

## House debates

### House of Representatives

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*Tax Laws Amendment (Research and Development) Bill 2010; Income Tax Rates Amendment (Research and Development) Bill 2010: Second Reading (17 Jun 2010)*

12:07 pm



**[Maxine McKew](#)** (*Bennelong, Australian Labor Party, Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government*) [Share this](#) | [Link to this](#) | [Hansard source](#)

I am delighted to be able to speak to the [Tax Laws Amendment \(Research and Development\) Bill 2010](#) and the [Income Tax Rates Amendment \(Research and Development\) Bill 2010](#) in far less conditional terms than the previous speaker, the member for Wentworth. I feel this legislation is a very significant reform that aims to achieve a number of things. Firstly, it will support investment in research and development. Secondly, it will strengthen companies either undertaking or seeking to undertake research and development activities in Australia and encourage them to become more innovative, productive and prosperous. Thirdly, this is about the promotion of high income, high quality jobs for the future. The research and development tax credit is also a central element of the Rudd government's long-term agenda to lift Australia's innovation capacity and indeed our performance.

The minister, Senator Carr, set out late last year in his landmark *Powering ideas* report the government's framework for a 10-year reform agenda to make Australia more productive and more competitive. The *Powering ideas* report in turn was borne out of Dr Terry Cutler's 2008 review of the National Innovation System. The recommendation there, of course, was delivered in August 2008, and that was that the research and development tax concession be changed from a tax deduction to a tax credit. We have been pursuing this case since we came into government in 2007.

I am particularly pleased to speak in this debate because this reform is especially important for the many innovative companies in my electorate, the bulk of which are located in the [Macquarie Park](#) Corridor. More than 30,000 people work there, the vast majority of them in research driven industries. There is also the [Macquarie University](#) campus, so it is a very exciting hub. The [City of Ryde](#)'s own economic development strategy says the total floor space of the corridor could accommodate in the future as many as 18,000 workers. This corridor is an important and growing part of what is sometimes called the northern Sydney

global technology corridor. It is also the northernmost tip of what the [New South Wales](#) and Metropolitan Strategy calls the state's global economic corridor, often described as the powerhouse of the Australian economy, and with good reason.

There are also major pharmaceutical companies, the likes of Johnson & Johnson, Novartis, Sanofi-Aventis, and [Astra Zeneca](#). Pfizer's head office is on the other side of Bennelong, down at [West Ryde](#). In Macquarie Park you have major information technology companies—Microsoft, Oracle, [CA](#), [CSC](#) and Compuware. There are also some of the giants of consumer electronics—Sony, Toshiba, Philips and Canon—including Canon Information Systems Research Australia. They had their 20th anniversary recently and I was given a guided tour of the marvellous facility on Thomas Holt Drive. That was by the managing director Dr Kenji Kobayashi and director Dr Jim Metcalfe. In telecommunications, Optus also has its corporate headquarters there. This is all by way of saying that really there are few parts of Sydney, let alone the rest of the country, which boast such a rich concentration of research dependent industries.

It is certainly the case that not all of them manufacture or research in this country. That is true, but Bennelong certainly has a strong case to make that it is the hub of Australian research and development—which leads me of course to these bills and the new R&D tax credit. What we are creating with this new system is a fairer, more efficient system that will provide greater incentives to foster research and development activity. It is a system that is already rated the world's best system for providing R&D incentives. I will come back to that in a little more detail. First, I want to explain a bit about the technical details of this legislation. The new R&D tax incentive replaces the existing R&D tax concession. There will be a 45 per cent refundable tax credit for companies turning over less than \$20 million and a 40 per cent non-refundable credit for larger corporations. This doubles the base rate of existing support for small and medium enterprises, restoring support to pre-1996 levels. It also raises the base rate for larger firms by one-third. Instead of receiving 7.5 cents for every dollar, small and medium enterprises will get 15 cents of every dollar and larger firms will receive 10 cents for every dollar. That will apply for all income years starting on or after 1 July this year.

Certainly for people on this side of the chamber the most important consideration when it comes to matters of taxation and incentives is the concept of fairness. This concept of fairness is at the heart of everything that we attempt to do on this side of the chamber: fairness for workers when it comes to our changes to the former government's unfair dismissal laws; fairness for all Australians in across-the-board investments in schools and in our health facilities; fairness for young parents in our universal 18-week paid parental leave scheme that I spoke on just a week or so ago; and fairness for all Australians by boosting our

retirement savings through the important tax reform debate going on right now over the resource super profits tax. Importantly, the new refundable R&D tax offset provisions make upfront cash support available to many more small- and medium-sized companies. It is a fairer system. The new refundable tax offset will be available to corporations with a turnover of under \$20 million. Under the current law, a refundable tax offset is available only to corporations with an annual group turnover of less than \$5 million where the group aggregate R&D expenditure is not more than \$2 million a year. There are two million businesses in Australia and only about 8,000 of these benefit from the current R&D tax concession. The Rudd government's intention is for these higher rates of reward under the new incentive to attract more firms to the program. We are widening the net, and I think that is fair. It is a major step towards lifting Australia's R&D performance through increasing the number of businesses undertaking R&D.

We are also improving efficiency. The new administrative arrangements that this legislation puts in place will be a lot simpler. As many have noted, Australia is very good at designing efficient tax measures. Tax credits are already in use in the United States, in Japan and in many parts of Europe. The new system will be familiar to international firms headquartered in those places. However, the existing scheme is allowing some companies to use taxpayer dollars to subsidise business-as-usual activities rather than what we call genuine research and development activities. Last financial year, a record number of companies registered for the tax concession, but the majority of the funding went to only 100 of the 7,754 companies approved for the concession.

The government has a responsibility to deliver value for money for taxpayers through better targeting of the scheme, and this has been achieved in the new legislation through a more focused definition of eligible R&D activities. So let us be clear about this: we want to fund business innovation, not business as usual. The new definition of core R&D activity still covers both R&D activities, but it will weed out companies taking advantage of the scheme for business-as-usual activities for which they receive normal business deductions.

I note that the Cutler review mentions whole-of-project claims using the R&D tax concession. The report from the review described this phenomenon in the following terms:

*In recent years several firms have been successful in the aggressive use of the R&D Tax Concession to make claims for a very large share of expenditure in large one-off projects like mines and civil engineering. These claims have demonstrated that some aspect of the project is new and technically risky. This having been done it has been possible, despite the efforts of*

the [Australian Taxation Office](#), to claim as much as 80 percent or more of all investment expenditures in the project.

*The Panel appreciates that such ventures are both risky and innovative. At the same time it is clear that such 'whole of mine' claims are gaining for themselves a degree of assistance disproportionate to the benefits available to many other innovative projects. While they are also being undertaken by firms with very good access to capital, it is also true that capital markets are averse to risks in long term technology projects. This is an issue which needs to be addressed in its own right and not by default through a general tax concession.*

That was the problem identified in 2008. Further, in comments about Labor's new R&D tax credit to the [Adelaide Advertiser](#) last month, Dr Leanna Read, the head of [TGR](#) BioSciences and a former member of the Industry Research and Development Board, had this to say:

*Certainly some claims from some of the big companies ... were based largely on supporting activities rather than core, so something might be 99.9 per cent for supporting activity but because it supported some tiddlywink of R&D it got through.*

Our legislation will promote real innovation by closing that loophole. There are, I am afraid, some other examples of loopholes that show how far the funding has been stretched in the past. Funding has been made available to companies to construct a new building to test air conditioning, for instance, and to upgrade a processing plant and install a computer system in a large bank. All these are activities with inherent worth, but they are not research driven. Clearly we can do better than we are doing to reward real innovation.

I mentioned earlier that the R&D tax credit system is already acknowledged as the world's best system of its kind. As part of their *Competitive alternatives 2010* report into international business costs, the consultants [KPMG](#) studied general tax competitiveness across 95 cities in 10 major countries. The countries in the study were Australia, Canada, France, Germany, Italy, Japan, Mexico, the Netherlands, and the United States. The report details just how competitive Australia's R&D sector is. In the section of the report on R&D, Australia is the runaway winner at No. 1, and on the strength of Labor's new R&D tax credit we moved from fifth place to first in the rankings. Further into the KPMG report, it is also interesting to see the city rankings. Melbourne and Sydney are first and third respectively. It is not that I subscribe to the old supremacy arguments, but I think we might see Sydney climbing back up to No. 1 there.

Those rankings are well ahead of other global cities such as London and [New York](#), and this endorsement by KPMG is unsolicited. Earlier this month the Minister for Innovation, Industry, Science and Research, Senator Carr, who has been driving all these changes to deliver the

new R&D tax credit, welcomed KPMG's conclusions. He observed that they place our new tax credit ahead of other, similar offerings by Canada, the United States, France, Italy, Japan and Mexico. In fact, it also ranks higher than the R&D assistance provided in the Netherlands and the [UK](#). The minister then went on to describe KPMG's unsolicited endorsement as 'one of the strongest possible vindications of the Australian government's new R&D support measures', and I concur with that wholeheartedly. Getting praise from the experts is good, but getting praise from the industries involved is even better. I am confident that, when we are able to cut company tax to 28 per cent as part of the implementation of the resource super profits tax, the R&D environment in Australia will become that much more competitive.

Labor's R&D tax credit has also already won glowing endorsements from several major players in the R&D sector. Dr Brendan Shaw, the [Chief Executive](#) of Medicines Australia, said:

*This could be a massive opportunity for the pharmaceutical and biotech industries in this country ... All indications are that the new program will help bring global investment in pharmaceuticals R&D to Australia, in large part by reducing the cost of conducting eligible R&D in this country.*

*The bottom line is that this new program will reduce the net cost of undertaking R&D in Australia and make us more globally competitive.*

*We look forward to continue working with Government to ensure this program delivers tangible benefits to companies who bring R&D investment to Australia.*

I look forward to continuing to work with Dr Shaw, because he and many of his members know that they can rely on me as their local member to be a strong voice for the interests of the pharmaceutical sector and ensure they get a good hearing. I bump into Dr Shaw on a fairly regular basis up on '[Pill Hill](#)', as it is known in my area. I was with him recently at the official opening of the new permanent Australian office of the global biopharmaceutical company Shire, which is on [Waterloo Road](#) in [North Ryde](#). They had a terrific gathering there in April.

Shire is a company that specialises in life-saving treatments for very rare or, as they say, 'orphan' genetic disorders in which there are few or no therapeutic options. Shire employed 11 permanent full-time staff and four people as contract part-timers in the last year, and they intend hiring another seven permanent full-timers over the next year. Their general manager, Dominic Barnes, tells me they have about three treatments available—two are currently being reviewed by the TGA—and they are intending to submit four more to the TGA this coming year. I mention this because this is precisely the kind of company I am sure is keen to take advantage of the government's R&D tax credit. So are other pharma companies like

Johnson&Johnson and [GlaxoSmithKline](#). [The J&J](#) family of companies is headquartered in North Ryde. Their pharmaceutical company Janssen-Cilag Australia is built on research and development. [GSK](#) has its division in Melbourne, but it has its healthcare division in Ermington in my electorate. I am emphasising all this, Madam Deputy Speaker, because many roads lead back to Bennelong.

What do these companies have in common and what are they like? There are several things. The fact is that ongoing compliance with this new system will be much simpler. The fact is that this legislation takes into account variable levels of investment from year to year. The fact is that it makes Australia as competitive as other companies or divisions of the same R&D companies in the [US](#) or the UK. In the case of Janssen-Cilag, this change to an R&D tax credit system will assist them to attract and employ more researchers to carry out early-stage pharmaceutical research on new molecules in diseases in areas like cancer and virology. It will mean more demand for local clinicians and allow R&D companies to at least maintain and possibly increase research in hospitals across the country.

These companies have been supportive of a move to a tax credit for a number of years. They know that a tax credit is a better way of supporting real R&D and that many parts of our health sector will benefit—more so than under the previous scheme. Dr Anna Lavelle, the [CEO](#) of AusBiotech, is certainly on the record in this regard. Dr Lavelle represents around 3,000 member organisations in the Australian biotechnology sector. She has said this legislation is 'good for the biotech sector and good for small innovative Australian companies'. In her submission to the Senate Economics Committee, Dr Lavelle said the following:

*Cognisant of the unique business model required by biotechnology, where significant funds are required often over many years and up-front before any return can be realised, the tax credit, especially the refundable credit, is vital if innovations and the start-up biotechnology industry are to thrive in Australia.*

*The biotechnology, medical technology and pharmaceutical industries all believe the move to the tax credit is the right government policy, and best for Australian innovation - with spillover benefits to the Australia community in terms of jobs, economic growth and access to technological developments.*

Dr Lavelle went on to observe:

*... the move from the tax concession, which is not working for the industry as a whole, to the tax credit ... will provide a much-needed lifeline.*

I note as well that in Dr Lavelle's submission she said that her sector had lost 16 of its 128 listed biotech companies between 2008 and 2009—the height of the global financial crisis. She said:

*Any further delay will mean young innovative companies will not be able to access the refundable credit—*

and that would have adverse consequences. So biotech is undoubtedly our future, and the sector needs the support of the credit tax to replace the tax concession now.

The Rudd government has no intention of jeopardising this vital sector—quite the contrary. Through these proposals we are providing much needed support. Let there be no misunderstanding about these incentives. They do not exclude R&D activities carried out in a production environment. It is not true that production trials are effectively excluded by the dominant purpose test. Manufacturers will still be able to claim core R&D activities that fall within the definition of an experiment generated for the purpose of acquiring new knowledge, and the dominant purpose test only applies to supporting R&D activities that are production activities. So the government have undertaken an extensive consultation process. We invited public submissions and there were two exposure drafts of the legislation. As a result of all of this, the government has made some significant changes. *(Time expired)*

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12:27 pm