and lodge a computation with the IRD along with the tax return.

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Relief available

At present, there is no R&D based tax incentive scheme in Indonesia. However, there are tax incentives that may be available to Indonesian companies or cooperatives that are seeking to make investments that are either new investments or for the purpose of expanding the current business in specific industries and/or provinces in Indonesia.

These tax incentives include:

- Accelerated depreciation and amortization
- Extending the time period in relation to the carrying forward of tax losses
- Reduced tax rate of 10% for dividend paid to non-residents
- Investment allowance in the form of reduction of net income.

Business conducting R&D on product development or manufacturing efficiency may be entitled to carry forward and claim tax losses for an additional year. Further to other qualifying criteria, the proportion of investment made in R&D must be at least 5% of the total overall investment within 5 years.

Taxpayers seeking to avail themselves of the tax incentives will require approval from the Minister of Finance with recommendations from the Chairman of the Investment Coordinating Board (BKPM).

Use of relief

Once the tax incentive has been approved, the taxpayer may apply the incentive to their income tax affairs as per the approval.

Definition of R&D as prescribed by the corporate tax statute

There is no specific R&D tax relief in Indonesia.

Eligible expenditure

The Indonesian law does define R&D costs that can be claimed as tax deductible under general principles. These costs are limited to the reasonable amount of costs relating to R&D activities performed in Indonesia for the purpose of discovery of a new system or technology for development of the company.

Eligible industries

As there is no R&D tax credit scheme in Indonesia, this is not applicable. In respect of the tax incentives described above, there are 23 business sectors that are prescribed for the tax incentives. In addition to this, there are 15 prescribed industries in certain areas and provinces (mostly outside Java) that qualify for the tax incentives.

Overview

Whilst there are no specific R&D incentives, there are a range of tax incentives available to Indonesian companies seeking new investments in Indonesia.

IP and jurisdictional requirements

As above, this is not applicable.

Role of the tax authorities in administrating tax-based R&D incentives

As above, this is not applicable.

Administrative requirements

As above, this is not applicable.

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Japan

Overview

» A maximum 40% tax credit is available for R&D. Japan has introduced new tax incentives for global corporations conducting new R&D operations in Japan.

Definition of R&D as prescribed by the Corporate Tax Statute

Qualifying Research Expenses (‘QREs’) are defined as expenses incurred in experimental and research work in order to manufacture products or to improve, design or invent techniques.

Research activities may occur within or outside of Japan. Contract fees received do not qualify and are to be netted against QREs, while for contract fees paid, R&D credits can be taken.

To qualify for R&D Income Deductions, companies have to meet the following requirements as stipulated in ABLL:

» R&D should be related to advanced knowledge and technology and will be subjected to a business plan review by the Ministry for Economics and Industry.

» In Japan, no affiliated company should already be engaged in the planned R&D activities.

» The company must be newly established in Japan and employ at least 10 employees at the beginning and 25 when the incentive ends.

» The company must be solely engaged in R&D activities.

Relief available

Japan provides for three types of R&D tax relief:

(i) Base tax credit

For tax years beginning during the period of 1 April 2013 through 31 Mar 2015, a corporation may claim a credit equal to 8% to 12% of qualified research and development expenditure (QRE), up to a maximum amount equal to 30% of the corporate tax due for the relevant fiscal year.

8% is the standard tax credit rate. 10% are available if the so called ‘QRE ratio’ determined by dividing QRE by the companies’ sales, exceeds 10%. SMEs are entitled to a 12% tax credit. Unused credits arising in the previous tax year may be carried forward to next tax year, subject to certain conditions.

(ii) Increased R&D tax credits

For tax years beginning during the period of 1 April 2008 through 31 March 2014, corporations may also claim an additional credit of up to 10% of the corporate tax due for either incremental R&D expenditure (‘Incremental R&D Tax Credit’) or for expenditure in excess of specified recent average sales figures (‘Excess R&D Tax Credit’). If both are satisfied, only one of the R&D tax credits may be claimed.

In Incremental R&D tax credit, the ‘incremental amount’ is defined as the excess of the current year QRE over the average amount of QRE for the 3 prior years. The tax credit is 5% on the incremental amount. In addition, the current year must be larger either than the prior year or the second preceding year QRE.

In Excess R&D tax credit, if the amount of QRE exceeds an amount equivalent to 10% of the average sales, the additional R&D tax credit is calculated by multiplying the excess of the current year QRE over 10% of average sales with the Excess QRE ratio. The Excess QRE ratio equals: (QRE ratio - 10%) x 0.2. The QRE ratio is determined by dividing QRE by the companies’ sales.

(iii) R&D income deduction

The Business Location Law (ABLL) since 2012 provides tax incentives for Japanese subsidiaries of multinational enterprises which start R&D operations in Japan. Target companies are investors that will be building up new R&D facilities by recruiting highly-skilled researchers for innovation. Qualified companies will be allowed to reduce their national corporate income tax base by 20%.

A company which elects for an R&D income deduction is not entitled to R&D tax credits.

Definition of R&D as prescribed by the Corporate Tax Statute

Qualifying Research Expenses (‘QREs’) are defined as expenses incurred in experimental and research work in order to manufacture products or to improve, design or invent techniques.

Research activities may occur within or outside of Japan. Contract fees received do not qualify and are to be netted against QREs, while for contract fees paid, R&D credits can be taken.

To qualify for R&D Income Deductions, companies have to meet the following requirements as stipulated in ABLL:

» R&D should be related to advanced knowledge and technology and will be subjected to a business plan review by the Ministry for Economics and Industry.

» In Japan, no affiliated company should already be engaged in the planned R&D activities.

» The company must be newly established in Japan and employ at least 10 employees at the beginning and 25 when the incentive ends.

» The company must be solely engaged in R&D activities.
IP and jurisdictional requirements

Generally, where intellectual property is arising from qualified research and development expenditure, such IP should be owned by a Japan resident entity. R&D activities should be undertaken in the interest and to the benefit of the Japanese corporation claiming the tax credit.

Under the tax reform 2013, it has been confirmed that sharing of research and development activities conducted jointly by more than one company, including foreign related corporations, also qualifies for R&D tax credits.

Role of the tax authorities in administering tax-based R&D incentives

None

Administrative requirements

The company is required to file a blue tax return. Blue tax return filers must follow enhanced tax accounting rules and certain filing procedures.
South Korea

Overview
- A 20% tax credit is available for R&D expenditure incurred by qualifying new, high-growth companies with original technology. This is increased to a 30% tax credit for small and medium companies.

Relief available
Two types of tax credits are available for qualifying companies in Korea:
- 20% tax credit for R&D expenditure incurred by new, high growth companies with original technology. This is increased to a 30% tax credit for small and medium companies.
- ‘Ordinary’ R&D tax credit calculated via a formula based on R&D expenditure as a proportion of sales and historical R&D expenditure amounts.

To encourage investment in the development of new R&D facilities, an additional deduction of 10% of the cost of developing a new R&D facility may also be available in the year that the R&D facility is completed.

Cash reserves for future R&D can also be claimed as a tax deduction at up to 3% of total revenue. Interest and penalties may be applied if these reserves are not used to finance R&D within three years.

Use of relief
The direct 20% or 30% tax credit for R&D expenditure on new growth technology can be claimed until 31 December 2015.

The 10% deduction for investment in R&D facilities can be claimed up until 31 December 2015.

Companies can claim R&D cash reserves until 31 December 2013.

Definition of R&D as prescribed by the corporate tax statute
R&D is defined as activities to develop scientific and technical knowledge. Manpower development is defined as activities to train or educate employees or executives resident in Korea.

 Eligible expenditure
Eligible R&D expenditure is defined as contracted, salary and material expenditures which are directly related to R&D. Additionally, manpower development expenditure is also eligible where it directly relates to R&D.

Ineligible expenditure includes:
- General management and supporting activities
- Market research and promotional activities or general quality testing
- Repetitive information gathering activities
- Activities to improve management or staff efficiency
- Legal and administrative activities (i.e. protection of patent rights)
- Exploration and investigation activities related to reserves of natural resources including minerals
- Research activities on contract basis

Eligible industries
No industry sectors are specifically excluded.

IP and jurisdictional requirements
The company claiming the R&D incentive must have effective ownership of the IP and be incorporated in Korea.

Role of the tax authorities in administrating tax-based R&D incentives
Every year, the Korean National Tax Service (NTS) reviews any R&D tax incentive application that has been submitted with a corporate income tax return and processes the expenditure claims. The R&D expenditure claims may also be subject to written information requests or a tax audit in the future.

Administrative requirements
The company is required to claim and register according to the Technology Development Promotion Law such that either the dedicated R&D division of the company or the company’s internal R&D laboratory has to be registered with the government (i.e., Ministry of Education, Science and Technology in Korea).

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Malaysia

Overview

- Companies providing R&D services are eligible for Pioneer Status (income tax exemption) or an Investment Tax Allowance (ITA) for qualifying R&D capital expenditure.
- A double tax deduction is available for R&D revenue expenditure incurred by companies carrying out in-house R&D or expenditure for the services of approved R&D service providers.
- There are also a variety of government funding programs to support companies in various industries.

Relief available

(i) Contract R&D companies

Contract R&D companies (R&D service providers to unrelated companies) are eligible for the Pioneer Status incentive or the ITA Incentive. Contract R&D companies granted Pioneer Status are eligible for an income tax exemption of 100% on statutory income for five years. Contract R&D companies that are granted the ITA incentive are eligible to claim ITA on 100% of qualifying capital expenditure incurred within 10 years. The ITA claims can be offset against up to 70% of statutory income. Any unutilised ITA can be carried forward indefinitely.

(ii) R&D companies

R&D companies (R&D service providers to related companies and unrelated companies) are eligible for the ITA incentive only. The ITA incentive available to R&D companies is similar to the ITA incentive available to contract R&D companies.

(iii) In-house research

Companies that undertake in-house research can also apply for the ITA incentive which is similar to the incentive available to contract R&D companies and R&D companies. However, the ITA incentive is only available on 50% of qualifying capital expenditure for companies that undertake in-house research.

(iv) Reinvestment of R&D activities

Companies mentioned in (i), (ii) and (iii) above which re-invest in R&D activities post the tax-relief period are eligible for an extension of the Pioneer Status for another five years or ITA for an additional 10 years, where applicable.

(v) Commercialisation of public sector R&D findings

A company that invests in its subsidiary company engaged in the commercialisation of R&D findings is eligible for a tax deduction on the amount of investment made in the subsidiary. The subsidiary that undertakes the commercialisation of the R&D findings is eligible for Pioneer Status with an income tax exemption of 100% on statutory income for 10 years.

(vi) Industrial design services

Providers of industrial design services are eligible for Pioneer Status incentives with income tax exemption of 70% on statutory income for five years.

The incentive is applicable for applications submitted from 8 October 2011 until 31 December 2016.

(vii) Double deduction for R&D revenue (non capital) expenditure

Companies are eligible to claim a deduction equivalent to twice the amount of revenue expenditure incurred in undertaking approved research projects.

In addition, this double deduction is also available for cash contributions or donations made to approved research institutes and payments for the use of the services of approved research companies, contract R&D companies and R&D companies which are revenue in nature. Where the R&D company is a related company, the double deduction can only be claimed if the R&D company is not enjoying the ITA incentive.

(viii) Incentives for researchers to commercialise research findings

Researchers who undertake research focused on value creation are eligible for a tax exemption on 50% of the income received from the commercialisation of their research findings for five years.

(ix) Industrial building allowance

Companies incurring capital expenditure on the construction or purchase of a building that is used for R&D purposes are eligible for an initial allowance of 10% and an annual allowance of 3%.
Companies granted Pioneer Status are eligible for an income tax exemption on 100% of statutory income for five years.

Financial assistance
Financial assistance schemes are also available, such as under ScienceFund, Pre-Commercialisation Funds, Commercialisation of Research and Development Fund and Cradle Investment Programme.

Definition of R&D as prescribed by the corporate tax statute
R&D is defined as any systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of materials, devices, products, produce or processes, but exclude:
- Quality control or routine testing of materials, devices, products or produce.
- Research in the social sciences or the humanities.
- Routine data collections.
- Efficiency surveys or management studies.
- Market research or sales promotion.

Eligible expenditure
ITA
Expenditure which qualifies for the ITA includes capital expenditure incurred on factory and plant and machinery used for the purposes of R&D activities.

Double deduction
R&D revenue expenditure which qualifies for the double deduction include raw materials and manpower used in research, technical services procured, travel costs, maintenance and rental of motor vehicles, buildings and equipment (excluding capital expenditure incurred on plant and machinery, fixtures, land and premises of a permanent nature).

Eligible industries
No industry sectors are specifically excluded from Pioneer Status, ITA and the other incentives.

For contract R&D companies and R&D companies, research undertaken should be in accordance with the needs of Malaysia and bring benefit to the economy, and at least 70% of the income should be derived from R&D activities.

IP and jurisdictional requirements
Not applicable for R&D service providers (contract R&D companies and R&D companies) which do not own the IP.

Generally, no specific IP requirements are imposed. However, in practice, IP ownership requirements may be imposed depending on the facts of each case.

Role of the tax authorities in administering tax-based R&D incentives
The Pioneer Status and ITA claims and certain incentive claims are monitored and processed by the Inland Revenue Board of Malaysia (IRBM).

Administrative requirements
Applications or claims are required to be submitted to either Malaysian Investment Development Authority or IRBM, depending on the type of incentives.

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Companies granted Pioneer Status are eligible for an income tax exemption on 100% of statutory income for five years.

Financial assistance
Financial assistance schemes are also available, such as under ScienceFund, Pre-Commercialisation Funds, Commercialisation of Research and Development Fund and Cradle Investment Programme.

Definition of R&D as prescribed by the corporate tax statute
R&D is defined as any systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of materials, devices, products, produce or processes, but exclude:
- Quality control or routine testing of materials, devices, products or produce.
- Research in the social sciences or the humanities.
- Routine data collections.
- Efficiency surveys or management studies.
- Market research or sales promotion.

Eligible expenditure
ITA
Expenditure which qualifies for the ITA includes capital expenditure incurred on factory and plant and machinery used for the purposes of R&D activities.

Double deduction
R&D revenue expenditure which qualifies for the double deduction include raw materials and manpower used in research, technical services procured, travel costs, maintenance and rental of motor vehicles, buildings and equipment (excluding capital expenditure incurred on plant and machinery, fixtures, land and premises of a permanent nature).

Eligible industries
No industry sectors are specifically excluded from Pioneer Status, ITA and the other incentives.

For contract R&D companies and R&D companies, research undertaken should be in accordance with the needs of Malaysia and bring benefit to the economy, and at least 70% of the income should be derived from R&D activities.

IP and jurisdictional requirements
Not applicable for R&D service providers (contract R&D companies and R&D companies) which do not own the IP.

Generally, no specific IP requirements are imposed. However, in practice, IP ownership requirements may be imposed depending on the facts of each case.

Role of the tax authorities in administering tax-based R&D incentives
The Pioneer Status and ITA claims and certain incentive claims are monitored and processed by the Inland Revenue Board of Malaysia (IRBM).

Administrative requirements
Applications or claims are required to be submitted to either Malaysian Investment Development Authority or IRBM, depending on the type of incentives.

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New Zealand

Overview
- A 15% tax credit was available for eligible R&D activities undertaken during the 2008-2009 income year.
- No specific tax incentives for R&D in New Zealand, however generally 100% deduction for amounts expensed for financial reporting purposes.
- Various grant funding initiatives exist to support the development and commercialisation of innovative technologies.

Relief available
A 15% tax credit was available for expenditure incurred in relation to eligible R&D activities undertaken during the 2008-2009 income year only. Eligible taxpayers had until 31 March 2012 to submit an R&D tax credit claim for the 2008-2009 income year.

Generally, a 100% tax deduction is available for R&D expenditure where the expenditure has been either:
- Classified as R&D expense under NZIAS 38 for financial reporting purposes; or
- Written off for financial reporting purposes as immaterial, but would be classified as R&D expense under NZIAS 38; or
- Does not exceed $10,000 during the year, is written off as an immaterial amount for financial reporting purposes and is recognised as an expense for financial reporting purposes.

Additionally, various grant funding initiatives exist to support the creation and commercialisation of innovative technologies.

Definition of R&D as prescribed by the corporate tax statute
R&D for these purposes is defined in accordance with relevant financial reporting standards.

Grant initiatives
Selected grant funding initiatives to support the creation and commercialisation of innovative technologies are detailed briefly below.

Technology development grants
The technology development grants are targeted at medium to large research intensive firms which can show that their activities result in wider benefits to New Zealand.

The Government will contribute grant funding equal to 20% of the firm’s expected R&D expenditure for a period of three years, up to a maximum grant of $2.4 million per annum.

Eligible claimants must:
- Have an R&D intensity level of 3% (measured as a ratio of R&D expenditure to revenue) over a 3 year period
- Revenues of at least $3 million per annum
- Be able to demonstrate strong R&D management capabilities
- Have an R&D program that is likely to generate significant benefits for the community via high-value products and services

Technology transfer vouchers
The Government recognises that many smaller firms do not have the resources or capability to undertake in-house R&D. The technology transfer voucher is aimed at assisting firms by giving them a voucher for up to 50% of an eligible R&D project’s costs which they can redeem at an accredited research organization, such as a university or Crown Research Institute.

Project funding
Funding is available to support companies undertaking R&D projects aimed at developing new technology products, processes or services. Funding is generally granted on a 50/50 co-funding basis.

Capability funding
Funding is available to employ students on fellowship or internships and to engage world-class experts to build R&D capability. The funding is targeted at assisting both early stage and mature businesses successfully plan for and realise results from R&D investments.

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Relief available

In general, R&D expenditure paid or incurred during the year of income in connection with the taxpayer’s trade, business or profession may be treated as an ordinary and necessary expense which is not chargeable to capital account, or as a deferred expense ratably distributed over a period of not less than 60 months (beginning from the month in which the taxpayer first realizes benefits from such expenditure), at the election of the taxpayer.

The 2012 Investments Priorities Plan (IPP) identifies R&D activities as investment priorities which promote the economic development of the Philippines. Enterprises engaged in R&D activities (as an R&D service provider) will be registered with the Board of Investments (BOI) as a non-pioneer project entitled to a four-year income tax holiday (ITH) and other fiscal and non-fiscal incentives.

Eligible expenditure

R&D expenditure incurred by the taxpayer in connection with his trade, business or profession is generally 100% deductible.

Use of allowance

R&D expenditure may be deducted in the year of income when the R&D expenditure is paid or incurred. The taxpayer may elect to claim the R&D expenditure as a deferred expense in certain circumstances. The election may be made for any taxable year but no later than the tax return deadline. Enterprises principally engaged in R&D and innovation activities registered with the BOI may be entitled to an ITH for an initial period of four years.

Definition of R&D as prescribed by the corporate tax statute

The Tax Code does not provide for a specific definition of R&D allowable as a deduction or deferred expense. Registrable R&D under the IPP covers ‘R&D activities and the establishment of research/testing laboratories, Centers of Excellence (COE) and technical vocational education and training institutions.’

Eligible industries

Taxpayers are generally allowed to claim a deduction (or if elected and where applicable, treat the expenditure as a deferred expense) for R&D expenditure incurred or paid during the taxable year, provided all R&D expenditure deducted can be fully substantiated.

ITH and other incentives granted under the IPP are available to BOI-registered enterprises engaged in commercial R&D activities.

Role of the tax authorities in administrating tax-based R&D incentives

Claims for R&D expense deductions may be evaluated by the Philippine Bureau of Internal Revenue (BIR) as part of a tax investigation or audit.

The administration of other tax privileges granted to registered R&D enterprises is generally administered by the BOI.

Administrative requirements

No pre-approval from the tax authority is required to claim expense deductions representing R&D expenditure under the Tax Code.

To avail of ITH privileges, enterprises engaged in commercial R&D activities covered under the IPP must first apply for endorsement by the Department of Science and Technology (DOST) or another concerned Competent National Authority, and then apply for registration with either the BOI or the Philippine Economic Zone Authority.

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Relief available

The main R&D tax allowance provides for a 150% enhanced tax deduction on qualifying R&D expenditure in Singapore. The R&D allowance is further enhanced from 150% to 400% for the first SG$400,000 of eligible R&D expenditure for the years of assessment 2011 to 2015. With respect to the 400% enhanced tax deduction, a combined R&D expenditure cap of S$1,200,000 applies from years of assessment 2013 to 2015.

Other discretionary tax incentives include a 200% tax deduction on R&D expenditure incurred on projects approved by the Economic Development Board (EDB). Conditions must be negotiated. No further R&D projects will be approved for the 200% tax deduction, post 31 March 2015.

Partial government grants are also available to offset costs from qualifying R&D projects.

Use of relief

The enhanced tax deduction is claimed against the company’s taxable profit in the year the expenditure is incurred. Unutilised losses can be carried forward indefinitely subject to the satisfaction of the shareholders’ continuity test.

Under the main R&D tax allowance, an eligible business may opt to convert up to SG$100,000, but not less than SG$400,000, of its qualifying expenditure for each year of assessment into cash at the rate of 60%. This option is available for the years of assessment 2013 to 2015.

Definition of R&D as prescribed by the corporate tax statute

R&D is defined as any systematic, investigative and experimental study that involves novelty or technical risk carried out in the field of science or technology with the object of acquiring new knowledge or using the results of the study for the production or improvement of materials, devices, products, produce, or processes (with specified exclusions). Activities that directly support core R&D activities may also qualify.

Eligible expenditure

Expenditure eligible for the main R&D tax allowance include staff costs, consumables and contracted R&D expenditure, net of Government grants or subsidies.

From the year of assessment 2012, expenditure incurred on R&D cost sharing agreements (CSA) may qualify as expenditure on R&D and enjoy enhanced tax deduction.

Where the R&D work is contracted to an R&D organization or under a CSA and a breakdown of the expenditure is not available, the eligible R&D expenditure is deemed to be 60% of fees payable to the R&D organization or under a CSA.

Eligible industries

Any business carrying on qualifying R&D projects in Singapore is eligible for the enhanced tax deduction. No industry sectors are specifically excluded. However, research in the social sciences or the humanities sciences cannot be claimed unless they are activities which support the qualifying R&D project.

The exclusion on software development activities which are not intended for sale to unrelated parties has been removed with effect from the year of assessment 2012.
IP and jurisdictional requirements

The company receiving the R&D incentive must be the beneficiary of the results of the R&D activities. R&D activities are not restricted to those conducted in Singapore. However, only those activities performed in Singapore are eligible for the 150% enhanced tax deduction. Qualifying R&D expenditure associated with overseas activities is only eligible for the 400% enhanced tax deduction (capped at S$400,000).

Role of the tax authorities in administering tax-based R&D incentives

Expenditure claimed is processed by the Singapore tax authorities, i.e., the Inland Revenue Authority of Singapore (IRAS). The IRAS also monitors the activities that are claimed to ensure compliance with the R&D enhanced tax deduction regime.

Administrative requirements

Companies are not required to seek government pre-approval for the main R&D tax allowance.

For the other discretionary tax incentives, approval must be granted by the EDB.

To be eligible for the enhanced tax deductions, a company must submit the claim in its income tax return and tax computation, together with the completed R&D Claim Form, by the annual filing deadline of 30 November.

Where a company incurs at least S$150,000 of R&D expenditure (net of Government grants and subsidies), it is required to provide a detailed description of the R&D project undertaken based on prescribed guidelines.

Where a company wishes to claim more than 60% of the sum payable to an R&D organization or under a CSA as eligible R&D expenditure, the claimant must submit to IRAS, copies of invoices issued by the R&D organization detailing a breakdown of the expenditure items.

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Relief available
15% of total R&D expenditure can be claimed as a tax credit against the total corporate tax payable in the year it is incurred.

Use of relief
The R&D tax credit is capped at 30% of the total corporate tax payable and cannot be carried forward into future years.

Definition of R&D as prescribed by the corporate tax statute
R&D activities are defined as activities that involve innovation, carried on for the purpose of creating new or improved products, techniques, services or processes.

More specifically, R&D activities refer to:
- Activities to develop or design a production process, service process or system and prototype
- Activities to develop new materials or components

Eligible expenditure
The Statute of Upgrading Industry under which most R&D credits were claimed expired on 31 December 2009. The new ‘Statute for Industry Innovation’, which regulates the R&D credit, came into effect on 1 January, 2010. From 1 January 2010, eligible expenditure includes:
- Salary expenses of full time R&D staff
- Consumable equipment, materials and prototypes used by the R&D department
- License fees or costs incurred for access to patent rights, specialized techniques or copyrighted information for the purposes of R&D
- Professional or specialized databases or software programs used for R&D purposes
- Outsourced and mutual R&D

Eligible industries
Only companies incorporated in Taiwan can apply (branches of overseas companies are excluded). The R&D credit is not restricted to specific industry sectors.

IP and jurisdictional requirements
The company receiving the R&D incentive must be the beneficiary of the results of the R&D activities. The rules do not specify Jurisdictional requirement, but uncertainty exists as to whether a company’s R&D activity conducted in another jurisdiction is eligible for R&D tax credits.

Role of the tax authorities in administrating tax-based R&D incentives
R&D claims are processed and handled by the tax authorities. The tax authorities work in consultation with the Industrial Development Bureau, Ministry of Economic Affairs, and government body to assess the applicability of R&D activities.

Administrative requirements
A company is required to seek government approval in order to benefit from the R&D tax credits on certain expenditure categories relating to the R&D activities. The applicant is required to submit the application letter along with the relevant supporting documents to the central competent authorities within the prescribed time line.

Following government approval, the tax authorities may review the detailed documentation supporting the R&D credit claim. Where the supporting documentation does not satisfy the tax audit, the tax authorities can disallow all / partial amounts in respect of the R&D credits claimed.
Relief available
A 200% deduction is available for eligible expenditure incurred on R&D activities carried out in Thailand by approved Thai R&D Service Providers. Approved Thai R&D Service Providers are companies or government entities that have been approved by the Revenue Department. The companies providing eligible R&D services may also be entitled to the following incentives granted by the Board of Investment (BOI):

- Exemption of corporate income tax (unlimited amount) for eight years, regardless of zone
- Double deduction of transport expenses, electricity and water supply costs
- Exemption of import duty on machinery, regardless of zone
- Exemption or reduction of raw or essential materials used in the manufacturing of export products

Use of relief
Tax losses during the BOI tax exemption period can be used to offset the net taxable profit after the tax exemption period for up to five years.

Definition of R&D as prescribed by the BOI

- Qualifying R&D activities are defined as follows:
- Basic research – theoretical or operational activities that are conducted to explore new knowledge from basic natural phenomena and factual observation, without initially considering the application
- Applied Science – research to explore new knowledge with an objective to put it in practice for specific use
- Experimental development – a systematic operation based on the knowledge from research and/or experience with the objective of producing new materials, products or inventions; to install new procedures, systems and services; or to substantially improve the existing products

Eligible expenditure
Eligible expenditure only includes payments to eligible R&D Service Providers, that is, companies or government entities that have been approved by the Revenue Department.

Eligible industries
Only companies incorporated in Thailand are eligible for the BOI incentives. No industry sectors are specifically excluded.

IP and jurisdictional requirements
There is no requirement for the company claiming the 200% deduction to be the beneficiary/beneficial owner of the results of the R&D activities.

Role of the tax authorities in administrating tax-based R&D incentives
Claims for R&D double deductions may be reviewed by the Thai tax authority as part of its tax investigations or audits.

Administrative requirements
The BOI application must be submitted to the BOI for approval, along with a description of the scope of the R&D process, the number of researchers, their qualifications and experiences.

R&D Service Providers that are BOI approved must strictly comply with the conditions attached to the BOI certificate.

No pre-approval is required for foreign-majority owned companies to claim double deductions on the cost of engaging approved R&D Service Providers.

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Overview

- A tax exemption or reduced tax rate incentive is available for companies deriving income from performing R&D, the sale of products during test production, and products made from new technology.
- An import duty exemption is also available on qualifying R&D investment projects and goods imported for direct use for R&D.

Relief available

Newly established companies in high technology, scientific, research and technology domains are entitled to a 10% reduced tax rate for 15 years (receiving a four year exemption and a 50% deduction on the applicable tax rate for 9 years). This can be extended to 30 years subject to approval.

There is also a one-year exemption for income derived from performing R&D, the sale of products during test production, and products made from new technology applied for the first time in Vietnam.

Enterprises investing 25% or more of their revenue in R&D investment projects will be entitled to a five-year import duty exemption.

Enterprises also receive an exemption from import duty on goods imported for direct use for R&D.

Funding schemes are available for training, R&D and pilot production costs.

Use of relief

Where an enterprise is in a tax loss position, losses can be carried forward for a maximum period of five years from the year following the year in which the loss arose.

Definition of R&D as prescribed by the Corporate Tax Statute

Current tax regulations in Vietnam do not provide a specific definition of R&D.

High technology is defined as technology which:
- Has a high scientific research and technological development content
- Is integrated from modern scientific and technological achievements
- Can turn out environmentally friendly products of superior quality and utilities and high added value
- Plays an important role in the formation of a new production or service industry or the modernization of an existing production or service industry

Eligible expenditure

Not applicable.

Eligible industries

No industry sectors are specifically excluded.

IP and jurisdictional requirements

To access the one-year exemption on income derived from the performance of contracts for scientific research and technological development, such income must satisfy the following conditions:
- The scientific research activity must be registered in Vietnam
- Be certified by the relevant government authority

Income from sales of products made from new technology applied for the first time in Vietnam is entitled to a one-year corporate income tax exemption where there is a certification from a relevant government authority certifying that such technology is being applied for the first time in Vietnam.

Role of the tax authorities in administering tax-based R&D incentives

On the receipt of an application for an Investment Certificate, licensing authorities will perform an assessment and will indicate the tax incentive applicable to the investment project.

For enterprises, this is a self-assessment regime (i.e. enterprises self declare and pay tax in accordance with local regulations).

The tax authorities monitor and conduct tax audits on the tax compliance of the enterprise.

Customs authorities monitor and conduct custom audits on import duties of the enterprise.

Administrative requirements

From 26 October 2010, organizations and individuals operating in high technology domains must apply to the Ministry of Science and Technology for relevant Certification for researching and developing high technology or Certification for being a high technology enterprise.

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