



Amounts you can claim

Under the research and development (R&D) tax incentive, an amount you can claim is called a notional deduction.

Last updated 22 November 2022

About the amounts you can claim



If you incur amounts on your R&D activities, claim them under the R&D tax incentive.

Your notional deduction



The amount you can claim under is calculated using an estimated figure, known as a notional deduction.

Expenditure you can claim



Find out what types of expenditure you can claim.

Expenditure you can't claim



Find out what type of expenditure you can't claim.

Contact us or AusIndustry



QC 70894

About the amounts you can claim

If you incur amounts on your R&D activities, claim them under the R&D tax incentive.

Last updated 22 November 2022

On this page

You can't claim elsewhere

Other things you need to be aware of

How to claim

Amounts incurred on your R&D activities must be claimed under the R&D tax incentive. If an amount meets the eligibility requirements of the R&D tax incentive, it must be claimed under **Division 355** of the *Income Tax Assessment Act 1997* (ITAA 1997).

You can't claim elsewhere

If you choose not to claim it under the R&D tax incentive, you can't claim it elsewhere in your tax return, except in certain circumstances for amounts incurred to an associate.

You can only claim a deduction under section 8-1 (or other provisions) of the ITAA 1997 if the expenditure doesn't meet the eligibility requirements under Division 355. This means that if your R&D activities are registered with AusIndustry, you can only claim your expenditure on those activities under the R&D tax incentive.

For more information, refer to section 355-715 of the ITAA 1997.

Other things you need to be aware of

If you are an eligible R&D entity and you want to claim the tax incentive, you must meet certain requirements. These requirements include that you:

- must register your R&D activities every year
- must claim your R&D tax offset by lodging a company tax return and R&D tax incentive schedule at the end of your income year
- must keep adequate records to demonstrate to AusIndustry, and to us that you carried out the eligible R&D activities and that you incurred eligible R&D expenditure for those activities
- must consider any special transitional rules that apply for situations that extend over income years where the R&D tax concession provisions and the R&D tax incentive provisions apply.
- should note that amounts that you are notionally entitled to deduct can't be actually deducted under or in relation to any other provisions.

You may need to adjust your tax return if:

- you have received a government recoupment (clawback adjustment)
- your eligible activities have produced tangible products for supply to someone else, or to be applied to your own use - other than in transforming such products for supply (feedstock adjustment)
- you are registered for GST.

QC 70894

Your notional deduction

The amount you can claim under is calculated using an estimated figure, known as a notional deduction.

Last updated 22 November 2022



On this page

How to calculate

General deduction not available

How notional deductions apply

Conditions for claiming

Before you can claim a notional deduction under the R&D tax incentive, ensure you:

- are an R&D entity
- have conducted eligible activities
- have registered your activities with AusIndustry (on behalf of Innovation Industry and Science Australia)
- receive the major benefit from your registered activities
- have received an advance overseas finding from Innovation Industry and Science Australia for any expenditure you intend to claim on R&D activities conducted overseas.

Expenditure must be incurred before it may be claimed as a notional R&D deduction.

For more information, see who **R&D activities are conducted for**.

You can also visit business.gov.au  for further information about:

- the eligibility of your activities
- registration of your R&D activities
- advance findings.

How to calculate

After determining your eligibility for the R&D tax incentive, you will need to calculate the total amount of your notional R&D deductions to determine the offset you can claim.

To calculate your tax offset, multiply your total notional R&D deduction amount by the relevant offset rate and claim this amount in your company tax return.

On or after 1 July 2021

For income years commencing on or after 1 July 2021, the rate of the tax offset is reduced to the company tax rate for the portion of an entity's notional R&D deductions that exceeds \$150 million.

Years between 2014 and 2021

For income years commencing on or after 1 July 2014 but before 1 July 2021, the rate of the offset is reduced to the company tax rate for the portion of an entity's notional R&D deductions that exceeds \$100 million for an income year.

General deduction not available

Where an amount is a notional deduction, you can't deduct it as a general deduction, for example, under section 8-1 of the ITAA 1997. This is because it is a step in working out the amount of the tax offset you may be entitled to, rather than a deduction amount.

How notional deductions apply

An R&D entity is entitled to a notional deduction for:

- expenditure on R&D activities during the income year
- the decline in value of depreciating assets used for R&D activities during the income year.

For 2020-21 and earlier years, an R&D entity's notional deduction amount included a balancing adjustment for depreciating assets used only for R&D activities.

For 2021-22 and later years, this balancing adjustment is claimed as an actual deduction and isn't claimed as a notional deduction in working out the entity's R&D tax offset.

Although amounts treated as notional deductions are not actually deducted in calculating your taxable income, they are treated as a deduction when applying:

- a provision that prevents some or all of an amount being deducted
- a provision that changes the income year in which an amount can be deducted
- a provision that includes an amount in assessable income because an amount has been deducted

- other provisions that refer to an entitlement to a tax offset under the R&D provisions.

We have [examples of each of these limiting provisions](#).

We may be required to hold an opinion, form a judgment or make a determination if the notional deduction is an actual deduction.

Limiting provisions

Examples of a provision that prevents some or all of an amount being deducted are:

- **Division 26** of the ITAA 1997, which is about amounts you can't deduct, or can't deduct in full
- **Division 27** of the ITAA 1997, which is about the effect of input tax credits on deductions
- the general anti-avoidance provisions in **Part IVA** of the *Income Tax Assessment Act 1936* (ITAA 1936).

An example of a provision that changes the income year in which an amount can be deducted is the prepayment rules in **Subdivision H** of **Division 3** of **Part III** of the ITAA 1936.

Examples of a provision that includes an amount in assessable income because an amount has been deducted are:

- the rule about recoupment of deductible amounts in **Subdivision 20-A** of the ITAA 1997
- the cost base rules for capital gains in **Part 3-1** and **Part 3-3** of the ITAA 1997
- applying the R&D tax incentive provisions to work out your tax offset entitlement.

An example of other provisions that refer to an entitlement to a tax offset under the R&D provisions is the balancing adjustment provisions in **section 40-292** and **section 40-293** of the ITAA 1997.

Expenditure you can claim

Find out what types of expenditure you can claim.

Last updated 22 November 2022

On this page

What notional deductions may be for

Eligibility

When to claim

Expenditure incurred on R&D activities

Contracting R&D expenditure

Expenditure you incur under contract to other parties

Salary expenditure

Other eligible expenditure

Leased plant and buildings

Accountant and consultant fees

Expenditure on overseas activities

Payment to your associate in your claim year

Decline in value of assets

Feedstock expenditure

Contributions under the CRC program

What notional deductions may be for

If you are an R&D entity, your notional deductions may be for:

- expenditure incurred on R&D activities, including expenditure on overseas activities covered by an advance finding from Innovation Industry and Science Australia, amounts paid to associates and expenditure to a Research service provider

- the decline in value of assets used for conducting R&D activities, including R&D partnership assets
- expenditure in relation to goods and materials transformed or processed during R&D activities to produce marketable products (feedstock expenditure)
- monetary contributions under the Cooperative Research Centres (CRC) program.

Eligibility

You are entitled to a notional R&D deduction related to expenditure described above, if:

- your expenditure is eligible for the R&D tax incentive
- you incur expenditure during the income year (other than an amount you incur to an associate but do not pay until a later income year) on one or more registered R&D activities.

When to claim

As a result, the general rule is that expenditure on R&D activities is claimable in the income year it is incurred on an R&D activity. The exceptions to this rule are when:

- an amount of expenditure is incurred but not paid to an associate
- the prepayment rules apply in relation to expenditure for services to be provided over a period.

You will not be entitled to a notional deduction for incurred expenditure until you are registered in the income year the related R&D activities are conducted. The year of registration does not affect the income year you are entitled to a notional deduction for.

Expenditure incurred on R&D activities


To claim the R&D tax incentive your total notional deductions must be greater than \$20,000. An exception is possible if the expenditure is incurred to a Research Service Provider (RSP) or is a monetary contribution to a CRC under the CRC program.

Subsection 355-205(1) of the ITAA 1997 provides the legal basis for when notional deductions for R&D expenditure arise.

R&D expenditure you incur in relation to subsection 355-205(1) could fall into these broad categories:

- contract expenditure you incur to an RSP
- expenditure you incur under contract to other parties
- salary expenditure for people employed by your company
- other R&D expenditure
- expenditure on overseas activities
- R&D expenditure paid to your associate in your claim year, unless already claimed under another provision in the year the amount was incurred.

In general, R&D expenditure consists of amounts incurred on core and supporting R&D activities.

See business.gov.au  for more information about core and supporting R&D activities.

Contracting R&D expenditure


Explains claiming the R&D tax incentive if you outsource to a research service provider (RSP) or other parties.

- [Contract expenditure you incur to an RSP](#)
- [What an RSP is](#)
- [No \\$20,000 threshold](#)
- [What an RSP isn't](#)
- [You can contract all, some or none to an RSP](#)
- [RSPs and expenditure](#)
- [Grants](#)
- [Voluntary contributions and levy payments](#)
- [Rulings](#)

Contract expenditure you incur to an RSP

A research service provider (RSP) is a specific type of organisation registered with AusIndustry with appropriate scientific or technical expertise and resources to do R&D on your behalf:

What an RSP is

A research service provider (RSP) is an organisation that is registered with AusIndustry under [section 29A](#)  of the Industry Research and Development Act 1986 (IR&D Act) as an RSP. It has appropriate scientific or technical expertise and resources to perform research and development on behalf of companies.

No \$20,000 threshold

Expenditure you provide to an RSP for R&D activities isn't subject to the \$20,000 notional deduction threshold if:

- that RSP isn't an associate of the R&D entity
- the services on those activities are in a research field for which the RSP is registered under the IR&D Act.

You can claim an R&D tax offset for this type of expenditure regardless of the amount you have incurred.

What an RSP isn't

While it is possible for an RSP to perform R&D services through an agent, the RSP will not be considered to perform such services where it does not:

- choose the agent
- supervise performance of the services
- take responsibility to the R&D entity for the agent's performance of the services.

In such a case the payments would not be expenditure to an RSP and will be subject to the \$20,000 notional deduction threshold.

You can contract all, some or none to an RSP

You are not limited to contracting out your R&D activities to an RSP. You may contract out some or all of your R&D activities to any person, company or other body. However, if this other entity isn't an RSP the

expenditure incurred will be subject to the \$20,000 expenditure threshold.

RSPs and expenditure

Some RSPs are able to carry out R&D activities that are solely related to particular industries. If payments to RSPs are used on eligible R&D activities for members who are R&D entities, they may qualify for a notional deduction.

It is up to you to consult with the RSP and determine how your payments are expended on R&D activities. To assist your determination you may need to ask your RSP for:

- a breakdown of R&D and non-R&D activities
- expenditure related to these activities.

Grants

In some instances, an RSP's R&D activities are also supported by government grants. Grants are received by the RSP and not the member companies. This means the clawback adjustments claimed by member companies would not usually apply to the portion of the recoupments, including a grant, related to the notional deductions.

Voluntary contributions and levy payments

A key issue for R&D entities who make voluntary contributions or levy payments is the requirement for activities to be conducted for the entity. As R&D activities funded from voluntary contributions or levy payments are always contracted to another party, you must show that you:

- bear the financial risk associated with the R&D
- have control over the R&D projects and activities
- effectively own the project results.

Consider whether you receive the major benefit from your expenditure to an RSP.

In addition, the voluntary contributions or levies may only be notionally deducted under the R&D tax incentive if they relate to expenditure on eligible activities. Where the voluntary contribution or levy is wholly for R&D activities as defined in the legislation, this may not be an issue.

However, levies frequently support other activities, such as marketing, best practice projects and quality assurance. Eligible expenditure must be allocated where this occurs.

Rulings

Eligible companies may seek a private ruling from us to clarify their tax position. Your RSP may also apply for a class ruling from us to provide certainty for its members.

Expenditure you incur under contract to other parties

This type of R&D expenditure covers any eligible expenditure on R&D activities incurred under a contract to another party other than an RSP. You can't claim this type of expenditure on activities unless your total notional deduction amount is at least \$20,000. Contract expenditure may include contracts for:

- labour hire
- provision of services
- consultants working on R&D activities.

The contracts should show the nature of the work and its relation to your R&D activities. However, you may need to keep further records to show how work under the contract relates to your activities. This may include:

- minutes of any meetings between yourself and the contractor
- progress reports from the contractor for the R&D activities.

We may need to look through your contract to see the connection between your R&D activities and the expenditure you have incurred. This will allow us to see the amount of work done by the contractor on your behalf, particularly if you do not engage with them directly. You must keep appropriate records for this purpose.

If you have entered a contract with your associate, you are only eligible to claim the amount incurred as a notional R&D deduction at the time that the amount is paid.

Whether you can claim depends on who the R&D activities are conducted for. An R&D entity is only entitled to a notional deduction for

R&D activities that are conducted for itself. Consider whether you receive the major benefit from your expenditure under each contract.

Salary expenditure

A wide range of salary expenditure can be claimed if it is incurred for eligible R&D activities directly carried out by your employees.

- [Salary expenditure on eligible R&D activities](#)
- [Relevant employees](#)
- [Providing benefits](#)
- [Employees with mixed work](#)
- [Support staff salaries](#)
- [Salary expenditure to your associate](#)
- [Superannuation fund contributions](#)
- [Workers' compensation insurance and payroll tax](#)

Salary expenditure on eligible R&D activities

Salary expenditure can be incurred on eligible R&D activities directly carried out by your employees. The expenditure may consist of:

- salaries
- wages
- allowances
- bonuses
- overtime and penalty rate payments
- annual, sick and long service leave
- superannuation fund contributions (which are otherwise deductible under **section 290-60** of the ITAA 1997)
- payroll tax and workers compensation insurance premiums

Relevant employees

Relevant employees may include:

- researchers undertaking the conception or creation (or both) of new knowledge and products
- employees undertaking technical tasks in support of the R&D activities, such as persons keeping records, preparing charts and graphs, operating equipment and writing computer programs
- supervisors of researchers and technical staff.

Providing benefits

Salary expenditure can be deductible to provide benefits instead of paying a cash salary to employees with an eligible salary sacrifice arrangement. This includes fringe benefits.

Employees with mixed work

If your employee performs activities other than work on eligible R&D projects you must apportion their salary between what was incurred on R&D and non-R&D activities.

Expenditure on salaries, wages, bonuses, overtime and penalty rate payments is salary expenditure to the extent that it is incurred on R&D activities. Expenditure on annual, sick and long service leave or superannuation contributions is deductible in the proportion that reflects the extent to which your employee was engaged in R&D activities in the year.

You should keep appropriate records, such as time sheets or job cards. This will show how much of an employee's services are on eligible R&D activities. Claims for salary expenditure should be based on actual expenditure and not standard salary rates developed for internal costing purposes.

Support staff salaries

Salaries and costs of support staff who do not directly conduct or connect to the R&D activities should not be claimed as salary expenditure. Support staff may include:

- general supervisors
- administrative staff
- management staff who recruit other company employees for general duties not necessarily related to R&D activities.

If you can prove expenditure was incurred for support staff on R&D activities it may qualify as other expenditure. See **Other R&D expenditure** for more details.

Salary expenditure to your associate

If you have incurred salary expenditure to your associate, you are only eligible to claim the amount incurred as a notional R&D deduction at the time the amount is paid.

Some types of salary expenditure incurred on the construction of depreciating assets, structural improvements or buildings are not eligible to be notionally deducted under the R&D tax incentive due to specific exclusions in **section 355-225** of the ITAA 1997.

Superannuation fund contributions

Superannuation fund contributions must meet all legislative requirements to be deductible under **section 290-60** of the ITAA 1997 before they can be notionally deducted as R&D expenditure.

Deductible contributions to a superannuation fund must be clearly identifiable from staff records and the amounts added to the R&D salary expenditure.

Workers' compensation insurance and payroll tax

Salary expenditure includes premiums for workers' compensation insurance and payroll tax if they are incurred on R&D activities. Other matters may also be relevant, for example, the nature of any payroll tax exemptions and concessions that apply.

For employees carrying out the company's R&D activities, any increased or decreased rate of worker's compensation premiums would be considered in determining the deductible expenditure.

If you can't separately identify compensation insurance and payroll tax for staff, you will need to determine a reasonable basis of apportionment when calculating your claim.

Other eligible expenditure

You may incur administrative costs and overheads from conducting R&D activities and employing R&D staff.

- [Administrative costs and overheads](#)
- [Leased plant and buildings](#)
- [Accountant and consultant fees](#)
- [Expenditure on overseas activities](#)
- [Overseas findings](#)
- [Payment to your associate in your claim year](#)
- [Decline in value of assets](#)
- [R&D partnerships](#)
- [Conditions to be met for decline in value](#)
- [R&D decline in value rules and R&D expenditure rules](#)
- [Notional application of Division 40](#)
- [Purpose of conducting R&D activities](#)
- [Buildings and capital works other than buildings](#)
- ['Uses' to ignore](#)
- [Effective life](#)
- [No change in decline in value method](#)
- [R&D depreciating assets rules](#)
- [R&D activities and non-R&D activities](#)
- [Feedstock expenditure](#)
- [Contributions under the CRC program](#)

Administrative costs and overheads

You may incur administrative costs and overheads from conducting R&D activities and employing R&D staff. This may include costs on R&D activities for:

- rent or lease payments
- light and power
- property rates and taxes

- cleaning
- certain types of insurance.

You can claim the cost for these expenses under the R&D tax incentive if they are directly linked to your R&D activities. The type of expenditure that qualifies for a notional R&D deduction under Division 355 of the ITAA 1997 depends on the facts of each case.

Leased plant and buildings

Rent or lease payments for equipment or buildings used in your R&D activities can be eligible expenditure. The expenditure only qualifies for a notional deduction if you have sufficient evidence to prove it was used directly on R&D activities.

Leasing equipment or buildings for yourself and other persons may also qualify for a notional deduction. This is possible under Division 355 of the ITAA 1997 if the lease payments are incurred to conduct eligible R&D activities.

Accountant and consultant fees

Expenditure incurred for accountant or consultant fees may be notionally deductible. The service provided by either the accountant or consultant must relate to your R&D activities.

Expenditure for accountant or consultant fees can't be claimed for:

- preparing a registration application for the R&D tax incentive
- preparing a tax return to claim the R&D tax incentive.

If services provided by a consultant are considered an R&D activity, it must be registered with AusIndustry.

Tax related expenses incurred for the management of a company's tax affairs may be deductible under section 25-5 of the ITAA 1997.

Eligibility of R&D activities is determined by AusIndustry and eligible expenditure is determined by us.

Expenditure on overseas activities

To claim a notional deduction for overseas R&D activities you must get a favourable advance overseas finding from AusIndustry. **Section 28C** and **section 28D** of the IR&D Act provide information on findings about activities to be conducted outside Australia, including conditions you must meet.

Overseas findings


You can only claim expenditure on an R&D activity carried out overseas if it is registered and covered by a finding that meets the following 4 conditions:

1. The overseas activity is covered by an advance overseas finding that the activities are eligible R&D activities.
2. The overseas activity has a significant scientific link to Australian core activities.
3. The overseas activity can't be conducted in Australia or the external territories for a reason listed in the legislation.
4. The expenditure on the overseas activity and certain other overseas activities is less than the expenditure on the related core R&D activities and supporting R&D activities conducted in Australia.

An overseas finding starts from the beginning of the income year the application is made.

You can only claim expenditure on an R&D activity by relying on an overseas finding for R&D activities that are:

- conducted for you
- not conducted for a foreign corporation that is connected or affiliated with you.

See [Business.gov.au](https://business.gov.au)  for more information about conducting R&D activities outside Australia.

Payment to your associate in your claim year

You can claim a notional deduction if you incur an amount of expenditure to an associate and pay it in the same year. To do this, you must meet all other requirements for the R&D tax offset.

Paying an amount to an associate can include making a constructive payment. A constructive payment is where you apply or deal with the amount on their behalf or as they direct.

In working out whether you have paid an amount to another entity, and when the payment is made, the amount is taken to be paid to the other entity when you apply or deal with the amount in any way on the other's behalf, or as the other directs.

In broad terms, associates are those entities which, by reason of family or business connections, might appropriately be regarded as being associates of a particular entity.

For the definition of 'associate', refer to **section 318** of the ITAA 1936.

Some examples of an associate of a company, other than a company in the capacity of trustee, include:

- a partner of the company or a partnership in which the company is a partner
- a trustee of a trust estate under which the company or associate benefits
- another entity (including a natural person) that, acting alone or with another entity or entities, sufficiently influences the company
- an entity (including a natural person) that, either alone or together with associates, holds a majority voting interest in the company
- a second company that is sufficiently influenced by the company or the company's associate
- a second company in which a majority voting interest is held by the company or the company's associate.

If you do not pay the amount until a later income year, you can either claim:

- the expenditure under the normal income tax provisions (for example, the general deduction provision, **section 8-1** of the ITAA 1997 for the income year in which the amount was incurred)
- a notional R&D deduction in the year you make the payment if you have not already claimed the expenditure under the normal income tax provisions.

You must not have otherwise claimed the expenditure by the time you lodge your tax return for the most recent income year before the income year in which you paid the amount. This choice can't be reversed, for example, by later requesting an amendment of the assessment to disallow the deduction claimed.

For an example of how the rules work in relation to amounts incurred to associates, see **R&D expenditure incurred to an associate**. This includes:

- an example of how the rules work in relation to amounts incurred to associates
- explanations of the terms 'sufficiently influence' and 'majority voting interest'.

Decline in value of assets

You can notionally deduct the decline in value of a tangible depreciating asset used for R&D activities (if certain other conditions are satisfied, as outlined below). Specific rules also apply to the treatment of balancing adjustment events, for example, when you sell or scrap depreciating assets used for R&D purposes.

R&D partnerships

As a partner in an R&D partnership, you are entitled to a notional deduction for your proportion of the amount that the partnership would have been able to deduct under the depreciating asset provisions, provided the conditions listed below have been met.

Conditions to be met for decline in value

To be eligible for an R&D notional deduction for a decline in value of a depreciating asset, you must be:

- registered for the income year in which you hold the asset for conducting R&D activities
- conducting your R&D activities in Australia (unless you have a positive overseas finding from AusIndustry) using the asset during the income year for conducting R&D activities
- entitled to deduct an amount under the depreciating asset provisions (**Division 40**) if those provisions applied with certain changes.

Once an asset is pooled, its tax identity and its adjustable value are lost, and the asset can no longer be distinguished from other assets in the pool. As a result you can't notionally deduct an amount if either:

- the asset has been pooled with other assets for working out deductions for depreciating assets
- you have allocated a depreciating asset to a low value pool or one of the small business pools after the R&D depreciating asset provisions have applied to the asset.

R&D decline in value rules and R&D expenditure rules

The R&D decline in value rules apply to the exclusion of the R&D expenditure rules. Where you incur an amount of expenditure that is included in the cost of a depreciating asset, your notional deduction is worked out for its decline in value under the R&D rules in **Subdivision 355-E**. Your notional deduction in relation to this expenditure, and therefore the R&D tax offsets, is spread over the effective life of the asset.

Notional application of Division 40

Under the R&D tax incentive, decline in value deductions for depreciating assets (as defined in **Division 40** of the ITAA 1997, but excluding intangible assets) used in carrying on R&D activities is worked out under **section 355-305** and **section 355-310** of the ITAA 1997. These sections require that the amount allowable on the decline in value of those assets for the period of R&D use be calculated notionally, for the period of R&D use, under the rules set out in **Division 40** of the ITAA 1997, as applied with certain modifications.

Working out whether you would be entitled to deduct an amount under the depreciating asset provisions if those provisions were applied with certain changes, is called the 'Notional application of Division 40'. This notional application of **Division 40** is for the purpose of working out the notional R&D deduction for the decline in the value of a depreciating asset. It is also relevant to working out balancing adjustments on these assets and the amounts excluded from being claimed as expenditure.

The modifications made in notionally applying the **Division 40** decline in value rules to R&D assets require that the:

- asset be used for the purpose of carrying on R&D activities, rather than for a taxable purpose
- same method of calculating depreciation and effective life be used as applied before the R&D use, if relevant.

Purpose of conducting R&D activities

The main change made to Division 40 in working out the notional Division 40 deduction is that references to a taxable purpose are replaced with references to the purpose of conducting one or more R&D activities. For balancing adjustment calculations, references to a taxable purpose are replaced with a reference to the purpose of conducting one or more of the R&D activities to which the R&D deductions relate. The object is to work out the notional Division 40 deduction based on its use for R&D activities.

Buildings and capital works other than buildings

The second change made to Division 40 in working out the notional Division 40 deduction is to assume that Division 40 does not apply to a building (or an extension, alteration or improvement to a building) for which you can deduct an amount under the capital works provisions in Division 43, or could have deducted an amount under Division 43, if you had started work before a particular date or used the building for R&D activities.

The object is to replace the rule in Division 40 that excludes capital works for which you can deduct amounts under Division 43. The result is that you can get a notional R&D deduction (and therefore, an R&D tax offset) for the decline in value of capital works that are not buildings used in R&D activities.

'Uses' to ignore

In working out the notional deduction for decline in value of a depreciating asset, it is necessary to ignore 'uses' of the asset that would not satisfy the various conditions. It is necessary to ignore uses for R&D activities that:

- aren't registered for the income year in which they were conducted
- don't meet conditions about where activities must be conducted
- don't satisfy the 'on own behalf' test.

Effective life

The capital allowance rules in Division 40 of the ITAA 1997 allow you either to:

- use the Commissioner's estimates of effective life for your depreciating assets
- work it out yourself under the rules in Division 40.

In working out the effective life of a depreciating asset, you must estimate the period that the asset can be used by an entity for one or more of these:

- a taxable purpose
- the purpose of producing exempt income or non-assessable non-exempt income
- the purpose of conducting R&D activities, assuming that this is reasonably likely.

This applies both for self-assessing effective life and for the Commissioner making a written determination of effective life.

Where it is reasonably likely that an asset will be used for the purpose of conducting R&D activities, it is also necessary to have regard to the period within which the asset is likely to be scrapped or abandoned, ensuring you disregard reasons attributable to technical risk in conducting R&D activities.

If the technical risk in the R&D activities does in fact lead to the early scrapping of the plant, the balancing adjustment provisions ensure that the appropriate write-off is given.

No change in decline in value method

You generally have a choice of 2 methods in working out the decline in value of a depreciating asset:

- the prime cost method
- the diminishing value method

You can't change methods. If an R&D entity has previously worked out actual deductions for an asset using a particular method, it must use the same method in working out notional deductions, and vice versa.

R&D depreciating assets rules

Division 328 provides certain concessions for small business entities (SBEs). If you meet certain eligibility requirements, you can take advantage of the simpler depreciation rules under Subdivision 328-D of the ITAA 1997. One of these rules is an immediate deduction for low cost assets (costing less than \$1,000).

SBEs can generally calculate the decline in value deductions under the simplified depreciation rules instead of the general depreciation rules. However, you can't calculate the decline in value amounts for a depreciating asset for any period under the simplified depreciation rules if you can notionally deduct the decline in value for that asset for the same or an earlier period under the R&D tax offset rules.

Subsection 355-310(4) of the ITAA 1997 says that to notionally apply Division 40 (to calculate the decline in value amount notionally deductible under the R&D tax incentive) you should assume that Subdivision 328-D has not been enacted. This means that low cost assets that could be immediately deducted under section 328-180 are not eligible for a notional deduction under the R&D tax incentive on that basis. You notionally deduct your decline in value amount calculated under Division 40 for the R&D tax incentive.

R&D activities and non-R&D activities

The notional deduction is reduced to the extent that the asset is used for a purpose other than R&D activities. The R&D entity may be entitled to an actual Division 40 deduction for that other use (for example, the other use is in carrying on a business for the purpose of producing assessable income).

This also applies to any immediate asset write off you may be entitled to. That is, you need to consider the extent to which the asset is used for R&D purposes and for a purpose other than R&D during the income year.

Feedstock expenditure

Your R&D expenditure can include amounts called feedstock input expenditure. These are amounts you can claim as R&D expenditure for:

- the purchase or production of goods or materials (feedstock inputs) that are transformed or processed during R&D activities in

producing one or more tangible products (feedstock outputs)

- energy input directly into that transformation or processing.

These amounts are identified separately because a clawback amount included in assessable income can arise when the feedstock output is supplied to another entity or applied to own use in the current year or in a later year. This clawback amount also applies to the decline in value of assets used in acquiring or producing feedstock inputs.

The feedstock provisions apply to both core R&D activities and supporting R&D activities that transform or process feedstock inputs. The provisions are not confined to mass production or industrial activities. For example, it can apply to agricultural and other primary production activities.

To find out more see **Feedstock adjustments** or Taxation Ruling TR 2013/3 *Income tax: research and development tax offsets: feedstock adjustments*.

Contributions under the CRC program

Generally, you must incur at least \$20,000 worth of expenditure on R&D activities to be eligible to claim a notional deduction under **subsection 355-100(1)** of the ITAA 1997. However, monetary amounts contributed under the CRC program, where all other eligibility criteria have been met is an exception to this rule.

You are entitled to a notional deduction for expenditure incurred as a monetary contribution under the CRC program, if you are registered for the R&D activities on which the contribution is spent. The notional deduction does not arise until you are registered, which in some cases could be for an income year after you incur the contribution. However, the notional deduction for the monetary contribution still applies to the income year in which the contribution was incurred.

You are not entitled to a notional R&D deduction for any expenditure the CRC incurs out of Commonwealth funding.

To prevent double benefits in respect of the same amounts, you can't claim a notional R&D deduction for:

- a monetary contribution made to a CRC other than as a notional deduction under section 355-580 as that contribution

- expenditure incurred under the program out of a contribution that can be notionally deducted
- the decline in value of an R&D depreciating asset whose cost has been incurred under the CRC program.

Where you incur a non-monetary contribution but the contribution is in money's worth (for example, an employee's time or plant used in the R&D activities), that contribution should be valued and this value will also constitute expenditure incurred by you. The normal R&D tax incentive provisions apply in these circumstances and any notional deduction is subject to the R&D rules in **Subdivision 355-D** of the ITAA 1997, including the requirement that at least \$20,000 of expenditure be incurred.

Example

Company A incurs \$100,000 of expenditure as a monetary contribution under the CRC program in the income year ending 30 June 2021. The CRC does not spend Company A's contribution on an R&D activity until the year ending 30 June 2022.

To be eligible for a notional deduction for this amount, Company A must register the R&D activity for the year in which the R&D activity is conducted (the income year ending 30 June 2022). Company A can notionally deduct \$100,000 in the income year ending 30 June 2021 even though the R&D activity is registered for the R&D activity that is conducted by the CRC in the income year ending 30 June 2022 (provided all other criteria are also met).

QC 70894

Expenditure you can't claim

Find out what type of expenditure you can't claim.

Last updated 22 November 2022

On this page

Common expenses you can't claim

Excluded expenditure

Interest expenditure

Expenditure that isn't at risk

Core technology expenditure

Undeducted core technology

Cost of a depreciating asset

Acquire or construct a building

You can't claim a notional deduction for expenses that do not have a direct and close connection to your R&D activities. Specifically, they can't relate to general company operating or marketing expenditure that would be incurred regardless of the R&D activities.

Common expenses you can't claim

Expenses that can't be claimed could include:

- advertising (for instance, of a company's product)
- audit fees
- bad debts
- company establishment and other fees incurred under the companies code in relation to the administration of the company
- costs incurred in preparing taxation returns
- decline in value of a depreciating asset
- director's fees
- distribution and selling expenses
- donations
- employee benefits such as canteen and recreational facilities
- entertainment expenses

- grounds and garden maintenance costs
- insurance premiums on matters unrelated to R&D such as loss of profits and product liability
- legal expenses not associated with any approved research project, for example, legal expenses for a patent search before undertaking a research project or in taking out a patent after a successful project
- patents and trademarks in marketing a new product or technology, or as a result of R&D activity
- rent paid for premises that are not used in R&D activities
- salaries, associated costs and on-costs of support staff not linked with R&D activities and of staff employed in areas such as distribution, sales, marketing and debt collection
- tender costs.

Excluded expenditure

In addition to these expenses, certain expenditure is specifically excluded under section 355-225 of the ITAA 1997 from being eligible for a notional deduction.

You can't notionally deduct the following types of expenditure under the R&D tax incentive:

- interest expenditure (within the meaning of interest in the withholding tax rules)
- expenditure that isn't at risk
- core technology expenditure
- expenditure included in the cost of a depreciating asset (decline in value notional deductions may apply however)
- expenditure incurred to acquire or construct a building (or part of a building or an extension, alteration or improvement to a building).

These types of expenditure do not warrant the enhanced tax benefits available under the R&D tax offsets. However, they should be considered under the normal deduction provisions of the income tax

law as you may still be able to deduct these amounts from your assessable income.

Due to specific exclusions in **section 355-225** of the ITAA 1997, some types of salary expenditure can't be claimed if incurred on:

- the construction of depreciating assets
- structural improvements or buildings.

Interest expenditure

Interest incurred isn't eligible for a notional R&D deduction.

Interest has the same broad meaning as it has in the withholding tax rules in **Division 11A of Part III of the ITAA 1936**. This includes an amount in interest (for example, a discount on a security) and a dividend on a non-equity share.

Expenditure that isn't at risk

Expenditure that isn't at risk (for example, if there is guaranteed return under a financing arrangement or an indemnity) isn't eligible for a notional R&D deduction.

Expenditure isn't at risk when it is incurred and you (or your associate) could reasonably be expected to receive an amount of consideration:

- as a result of the expenditure being incurred or because of anything that happened before then
- irrespective of the results of the activities on which the entity incurs the expenditure.

See Taxation Ruling **TR 2021/5** *Income tax: research and development tax offsets – the 'at risk' rule*.

Interaction with JobKeeper payment

If you received a JobKeeper payment for your paid employee, you triggered the at-risk rule. You can't notionally deduct the portion of your wage expenditure incurred on R&D activities that attracted the JobKeeper payment.

If your employee is wholly engaged in R&D activities during a fortnight, you can't notionally deduct the portion of your wage expenditure that

is equal to the JobKeeper payment. If your employee is partially engaged in R&D activities, your JobKeeper payment was apportioned. You can claim by reducing your notional deduction by that portion of the JobKeeper payment as is in proportion with the time the employee spent on R&D activities during that fortnight.

Where you received an amount of JobKeeper payment for your employee and that employee was only partially engaged in R&D activities, you must keep records, such as timesheets, job cards or diaries, to show the time the employee spent on R&D activities during each fortnight for which you received JobKeeper for that employee.

If you received a JobKeeper payment based on business participation, you do not trigger the at-risk rule.

See Taxation Determination TD 2021/9 *Income tax: notional deductions for research and development activities subsidised by JobKeeper payments* for examples of how the notional deduction is reduced by the JobKeeper payment.

Interaction with cash flow boost

You also do not trigger the at-risk rule if you receive a cash flow boost payment.

Expectations

Your expenditure can be at risk (and therefore eligible for an R&D tax offset) where the expectation of receiving consideration under a contract for the development and sale of a product is based on both the:

- terms and conditions of that contract
- entity's experience and technical capability concerning the degree of confidence about successfully performing that contract.

Where this product development involves R&D activities and the conditions above exist the expectation of receiving consideration under this contract can't be said to exist irrespective of the results of these activities.

Foreign corporations undertaking your R&D

The rule about expenditure not at risk does not apply to R&D activities conducted by you for one or more foreign corporations related to you.

Nor does it apply to the corresponding permanent establishment case, where activities are conducted by a foreign corporation through a permanent establishment in Australia for other parts of the corporation.

Core technology expenditure


Expenditure incurred in acquiring technology that is 'core technology' is ineligible for the R&D tax incentive.

Undeducted core technology

There are transitional rules in place to ensure that core technology expenditure (within the meaning of former **section 73B** of the *Income Tax Assessment Act 1936*) remaining after the last income year commencing before 1 July 2011 is eligible for deduction.

In most cases, the undeducted expenditure is deductible in equal proportions over 5 income years, starting in the first income year commencing on or after 1 July 2010. However, if the core technology is a depreciating asset, the depreciating asset provisions in **Division 40** of the ITAA 1997 will apply on the basis that the opening adjustable amount is the amount of undeducted expenditure in relation to the asset.

Undeducted core technology expenditure isn't included as a notional R&D deduction. It should be claimed at label **X** Other deductible expenses in item **7** of the company tax return.

See [Transition from the R&D tax concession to the R&D tax incentive](#) for more information, or business.gov.au  for information about core technology.

Cost of a depreciating asset

Expenditure included in the cost of a tangible depreciating asset is ineligible for a notional deduction under the R&D expenditure provisions. Notional deductions for the decline in value of R&D depreciating assets must be considered under the R&D decline in value provisions.

Acquire or construct a building

Expenditure incurred to acquire or construct a building, part of a building, or an extension, alteration or improvement to a building, is ineligible for a notional R&D deduction. However, deductions may be available under the capital works provisions in **Division 43** of the ITAA 1997.

There is an exception for expenditure on a building that is plant, or a depreciating asset. That expenditure is specifically excluded from Division 43 of the ITAA 1997 and therefore such a building is subject to the depreciating asset rules in **Division 40** of the ITAA 1997.

Consequently, an R&D entity may be able to claim a notional deduction for the decline in value of a building that is a depreciating asset.

QC 70894

Contact us or AusIndustry

How to contact us or AusIndustry for more information.

Last updated 7 March 2024

Contact us


For information on eligible entities and how to claim the incentive:

- phone us on **13 28 66** between 8:00 am and 6:00 pm Monday to Friday.

Contact AusIndustry

For information on registration, eligibility of R&D activities and findings, you can contact AusIndustry by:

- submitting an [email enquiry](#) 

Refer to Contact us on the business.gov.au  website for the full list of contact details.

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

Copyright notice

© Australian Taxation Office for the Commonwealth of Australia

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).