

R&D Advisory.

FACT SHEET

The R&D Tax Incentive is a program designed to encourage companies to conduct eligible R&D activities in Australia.

ENTITY	RATE AVAILABLE
Companies with an aggregated turnover of less than AUD 20 million per annum (provided they are not controlled by income tax-exempt entities)	From 43.5% to 48.5% refundable tax offset depending upon the tax rate: The exact amount is based the company's corporate income tax rate (25% to 30%) plus: <ul style="list-style-type: none">– 18.5 percentage points
Companies with an aggregated turnover of AUD 20 million or more per annum (provided they are not controlled by income tax-exempt entities)	From 33.5% to 46.5% non-refundable tax offset* : The rates are based the company's corporate income tax rate (25% to 30%) plus: <ul style="list-style-type: none">– 8.5 percentage points for R&D expenditure up to 2% R&D intensity**;– 16.5 percentage points for R&D expenditure above 2% R&D intensity.

* Companies may be able to carry any unused non-refundable offset amounts forward to future income years.

** R&D intensity is defined as the amount of R&D expenditure the company is conducting in Australia as a proportion of total expenditure for the year.

This fact sheet is general information only, current at the date of publishing. Please note that this is not to be considered tax advice and should not be relied upon by any party. Tax advice should be obtained specific to your entity's particular circumstances.

A sample calculation of the R&D Tax Incentive for companies with an **aggregated turnover** of less than AUD 20 million:

Eligible R&D expenditure	AUD 1 million
Taxable income	AUD 0 (or loss)
Tax offset	43.5% refundable
Refundable amount	AUD 435,000 (43.5% of eligible R&D expenditure)

WHAT ENTITIES ARE ELIGIBLE?

Only R&D entities are eligible to claim the R&D Tax Incentive. R&D entities include any of the following:

- A company incorporated under Australian law
- A company incorporated under a foreign law but an Australian resident for income tax purposes
- A company incorporated under a foreign law, and you are both:
 - A resident of a country that Australia has a double tax agreement with that includes a definition of permanent establishment
 - Undertaking business in Australia through a permanent establishment as defined in the double tax agreement

The following are not considered R&D entities and therefore will not be eligible for an R&D refund:

- An individual
- A corporate limited partnership
- An exempt entity (where your entire income is exempt from income tax)
- A trust (except for a public trading trust with a corporate trustee)

If you are an R&D entity, you may also need to consider the special rules applied to consolidated groups and R&D partnerships. Other conditions may also apply, depending on whose behalf you are conducting the R&D activities.

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What are eligible activities?

To be eligible for the R&D Tax Incentive, your R&D activities must be classified as either core R&D activities or supporting R&D activities.

1. CORE ACTIVITIES

Core R&D activities are experimental activities:

- Whose outcome cannot be known or determined in advance on the basis of current knowledge, information or experience, and can only be determined by applying a systematic progression of work that:
- Is based on principles of established science
- Proceeds from hypothesis to experiment, observation and evaluation, and leads to logical conclusions
- That are conducted for the purpose of generating new knowledge (including improved materials, products, devices, processes or services)

Some of the activities that are specifically excluded from being classified as core R&D activities are:

- Market research or testing for sales promotion
- Minerals exploration
- Management studies or efficiency surveys
- Research in social sciences, arts or humanities
- Complying with statutory requirements or standards
- Reverse engineering
- Computer software for internal administration

However, these activities may be considered supporting activities if their dominant purpose is to support a core activity.

2. SUPPORTING R&D ACTIVITIES

Supporting R&D activities are activities that are:

- directly related to core R&D activities, or
- are undertaken for the dominant purpose of supporting core R&D activities.

Activities that must satisfy the dominant purpose requirement are those that produce, or are directly related to producing, goods or services; or are excluded from being core R&D activities.

Where are you conducting your R&D activities?

Generally, only R&D activities conducted within Australia qualify for the R&D Tax Incentive, but there are some exceptions. R&D activities conducted overseas may qualify if the Department of Industry, Science, Energy & Resources (formerly known as AusIndustry) makes a finding that the activity meets the conditions below:

1. The overseas R&D activity must have a 'significant scientific link' to core R&D activities that are wholly conducted in Australia;
2. The overseas R&D activity must be unable to be conducted in Australia, usually because of lack of access to a facility, expertise, specific population, or equipment in Australia, or if the activities contravene Australian biosecurity laws***; and
3. The expenditure on the overseas R&D activity must be less than the expenditure incurred on core R&D activities in Australia.

*** Note that evidence must be provided of the relevant research.

Criteria for the refundable tax offset

To qualify for the 43.5% refundable tax offset on eligible R&D activities, you must:

- Have a registered Australian entity (R&D entity) that incurs all of the costs related to the R&D;
- Have less than AUD 20 million in combined revenue for the Australian subsidiary, overseas parent company and any connected or affiliated entities; and
- Invest more than AUD 20,000 in eligible R&D

Registering for the R&D Tax Incentive

The R&D Tax Incentive is jointly administered by the Australian Tax Office (ATO) and the Department of Industry, Science, Energy & Resources (Department of Industry).

You must register your R&D activities with the Department of Industry before you claim the R&D Tax Incentive. The Department of Industry is responsible for determining the eligibility of R&D activities, and the ATO



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is responsible for administering the eligibility of R&D expenditure claimed in your company's income tax return.

If your company is an R&D entity and you are interested in claiming the R&D tax offset in your company's income tax return, you must first register your R&D activities with the Department of Industry.

You must do this for every income year you want to claim the offset.

What is the timeline for claiming the R&D Tax Incentive?

You must register your R&D activities by way of an R&D application that must be filed:

- within 10 months of the end of your company's financial year; and
- prior to claiming the R&D tax offset in your company's income tax return.

For example, if your company uses a financial year ending on 31 December, the application must be filed by 31 October of the following year.

R&D tax offsets are processed through the company's income tax return, with any refundable amounts generally paid four to six weeks from the date of lodgement.

Using Australian research service providers

Research Service Providers (RSPs) are entities registered by the Australian government as having the scientific or technical expertise and resources to perform research services on behalf of other companies.

You do not need to engage an RSP in order to claim the R&D Tax Incentive.

The benefits of using an Australian RSP

- RSPs provide companies with access to expertise in Australia's public and private R&D organisations, and the benefits of services supported by R&D facilities, equipment and infrastructure

- RSPs assist in improving the overall effectiveness of Australia's R&D effort through collaboration
- Companies using an RSP have the assurance that this entity has met a set of criteria relating to their ability to provide quality R&D services
- Research conducted through an RSP will typically constitute eligible activities and expenditure for the R&D Tax Incentive

Other service providers and in-house research

- Other non-RSP service providers can be engaged to conduct eligible research activities.
- Companies can also conduct their own research in-house, providing it follows the required process to be considered eligible.

If you are interested in claiming the R&D Tax Incentive, do not hesitate to contact Acclime.

Our dedicated in-house R&D Advisory Services will expertly guide you through the process, from preparation of required documentation and identifying eligible activities, through to registering with the relevant authorities and completing your claim in your income tax return.

For a competitive fixed fee, we'll project manage the entire application process on your behalf.

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R&D Facts

FREQUENTLY ASKED QUESTIONS

How much is the maximum refund for conducting eligible R&D activities in Australia?

Usually, the refund can be up to 43.5% of all eligible R&D expenditure, depending on your group's aggregated turnover.

What is the minimum amount we must spend on R&D to claim the refund?

The minimum expenditure for R&D expenditure threshold is A\$20,000.

What is the maximum refund available for R&D expenditure?

There is no expenditure cap for the R&D Tax Incentive, however, for any R&D expenditure above A\$150 million, companies will only be able to claim a refund at the company tax rate for the portion of expenditure in excess of A\$150 million.

How does the turnover (revenue) of the business affect the refund?

Once a company's global aggregated turnover reaches A\$20 million, the R&D Tax Incentive becomes a non-refundable tax offset. Aggregated turnover may include the Australian entity's turnover combined with the turnover from other associated entities (including the overseas parent and other entities controlled by the parent). This is dependent on several factors, such as shared ownership and control. We can provide you with specific advice regarding your global aggregated turnover.

Does the company have to be profitable in order to receive the refund?

No. There is no requirement for the company to be profitable to claim the R&D Tax Incentive, however, the profit/loss position of the company will have an effect on the amount and form of the refund.

Do we need a registered Australian entity?

An R&D Tax Incentive claim can only be made by an eligible entity. The simplest and lowest risk

approach is to establish an Australian entity. The refund is paid through the Australian company tax system directly to the eligible 'R&D entity' responsible for conducting the R&D.

Does the R&D expenditure have to be borne by the Australian entity?

Yes. Only eligible expenditure that relates to eligible activities and has been borne by the Australian entity can be included in the R&D claim. The Australian entity must therefore be established before any eligible R&D expenditure can be incurred.

What type of R&D is eligible for the R&D Tax Incentive?

Generally, activities that are eligible under the R&D Tax Incentive are experimental activities, for which you are unable to determine the results in advance based on current knowledge or experience and which are carried out for the purpose of creating new knowledge. In addition, some activities that support the experimental activities will also be eligible. Our brochure contains more detailed information about this. We can help you determine whether or not your activities will qualify for the R&D Tax Incentive before you begin the process.

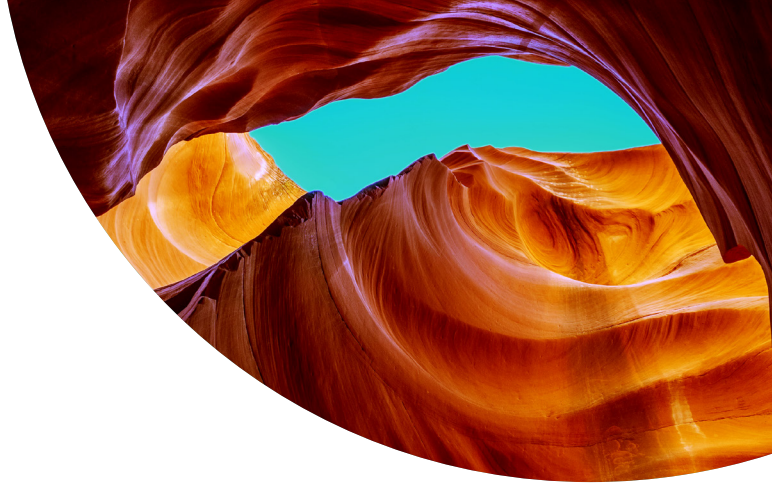
Can I claim for R&D that was conducted overseas?

Possibly. To be able to claim eligible expenditure on R&D activities that are conducted overseas, the Australian entity must submit an application to the Department of Industry, Science, Energy & Resources (formerly known as AusIndustry) in advance of the conduct of the overseas activities for approval to claim the expenses. It is important to be aware that there are strict criteria that must be satisfied before the Department will grant approval to claim the overseas expenses.

Does the Intellectual Property (IP) need to be held by the Australian entity?

Not necessarily. Where the R&D activities are conducted by an Australian entity:

- For its own benefit, the Australian entity will need to be the major benefactor of the R&D activities, but does not need to own legal title to the original or derived IP;



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- On behalf of a foreign company, the Australian entity does not need to obtain any interest in any IP, other than as required to conduct the R&D activities.

There will need to be a written agreement setting out for which entity the R&D activities are being conducted, and any necessary IP licensing arrangements.

Are there any limitations on how the Australian entity is funded, such as debt or equity?

You can choose to fund the Australian entity by either debt or equity. We strongly recommend talking to us to determine the best mechanism for funding the Australian entity.

What is the timeline for claiming the R&D Tax Incentive?

Registration for the R&D activities must be lodged within 10 months of the end of your company's financial year, and prior to claiming the R&D refund in your company's income tax return. For example, if your company uses a financial year ending on 31 December, claims must be lodged by 31 October of the following year. R&D refunds are processed through the company's income tax return, with refundable amounts generally paid 6-8 weeks from the date of lodgement.

Does claiming the R&D Tax Incentive affect when I need to lodge the company tax return?

No. There are Australian Tax Office (ATO) requirements for company Income Tax Return filing dates, and these can affect the timing of making an R&D Tax Incentive claim. The Income Tax Return will include an R&D Schedule, that Acclime Australia prepares as part of our package of services.

What information is required?

Documentation of your R&D activities and related expenditures is a key requirement to verify the eligibility of activities conducted for an R&D refund claim, but there is no standardised format for this documentation. Most companies have existing documentation that satisfies the requirements. This can range from protocols and reports from Research Service Providers/ CROs, to emails, calendars, photos and even computer screenshots. We will also need certain documentation indicating proof of expenditure for relevant activities. It is especially important that we have the agreements between the Australian entity and the service provider(s), as well as the reports detailing results of the R&D activities conducted.

Part of the Acclime family.

Acclime Australia is a part of the Acclime Group – an Asia-focused premier corporate services specialist. Our regional network of grass-roots experts is pushing the corporate services sector with bold, innovative solutions that are seamlessly delivered to the highest global standards.

We know how to navigate the complexities and challenges of Australia's and Asia's regulatory environments to ensure your business expansion and operation is compliant and seamless. From establishing a virtual company, to a fully operational local presence, we'll help you make the most of every incentive and every benefit this unique market has to offer.

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