



## Amounts you can claim

A guide to work out amounts that you can claim under the R&D tax incentive.

**Last updated** 10 January 2022

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This guide provides information about amounts that can be claimed under the research and development tax incentive.

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QC 25805

## About this guide

This guide provides information about amounts that can be claimed under the research and development tax incentive.

**Published** 10 January 2022

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

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 under **Division 355** of the *Income Tax Assessment Act 1997* (ITAA 1997), it must be claimed under that division.

If you choose not to claim it under the R&D tax incentive, you cannot 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 provision) of the ITAA 1997 if the expenditure does not 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.

QC 25805

## Calculating your notional deduction

The amount you can claim under the R&D tax incentive is calculated using a notional deduction.

**Last updated** 10 January 2022

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

To do this, multiply your total notional R&D deduction amount by either 43.5% or 38.5% (depending on which R&D tax offset you are eligible for) and claim this amount as an offset in your company tax return.

The rate of the R&D tax offset is reduced to the company tax rate for that portion of an entity's notional R&D deductions that exceeds \$100 million for an income year. This change applies to assessments for income years starting on or after 1 July 2014 and before 1 July 2024.

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
- a balancing adjustment for depreciating assets used only for R&D activities

Where an amount is a notional deduction you cannot deduct that amount as a general deduction, for example under section 8-1 of the ITAA 1997, when calculating your taxable income. This is because it is a

step in working out the amount of the tax offset the entity may be entitled to, rather than a deduction amount.

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, for example
  - Division 26 of the ITAA 1997 about amounts you cannot deduct, or cannot deduct in full
  - Division 27 of the ITAA 1997 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)
- a provision that changes the income year in which an amount can be deducted, for example
  - the prepayment rules in Subdivision H of Division 3 of Part III of the ITAA 1936
- a provision that includes an amount in assessable income because an amount has been deducted, for example
  - 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
- other provisions that refer to an entitlement to a tax offset under the R&D provisions, for example
  - the balancing adjustment provisions in section 40-292 and section 40-293 of the ITAA 1997.

Where one of the above provisions allows or requires us to hold an opinion, form a judgment or make a determination, we may do so as if the notional deduction is an actual deduction.

## Conditions you must meet before claiming a notional deduction


Find out about the conditions you need to meet before claiming a notional deduction.

**Last updated** 10 January 2022

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

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

### See also

- Research and development tax incentive – Eligible entities
- Research and development tax incentive – For whom are R&D activities conducted?
- [business.gov.au](https://www.business.gov.au)  for further information about
  - the eligibility of your activities
  - registration of your R&D activities
  - advance findings.

# Eligible expenditure under the R&D tax incentive

Find out about R&D eligible expenditure.

**Last updated** 10 January 2022

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## About R&D eligibility

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 Australia, amounts paid to associates and expenditure to an RSP
- the decline in value of assets used for conducting R&D activities (including R&D partnership assets)
- balancing adjustments for assets used only 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.

You are entitled to a notional R&D deduction in relation to expenditure described above to the extent that:

- your expenditure is of a kind 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.

As a result, the general rule is that expenditure on R&D activities is claimable in the income year it is incurred. 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.

Your entitlement to a notional deduction for 'expenditure incurred' does not arise until you are registered for the income year in which the related R&D activities are conducted.

However, the year of registration does not, of itself, affect the income year for which you are entitled to a notional deduction.

Once registration occurs, the entitlement to the R&D tax incentive is for the income year in which the expenditure is incurred, subject to the associate and prepayment rules referred to above.

## Expenditure incurred on R&D activities

To claim the R&D tax incentive your total notional deductions must be greater than \$20,000 (unless the expenditure is incurred to an 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. It says:

An R&D entity can deduct for an income year (the present year) expenditure it incurs during that year to the extent that the expenditure


(a) is incurred on one or more R&D activities:(i) for which the R&D entity is registered under section 27A of the *Industry Research and Development Act 1986* (IR&D Act) for an income year; and (ii) that are activities to which section 355-210 (conditions for R&D activities) applies, and

(b) if the expenditure is incurred to the R&D entity's associate – is paid to that associate during the present year.

Expenditure you incur in relation to subsection 355-205(1) could therefore 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 R&D activities and supporting R&D activities.

See [business.gov.au](https://www.business.gov.au)  for more information about core and supporting R&D activities.

## Contract expenditure you incur to an RSP

A research service provider (RSP) is an organisation that is registered by Innovation Australia under section 29A of the IR&D Act as an RSP. It has appropriate scientific or technical expertise and resources to perform research and development on behalf of companies.

Expenditure on R&D activities you incur to an RSP, where that RSP isn't an associate of the R&D entity, is not subject to the \$20,000 notional deduction threshold (if the services on those activities are in a research field for which the RSP is registered under the IR&D Act). This means that you can claim an R&D tax offset for this type of expenditure, regardless of the amount you have incurred.

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 and 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 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, but if you do so, and this other entity is not an RSP, the expenditure incurred will be subject to the \$20,000 expenditure threshold.

Some RSPs have been established to carry out activities, including R&D activities that are solely related to particular industries. Where a levy is imposed on industry members as a means of raising the funds to support its various activities, the levy payments incurred by members who are R&D entities may qualify for a notional deduction to the extent that the moneys are expended on eligible R&D activities (as defined in section 355-20 of the ITAA 1997) for the members.

It is up to you (in consultation with the RSP) to determine the extent to which your payments have been expended on R&D activities. This may include asking your RSP for a breakdown of R&D and non-R&D activities (and related expenditure) to assist you in your determination.

In some instances, an RSP's R&D activities are also supported by government grants. Because those grants are received by the RSP and not the member companies, **Subdivision 355-G** of the ITAA 1997 would not ordinarily apply to impose an extra income tax on the portion of the recoupment (which includes a grant) that relates to notional deductions claimed by the member.

A key issue for R&D entities who make voluntary contributions or levy payments is the requirement that the R&D activities must be conducted for itself. As R&D activities funded from voluntary contributions or levy payments are invariably 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 or not you receive the major benefit from your expenditure to an RSP. Further information on determining who receives the major benefit from the R&D activities is available from **For whom are the R&D activities conducted?**

In addition, the voluntary contributions or levies may only be notionally deducted under the R&D tax incentive to the extent that they relate to expenditure on eligible R&D 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. Where this occurs, the eligible expenditure must be apportioned.

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 cannot claim this type of expenditure on R&D 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 R&D activities.

Although not exclusive, this may include:

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

To adequately establish the relationship between your R&D activities and the expenditure you have incurred under the contract, the Commissioner of Taxation may need to look through the contract to establish the extent of the work done by the contractor on your behalf, particularly where you are not contracting at arm's length. You must keep sufficient records for this purpose.

If you have entered into 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**.

An R&D entity is only entitled to a notional deduction for R&D activities that are conducted 'for' itself. Consider whether or not you receive the major benefit from your expenditure under each contract.

For more information see [For whom are the R&D activities conducted?](#)

## Salary expenditure

This type of R&D expenditure includes expenditure to the extent that it is incurred on eligible R&D activities for those of your employees engaged directly in carrying out an eligible R&D activity. 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.

The 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.

In addition, salary expenditure may also be deductible expenditure incurred by an R&D entity to provide benefits (including fringe benefits) in lieu of paying such employees a cash salary because of an eligible salary sacrifice arrangement.

Where only part of your expenditure is on the relevant R&D activities, apportionment is necessary. You should keep appropriate records, such as time sheets or job cards, to demonstrate the extent to which an employee's services are on eligible R&D activities. Claims for salary expenditure should be based on actual expenditure and not upon standard salary rates developed for internal costing purposes.

Salaries (and on costs) of support staff, for instance, general supervisors or administrative staff, who do not actually conduct the R&D activities, should not be included in the R&D tax incentive schedule as salary expenditure. If you determine that this expenditure was incurred on R&D activities, a portion of this expenditure may qualify as other expenditure (see [Other R&D expenditure](#)) depending on the extent to which the expenditure was on the R&D activities conducted.

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

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 that the amount is paid.

The salaries (and on costs) of your employees whose only connection with R&D activities is clearly indirect would not qualify as R&D expenditure – for example, management staff who recruit other company employees for general duties not necessarily related to R&D activities.

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.

## **Apportionment**

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.

Where your employee performs other activities in addition to work on eligible R&D projects, you must apportion that employee's salary amount between the extent to which it was incurred on R&D and non-R&D activities. You must keep appropriate records, such as timesheets, job cards or diaries, so you can demonstrate the amount of time spent on R&D activities.

## **Superannuation fund contributions**

Superannuation fund contributions must first meet all legislative requirements to be generally 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 relevant amounts added to the amount of R&D salary expenditure.

## **Workers' compensation insurance and payroll tax**

Premiums for workers' compensation insurance and payroll tax are salary expenditure to the extent they are considered to be incurred on R&D activities, taking into account the amounts deductible as salary expenditure for salaries and leave, and the total expenditures on these amounts, and other matters that are relevant. Such other matters would include any payroll tax exemptions or concessions available to the company.

Similarly, in the case of worker's compensation premiums, any increased or decreased rate of premiums applicable to the employees carrying out the company's R&D activities would be taken into account in determining the deductible expenditure. Where payroll tax and

workers' compensation premiums paid for R&D staff are known, the amounts should be added to the amount of R&D salary expenditure.

However, if the amounts cannot be separately identified, you will need to determine a reasonable basis of apportionment when calculating your claim.

## Other R&D expenditure

You may incur a number of administrative costs and overheads as a result of conducting R&D activities and employing R&D staff. For example, you may have overheads, such as rent, light and power, property rates and taxes, cleaning and certain types of insurance, to the extent they are expenditure incurred on eligible R&D activities.

The expenses which you can claim as R&D expenditure are limited to the extent they are incurred on R&D activities. The type of expenditure that qualifies for a notional deduction under **Division 355** of the ITAA 1997 depends on the facts of each particular case. Administrative costs and overheads may be incurred on R&D activities where there is a direct link between the R&D activities and the expenditure incurred.

Ineligible expenses are those without sufficient link to the R&D activities, particularly where they relate to general company operating or marketing expenditure that would be incurred regardless of the R&D activities.

These ineligible expenses 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.

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

## **Leased plant and buildings**

Rent or lease payments for equipment or buildings used in your R&D activities would constitute R&D expenditure. Such equipment or buildings need not be used exclusively in your R&D activities, but if the use is not exclusive, the expenditure would only qualify for notional deduction to the extent that it is on R&D activities. You must determine a reasonable basis of apportionment which produces an allocation of expenditure to R&D activities with a reasonable degree of accuracy.

Where you use leased equipment or buildings to carry out R&D activities for yourself, as well as for other persons, the proportion of the relevant lease payments incurred on your own R&D activities would potentially qualify for a notional deduction under **Division 355** of the ITAA 1997.

## **Accountants' and consultants' fees**

Whether expenditure incurred on accountant's and consultant's fees is notionally deductible under **Division 355** of the ITAA 1997 depends upon whether:

- the activities associated with the work undertaken by the accountant and/or consultant, to which the fee relates, are R&D activities
- the extent to which the expenditure was incurred on those R&D activities.

Generally, activities associated with work by accountants and consultants are ineligible activities under the R&D tax incentive. Such ineligible activities include:

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

Where an activity is considered an R&D activity, such activities must be registered with Innovation Australia.

Expenditure incurred on R&D activities is notionally deductible under **section 355-205** of the ITAA 1997.

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 Innovation Australia and should not be confused with eligible expenditure, which is determined by us.

## **Expenditure on overseas activities**

To claim a notional deduction for overseas R&D activities under **Division 355** of the ITAA 1997 you must first get a favourable overseas finding from Innovation Australia. **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 the activity is registered and is covered by a finding that meets the following four conditions:

- the overseas activity is covered by an advance finding that the activities are eligible R&D activities
- the overseas activity has a significant scientific link to Australian core activities
- the overseas activity cannot be conducted in Australia or the external territories for a reason listed in the legislation
- 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 is in force from the start of the income year in which the application is made.

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

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

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

## **R&D expenditure paid to your associate in your claim year**

If you incur an amount of expenditure to an associate and you pay the amount in the same year, you can claim a notional deduction for that amount in that year (provided you meet all other eligibility requirements for the R&D tax incentive).

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.

Therefore, 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 choose to either:

- claim a deduction 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.
- claim a notional R&D deduction in the year you make the payment.

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

An example of how the rules work in relation to amounts incurred to associates is provided in our fact sheet, **R&D expenditure incurred to an associate**. This fact sheet also explains the terms 'sufficiently influence' and 'majority voting interest'.

## **Decline in value of assets used for conducting R&D activities**

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).

If a balancing adjustment event later happens for the asset, you may be able to notionally deduct a further amount under **Division 355** or deduct a further amount under **Division 40** (depending on how the asset has been used). Alternatively, you may need to include an amount in your assessable income.

## **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 to claim a notional deduction 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 Innovation Australia 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 cannot 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.

## **Relationship between 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 working out any notional deduction for decline in value occurs under **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 assets.

## **Notional application of Division 40**

Under the R&D tax incentive deductions for depreciating assets (as defined in **Division 40** of the ITAA 1997, but excluding intangible assets) used in carrying on R&D activities will be 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 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 (**Division 40**) 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 and any balancing adjustment for a depreciating asset used only for R&D activities (and also amounts excluded from deduction as R&D 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
- the 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, a 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. In particular, it is necessary to ignore uses for R&D activities that:

- are not registered for the income year in which they were conducted
- do not meet conditions about where activities must be conducted
- do not 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, or to 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.

In the event that 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 two methods - the prime cost method and the diminishing value method - in working out the decline in value of a depreciating asset. You cannot change methods. If an R&D entity has previously worked out actual deductions under Division 40 for an asset, it must use the same method in working out notional deductions under Division 40, and vice versa.

## **R&D depreciating assets rules and the depreciation rules in Subdivision 328-D for small business entities**

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) under section 328-180 of the ITAA 1997.

SBEs generally calculate capital allowances under Subdivision 328-D instead of Division 40 of the ITAA 1997. However, subsection 328-175(9) says that you cannot deduct amounts for a depreciating asset for any period under Subdivision 328-D if you are entitled under

section 355-100 to a tax offset for a notional deduction (under section 355-305) for the asset for the same or an earlier period.

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 immediately deducted under section 328-180 are not eligible for a notional deduction under the R&D tax incentive for their cost. However, if you choose not to use Subdivision 328-D for that asset, you can notionally deduct your decline in value amount calculated under Division 40 under the R&D tax incentive.

## **Assets used for both 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.

## **Balancing adjustments for assets used for conducting R&D activities**

A notional R&D deduction for a balancing adjustment may be claimed where:

- an R&D entity has used a depreciating asset only for R&D activities
- it is or has been entitled to R&D decline in value deductions
- a balancing adjustment event happens (for example, the entity sells or scraps the asset).

This adjustment ensures your income tax position over time reflects the actual decline in value of the assets, rather than the estimates on which your decline in value deductions were based.

When an asset is disposed of, its value at the time of disposal may vary from its adjustable value (which is the original cost of the asset less its decline in value). Where this occurs for a depreciating asset used to carry on R&D activities, the tax treatment for the profit or loss (balancing adjustment) derived on disposal must be determined.

Where a balancing loss is made (that is, the adjustable value exceeds the termination value), the loss is allowable as an additional deduction (and in some circumstances a notional R&D deduction) to the extent that the asset was used in deriving assessable income or conducting R&D activities over its life.

Similarly, where a balancing profit is made (that is the termination value exceeds the adjustable value), the profit is included in assessable income to the extent that the asset was used in deriving assessable income or conducting R&D activities over its life.

#### **Example: Balancing adjustment**

A new item of equipment costing \$1,000,000 is used during the year for a purpose described in subsection 40-25(7) of the ITAA 1997. Assuming that the effective life is 10 years, the decline in value allowable as a deduction for the year is calculated as follows:

$$\$1,000,000 \times (365 \div 365) \times (100\% \div 10) = \$100,000$$

If the equipment is disposed of for the sum of \$850,000 at the end of the year, a balancing loss on disposal of \$50,000 is incurred, calculated as follows:

- Cost is \$1,000,000
- Minus decline in value of \$100,000
- Equals adjustable value which is \$900,000
- Minus termination value of \$850,000
- Equals balancing adjustment (loss) of \$50,000.

If the equipment had been disposed of for \$925,000 rather than \$850,000, a balancing adjustment profit of \$25,000 would have been made.

Where such a balancing adjustment occurs for an asset that has at some stage been used for R&D activities, a further adjustment may be required. The amount of this adjustment depends on whether or not the:

- asset is a dedicated R&D use asset
- company was otherwise entitled to claim the R&D tax offset in the year of disposal.

Use the table below to determine the appropriate treatment for your assets.

### Balancing adjustments for assets used for conducting R&D activities

Asset use	Conditions	Treatment of balancing adjustment loss	Treatment of balancing adjustment profit
Asset used solely for R&D activities and not a taxable purpose described in subsection 40-25(7) of the ITAA 1997.	Both: <ul style="list-style-type: none"> <li>• registered in the event year</li> <li>• otherwise eligible for a notional R&amp;D deduction.</li> </ul>	<b>355 applies</b> Adjustment loss included as a notional R&D deduction.	<b>355 applies</b> Balancing adjustment profit uplifted by one-third and included in assessable income.
Asset used solely for R&D activities and not a taxable purpose described in subsection 40-25(7) of the ITAA 1997.	Either: <ul style="list-style-type: none"> <li>• not registered in the event year</li> <li>• otherwise ineligible for a notional R&amp;D deduction.</li> </ul>	<b>No taxation treatment</b>	<b>No taxation treatment</b>

**Balancing adjustment for depreciating assets used only for R&D activities (including partnerships)**

<b>Asset use</b>	<b>Conditions</b>	<b>Treatment of balancing adjustment loss</b>	<b>Treatment of balancing adjustment profit</b>
<p>Asset used for both R&amp;D activities and a taxable purpose described in subsection 40-25(7) of the ITAA 1997.</p>	<p>Both:</p> <ul style="list-style-type: none"> <li>• registered in the event year</li> <li>• otherwise eligible for a notional R&amp;D deduction</li> </ul>	<p><b>Division 40 applies</b></p> <p>No notional R&amp;D deduction. R&amp;D portion of balancing adjustment loss, calculated under section 40-285, claimed as an increased deduction amount.</p>	<p><b>Division 40 applies</b></p> <p>R&amp;D portion of balancing adjustment profit, calculated under section 40-285, uplifted by one-third and included in assessable income.</p>
<p>Asset used for both R&amp;D activities and a taxable purpose described in subsection 40-25(7) of the ITAA 1997.</p>	<p>Either:</p> <ul style="list-style-type: none"> <li>• not registered in the event year</li> <li>• otherwise ineligible for a notional R&amp;D deduction</li> </ul>	<p><b>Division 40 applies</b></p> <p>No notional R&amp;D deduction. R&amp;D portion of balancing adjustment loss calculated under section 40-285, no increased deduction amount claimable</p>	<p><b>Division 40 applies</b></p> <p>R&amp;D portion of balancing adjustment profit, calculated under section 40-285, uplifted by one-third and included in assessable income.</p>

		(unless the R&D activities have been conducted by an R&D partnership and you are claiming your proportion of this amount).	
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## **Balancing adjustment for depreciating assets used only for R&D activities (including partnerships)**

Where you have used an asset solely for R&D activities, the balancing adjustment results in either a further (catch-up) notional R&D deduction, or an increased amount being included in assessable income (to recover excessive deductions).

For this notional balancing adjustment deduction to apply, you must register for the income year in which the balancing adjustment event happens and be otherwise eligible for the R&D tax incentive. Where you have ceased R&D activities in a previous income year and scrap an asset in the current income year, you cannot claim the enhanced benefits of the R&D tax incentive provisions for the decline in value that may have occurred (in whole or part) after R&D activities ceased. In these circumstances, an uplifted amount is not required to be included in assessable income.

If you would have been entitled to a balancing deduction under the standard balancing adjustment provision of **section 40-285**, and the asset has been used solely for R&D activities, you are entitled to a notional R&D deduction of an equivalent amount, provided you are registered for one or more R&D activities for the balancing adjustment event year. That notional R&D deduction is included in the calculation of your R&D tax offset.

Conversely, if an amount would have been included in your assessable income under the standard balancing adjustment provision of

section 40-285, the sum of that amount (the section 40-285 amount) plus an additional amount is included in your assessable income.

The additional amount reflects the enhanced benefits that you have obtained through the offset for the decline in value. The additional amount is equal to one-third of so much of the section 40-285 amount as does not exceed the total decline in value. For income years starting before 1 July 2016, the factor of one-third was based on an offset rate of 40% (rather than the higher 45% rate that generally applied to R&D entities with an aggregated turnover of less than \$20 million). For simplicity, no change was made to the calculation of the additional amount when the rates of the refundable and non-refundable tax offsets were reduced for income years starting on or after 1 July 2016.

**Note:** If an entity's notional R&D deductions exceed \$100 million for an income year, the entity may reduce the adjusted section 40-285 amount in calculating the balancing adjustment.

#### **Example: Balancing adjustment for depreciating assets used only for R&D activities – notional deduction**

B Pty Ltd was incorporated in Australia and carries on a business in Australia that includes R&D activities that it conducts wholly in Australia. Its aggregated turnover for each income year is under \$20 million. B Pty Ltd has a standard income year ending on 30 June.

On 1 July 2014, B Pty Ltd purchases a mass spectrometer for use in its R&D activities. The unit costs \$30,000. B Pty Ltd assesses the effective life of the unit as five years and chooses the prime cost method for calculating its decline in value.

During 2014–5 and 2015–16, B Pty Ltd uses the unit only in carrying on its R&D activities. It sells the unit on 31 December 2015 for \$15,000.

As B Pty Ltd only used the unit for R&D activities, it will work out a balancing adjustment under section 355-315 of the ITAA 1997. It is entitled to a notional R&D deduction equal to the amount calculated under subsection 40-285(2), which is equal to the termination value less the adjustable value. The termination value is \$15,000. The adjustable value as at 31 December 2015 is equal to the opening adjustable value at 1 July 2015 less the part year

decline in value during 2015–16. The opening adjustable value is \$24,000. The part year decline in value is \$3,000. Accordingly, the adjustable value is \$21,000.

B Pty Ltd is entitled to a notional R&D deduction of \$6,000 (\$21,000–\$15,000) under subsection 355-315(2). Assuming B Pty Ltd has total notional R&D deductions over \$20,000 for 2015–16, B Pty Ltd is entitled to an offset of \$2,700 (45% of \$6,000) for the sale of the unit.

### **Balancing adjustment for depreciating assets used only for R&D activities – extra amount included in assessable income**

If the termination value in the example above was \$27,000 rather than \$15,000, B Pty Ltd would be required to include an uplifted amount in its assessable income. This would be calculated by the termination value (\$27,000) less the adjustable value (\$21,000), uplifted by one-third. Accordingly, \$8,000 would be included in the assessable income of B Pty Ltd.

## **Partners in an R&D partnership**

As a partner in an R&D partnership, you may also be able to claim a notional deduction for a balancing adjustment where:

- a balancing adjustment event happens (for example, the R&D partnership sells or scraps the asset) for an asset held by the partnership in an income year
- the asset was used for R&D activities
- you are (or were) entitled to R&D decline in value deductions or notional deductions for the asset.

You are entitled to a notional R&D deduction for your proportion of the balancing deduction under the standard balancing adjustment provision of section 40-285, and this amount is included in the calculation of your tax offset.

Conversely, if an amount would have been included in the assessable income of the R&D partnership under the standard balancing adjustment provision of section 40-285, your proportion of the sum of that amount (the section 40-285 amount) plus your proportion of an additional amount is included in your assessable income. As above, the

additional amount is equal to one-third of so much of the section 40-285 amount as does not exceed the total decline in value.

## **Balancing adjustment for depreciating assets used for R&D activities and a taxable purpose described in subsection 40-25(7) of the ITAA 1997**

A balancing adjustment must also be worked out where you have used a depreciating asset partly for R&D activities and partly for another taxable purpose (for example, producing assessable income) under the capital allowance provisions. Taxable purpose is defined in subsection 40-25(7) of the ITAA 1997.

In working out reductions in the balancing adjustment amount for non-taxable use, use for the purpose of conducting R&D activities is assumed to be use for a taxable purpose.

If you are entitled to a balancing deduction under the standard balancing adjustment provision of section 40-285 of the ITAA 1997, and are entitled under section 355-100 of the ITAA 1997 to a tax offset for the event year, the amount of the balancing deduction is increased. The amount is increased by half if your aggregated turnover is less than \$20 million and one third in other cases. The factors by which the deduction amount is increased are equivalent to the 45% and 40% rates at which R&D tax offsets were calculated in the income years starting before 1 July 2016. For simplicity, no change was made to the calculation of the additional amount when the rates of the refundable and non-refundable tax offsets were reduced for income years starting on or after 1 July 2016.


If you are not entitled under section 355-100 of the ITAA 1997 to a tax offset for the event year, the amount of the balancing deduction is not increased.

If an amount is included in your assessable income under section 40-285 of the ITAA 1997, the amount assessable is increased by one third of an amount worked out under the formula provided in subsection 40-292(5) of the ITAA 1997. Note, if an entity's notional R&D deductions exceed \$100 million for an income year, the entity may reduce the adjusted section 40-285 amount in calculating the balancing adjustment.

The formula adjusts the amount worked out under section 40-285 of the ITAA 1997 so that it does not exceed the asset's total decline in value. It then applies a factor so that the amount being taken back reflects the proportion of the decline in value of the asset represented by total notional R&D deductions.

Balancing adjustment loss amounts, where the depreciating asset has been used partly for R&D activities and partly for another purpose, do not form part of the calculation of your R&D tax offset. These amounts are treated separately for income tax purposes.

Subsection 40-292(5) of the ITAA 1997 provides a formula for ensuring that the increased balancing adjustment amount deductible or assessable reflects the proportion of the decline in value of the asset used for R&D activities, as follows:

 Sum of your R&D deductions divided by total decline in value multiplied by adjusted section 40-285 amount

For this formula:

- 'adjusted section 40-285 amount' means
  - if the section 40-285 amount is a deduction – the amount of the deduction
  - if the section 40-285 amount is an amount included in your assessable income – so much of the section 40-285 amount as does not exceed the total decline in value
- 'total decline in value' means the cost of the asset less its adjustable value.


#### **Example: Balancing adjustment for assets used partly for R&D activities**


C Pty Ltd was incorporated in Australia and carries on a business in Australia that includes R&D activities. Its aggregated turnover for each income year is under \$20 million.

On 1 July 2014, C Pty Ltd purchases a heating unit for use in its business at a cost of \$30,000. C Pty Ltd assesses the effective life of the unit as five years and chooses the prime cost method for calculating its decline in value. C Pty Ltd uses the unit 50% of the time for carrying on ordinary business activities and 50% of the time for carrying on R&D activities.

On 31 December 2015, C Pty Ltd sells the unit for \$15,000. C Pty Ltd is entitled to a deduction under subsection 40-285(2) of the ITAA 1997 which is equal to the termination value less the adjustable value. The termination value is \$15,000. The adjustable value is equal to the opening adjustable value less the decline in value during 2015–16. The opening adjustable value is \$24,000. The decline in value is \$3,000. Accordingly, the adjustable value is \$21,000. C Pty Ltd is entitled to a deduction of \$6,000 ( $\$21,000 - \$15,000$ ) under section 40-285 of the ITAA 1997.

C Pty Ltd is entitled to an additional deduction under section 40-292 of the ITAA 1997. As a result of the use of the asset in R&D activities for 50% of the time it has been held by C Pty Ltd, C Pty Ltd is entitled to notional deductions of \$4,500 (50% ( $\$6,000 + \$3,000$ )) under section 355-305. Subsection 40-292(2) requires the company to calculate an amount under subsection 40-292(5) as follows:

 Sum of your R&D deductions divided by total decline in value multiplied by adjusted section 40-285 amount

 \$4,500 divided by \$9,000 multiplied by \$6,000 equals \$3,000

Subsection 40-292(3) provides that a company is entitled to increase its section 40-285 deduction by half of the amount worked out under subsection 40-292(5) (because it has an aggregated turnover of less than \$20 million).

C Pty Ltd is therefore entitled, under subsection 40-292(3), to increase its section 40-285 deduction by \$1,500 (half of \$3,000).

Its increased section 40-285 deduction is therefore \$7,500 ( $\$6,000 + \$1,500$ ).

### **Balancing adjustment for depreciating assets used partly for R&D activities – extra amount included in assessable income**

Assuming that the termination value in the example above was \$27,000 rather than \$15,000, C Pty Ltd would include an uplifted amount in its assessable income. This would be calculated by the termination value (\$27,000) less the adjustable value (\$21,000), this being \$6,000. However, as this asset has been used partly for R&D activities, the amount calculated under subsection 40-292(5) is uplifted by one-third and also included in assessable

income. The total amount included in the assessable income of C Pty Ltd would be:

\$1,000 (which is one-third of \$3,000) + \$6,000 = \$7,000.

## R&D partnerships

As a partner in an R&D partnership, you may also be required to calculate a balancing adjustment if:

- a balancing adjustment event happens (for example, the R&D partnership sells or scraps the asset) for an asset held by the partnership in an income year
- the asset was used for both R&D activities and general tax purposes
- you have, or have been, entitled to R&D decline in value deductions or notional deductions for the asset.

If the R&D partnership is entitled to a balancing deduction under the standard balancing adjustment provision of section 40-285, the amount of the balancing deduction for the partnership is increased by one-third. As the partner in the R&D partnership, you are entitled to a notional deduction for your proportion of the increased amount.

If an amount is included in the R&D partnership's assessable income under section 40-285, the amount assessable is increased by one-third of an amount worked out under a formula. You include your proportion of this increased amount in your assessable income.

Unlike the rules for you as a single R&D entity, if you are conducting R&D in a R&D partnership and it has used the asset for R&D activities and another taxable purpose, the deductible and assessable amount is uplifted, regardless of whether the partner is otherwise eligible to claim an R&D tax offset in the event year.

## Feedstock expenditure

A feedstock adjustment is an amount you include in your assessable income. It applies when you obtain an R&D tax incentive offset for your feedstock expenditure incurred on R&D activities, where those activities also produce tangible products that are supplied to someone else, or applied to your own use (other than in transforming such products for supply).

For the purposes of the feedstock adjustment, supply or use of the product by your affiliate, or an entity of which you are an affiliate, or a connected entity is taken to be supply or use of the product by you and will attract a feedstock adjustment.

The feedstock adjustment applies to expenditure on:

- 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.

A feedstock adjustment may also apply for amounts claimed for 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 activities.

Although this type of expenditure may not form part of any feedstock adjustment in the year it is incurred, it will represent expenditure on feedstock inputs and should be recorded separately from the other expenditure types.

Where a feedstock adjustment is triggered, you must include an amount in your assessable income. This may be in the current or future years, depending on when the output is sold or applied.

#### **See also**

- **Feedstock adjustments**
- *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 for a notional deduction under subsection 355-100(1) of the ITAA 1997. Subsection 355-100(2) provides an exception to this requirement for monetary amounts contributed under the CRC program, where all other eligibility criteria have been met.

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 from Commonwealth funding.

To prevent double benefits in respect of the same amounts, you cannot obtain a notional R&D deduction for:

- a monetary contribution made to a CRC, other than under the specific rule about monetary contributions to a CRC
- 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 rules in **Subdivision 355-D** of the ITAA 1997, including the requirement that at least \$20,000 of expenditure be incurred.

### **Example**

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Company A incurs \$100,000 of expenditure as a monetary contribution under the CRC program in the year ending 30 June 2015. The CRC does not spend Company A's contribution on an R&D activity until the year ending 30 June 2016.

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 2016). Company A's registration of the relevant R&D activity will trigger eligibility (provided all other criteria are also met) for Company A to have a notional deduction equal to the amount it incurred to the CRC, in the year ending 30 June 2015.

# Ineligible expenditure under the R&D tax incentive

Information about ineligible expenditures.

Last updated 10 January 2022

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## Ineligible expenditures

You cannot 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 is not 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.

## **Interest expenditure**

Interest incurred during the year of income is not 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 the nature of interest (for example, a discount on a security) and a dividend on a non-equity share.

## **Expenditure that is not at risk**

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

Expenditure is not at risk to the extent that when the expenditure is incurred, 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.

If you received a JobKeeper payment for your paid employee, you triggered the at-risk rule. You cannot 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 cannot 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.

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

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
- the 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 cannot be said to exist irrespective of the results of these activities.

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.

#### **See also**

- *Taxation Determination TD 2021/9 Income tax: notional deductions for research and development activities subsidised by JobKeeper payments.*

This includes examples that illustrate the amount by which the notional deduction is reduced by the JobKeeper payment.

- *Taxation Ruling TR 2021/5 Income tax: research and development tax offsets - the at risk rule*

## **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 five 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 is not 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 also

- Transition from the R&D tax concession to the R&D tax incentive
- [business.gov.au](http://business.gov.au)  for information about core technology

## Expenditure included in the 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.

## Expenditure incurred to 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.

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## Other things you need to be aware of

You should consider other requirements under the ITAA 1997 and IR&D Act.

**Last updated** 10 January 2022

If you are an eligible R&D entity and you want to claim the tax incentive, you should consider other requirements under the ITAA 1997 and IR&D Act. These include that you:

- must register your R&D activities every year
- may need to adjust your income 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
- 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, Innovation Australia and to us that you carried out the eligible R&D

activities and that you did incur 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.

Also note that amounts which you are notionally entitled to deduct under **Division 355** are not able to be actually deducted under or in relation to any other provisions.

More information is available at **Registering, Adjustments, and Eligibility**.



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## More information

Contact information for the research and development (R&D) tax incentive.

**Last updated** 10 January 2022

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

- visit the [Contact Us](#)  page on the [business.gov.au](https://business.gov.au)  website for details on how to contact AusIndustry by phone (**13 28 46**), live webchat or email.

For information on eligible entities and amounts you can claim, contact the ATO:

- visit [ato.gov.au/randdtaxincentive](https://ato.gov.au/randdtaxincentive)
- phone us on **13 28 66** between 8.00 am and 6.00 pm Monday to Friday
- email us at [innovationtax@ato.gov.au](mailto:innovationtax@ato.gov.au)

## **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.

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