

## Application Guide

# Advance and Overseas Findings



## Application Guide

### About this guide

This guide provides an overview of how to progress through the Advance and Overseas Finding (AOF) application form. The guide is divided into sections which cover individual parts of the application.

### How to complete the application form

#### Purpose of the form

The AOF application form should be used to apply for advance findings or overseas findings to determine eligibility of activities under the R&D Tax Incentive program. An advance finding is intended to provide companies with certainty about the eligibility of their activities prior to registration, while an overseas finding is a requirement before companies can claim expenditure on an eligible overseas activity. An R&D entity may seek an advance finding and an overseas finding in the same application.

#### Accessing the application

The AOF form can be accessed through the [R&D Tax Incentive customer portal](#).

Applicants will be asked if they:

- are an [eligible R&D entity](#); and
- have [assessed their activities and kept records](#) to demonstrate that the activities are R&D activities, as defined in sections 355-25 and 355-30 of the *Income Tax Assessment Act 1997* (ITAA 1997).

## Before You Start

### Due date for lodgement

You must submit your application for the activity you want the overseas and/or advance finding on before the end of the income year it is conducted. There is no provision under the *Industry Research and Development Act 1986* (IR&D Act) for AOF applications received after the statutory deadline. Industry Innovation and Science Australia (the Board) has no discretion to accept a late application.

### A finding is NOT registration

Receiving a positive finding is not the same as, nor is it a substitute for, registration. To claim the R&D Tax Incentive, the R&D entity must register its R&D activities annually with the Department of Industry, Science and Resources within 10 months of the end of the income year in which the activity was conducted. Failure to register R&D activities by the due date means you cannot claim the R&D Tax Incentive for the activities conducted in that income year.

### Registration is NOT a finding

Registration of activities does not mean the activities claimed in the registration are eligible core or supporting R&D activities, or indicate compliance with the requirements of the R&D Tax Incentive program.

It is the responsibility of the R&D entity to [self-assess](#) the eligibility of activities it intends to register for the R&D Tax Incentive, unless it has previously received a positive advance or overseas finding specifically for those activities. We may examine the eligibility of some or all of the registered activities, for which an advance or overseas finding has not been specifically issued.

### Expenditure

The Australian Taxation Office (ATO) has rules about how expenditure related to R&D activities is treated. Queries about expenditure should be directed to the [ATO](#).

You must ensure that expenditure provided in your application is eligible under the R&D Tax Incentive.

You may need to lodge your application for overseas findings before you know the exact expenditure on your Australian and overseas activities. Expenditure provided in the AOF form should be the total actual and reasonably anticipated expenditure on the relevant R&D activities.

R&D activities that are not conducted wholly in Australia have their entire expenditure treated as overseas expenditure.

### Types of finding

An advance finding is a decision about the eligibility of R&D activities before registration of those activities takes place. A positive advance finding gives companies certainty about registering their activities and claiming the R&D Tax Incentive. You

may seek an advance finding for any unregistered activity to be undertaken in the current income year, or in the following two income years.

An overseas finding is a decision on whether activities performed outside Australia are eligible under the R&D Tax Incentive. Unlike advance findings, an overseas finding is a pre-condition for a company wanting to claim the R&D Tax Incentive for their overseas activities.

You may seek overseas findings for each overseas activity to be undertaken in the current income year, or in the following two income years.

### **The finding process**

DISR will assess whether the information provided about the activities demonstrates that they will satisfy the eligibility requirements of the R&D Tax Incentive legislation.

Background research may be conducted to verify the information provided, and DISR may contact you to seek clarification or further information about the activities.

Documents that can support eligibility include those showing:

- self-assessment of R&D activities as eligible, and
- records of how experiments were planned, conducted and analysed.

DISR uses the information provided when assessing eligibility. There are four possible decisions:

- findings that the activities are eligible
- findings that the activities are ineligible
- findings that the activities are partially eligible
- a refusal to make a finding.

In all instances, except refusal to make a finding, a finding certificate is provided to the applicant and copied to the ATO.

### **Where do I find more information?**

Detailed information on advance and overseas findings, eligibility of R&D activities and associated R&D expenditure can be found on the [business.gov.au/rdti](https://business.gov.au/rdti) and [ATO](https://ato.gov.au) web sites.

The sections of the web site listed under the dot points below are essential reading and can be found on the [business.gov.au/rdti](https://business.gov.au/rdti) web site:

- understanding the R&D Tax Incentive
- self-assess your eligibility
- submit an application
- integrity and compliance.

### **Overseas activities**

The following information is only applicable if you answer 'Yes' to the question "Are you seeking an advance finding for overseas activities?" under 'Application type'.

Overseas activities can be either [core R&D activities](#) or [supporting R&D activities](#).

Overseas activities must also meet the eligibility conditions specified under [section 28D](#) of the IR&D Act, summarised below:

- a) the overseas activity must be an [R&D activity](#)
- b) the overseas activity must be conducted in order to complete at least one Australian core R&D activity, i.e., a core R&D activity which is undertaken 'solely' in Australia
- c) the overseas activity cannot be conducted 'solely' in Australia because:
  - i it requires access to a facility, expertise or equipment not available in Australia
  - ii its conduct in Australia would contravene a law relating to quarantine
  - iii it requires access to a population (of living things) not available in Australia
  - iv it requires access to a geographical or geological feature not available in Australia
- d) the total expenditure (by any entity in any income year) on the relevant overseas activities is less than the total expenditure on the related Australian core activity and its supporting R&D activities conducted wholly in Australia.

The conditions listed above are not met simply because it is less expensive to conduct the activity overseas, or because the overseas expertise, facilities, equipment, population or geographical or geological features are better than the Australian equivalent.

Determining whether an activity is an Australian or overseas activity is based purely on the location in which the activity takes place. This will normally be the location of the personnel undertaking the activity at the time it is performed - regardless of where they are usually employed or where invoices are generated, received and paid.

An eligible R&D activity may be undertaken solely in Australia, solely overseas or partly in Australia and partly overseas. Activities that combine Australian and overseas activities, are not activities undertaken 'solely in Australia'.

An overseas activity must be related (that is, have a significant scientific link) to at least one core R&D activity undertaken solely in Australia which cannot be completed without conducting the overseas activity.

An overseas activity undertaken after its intrinsically linked Australian core R&D activity has finished will not be eligible because the Australian core activity was (or can be) completed without the overseas activity being conducted.

An overseas activity does not complete an Australian core activity simply by being the next activity in a multi-stage core R&D activity or ongoing series of activities, or by advancing an earlier project to the next stage.

It is important to note that:

- a) all parts of the Australian core activity and all other Australian activities are undertaken only in Australia
- b) the Australian core activity is a discrete activity and not a project
- c) the overseas activity is needed to complete every activity claimed as a related Australian core activity

- d) the overseas activity is undertaken before the related Australian activity is completed.

### **Expenditure conditions for overseas activities**

Eligibility conditions for expenditure on overseas activities are specified in [section 28D \(5\)](#) of the IR&D Act.

The total actual and reasonably anticipated expenditure for all overseas activities (by any entity in any income year) must be less than the total actual and reasonably anticipated expenditure for the related Australian R&D activities.

If expenditure on the overseas activities is anticipated to be more than the related Australian activities, then none of the overseas activities will be eligible. This cannot be remedied by claiming only a proportion of the overseas expenditure or by including Australian expenditure for the project not incurred on eligible R&D activities.

The amounts used to compare the overseas and Australian expenditures are:

- a) overseas expenditure – expenditure on all activities undertaken solely overseas, plus all the expenditure, both Australian and overseas, for activities that are not undertaken ‘solely in Australia’
- b) Australian expenditure – only expenditure on relevant activities undertaken ‘solely in Australia’.

All overseas activities and their related Australian core and supporting R&D activities, whether undertaken currently or in the past, and all reasonably anticipated future R&D activities for the project must be included in expenditure comparison calculations. This applies regardless of whether the activities are being undertaken, were being undertaken or are planned to be undertaken by another entity.

## Application and applicant details

### Portal login

Before you can access the portal, you need to ensure you have a personal Digital Identity and, if you are the principal authority for a business, have linked your Digital Identity to your business by claiming it in the ATO's [Relationship Authorisation Manager](#) (RAM) system.

If you would like others to be able to access your registration form and act on your behalf, you will also need to authorise them in RAM.

If you would like to authorise a business (for example, your tax agent) to access your registration form and act on your behalf, you can do this after you log in to the portal.

For more assistance on using the R&D Tax Incentive customer portal, please see our [help and support page](#).

### Income period

Advance findings and overseas findings have effect from the income year in which your application is lodged with us.

We need to know if you currently have:

- a standard income year (1 July to 30 June)
- a substituted income period approved by the ATO, or
- a transitional period while adopting a substituted income period.

Make sure you lodge your AOF application before the end of the financial year that you start your R&D activities for which you would like a finding.

Advance findings are only valid for the income year the application is lodged and the following two income years.

Findings for overseas activities are valid until the activity covered by the finding is completed.

### Eligibility declaration

Only an [eligible R&D entity](#) can apply for an advance finding or overseas finding. You should only complete an application for advance findings or overseas findings when you have assessed you are an eligible R&D entity.

**Note:** If you are part of a [consolidated group](#) or [multiple entry consolidated \(MEC\) group](#), only the head company of the group may apply for an advance or overseas finding.

The following entities may lodge an application for an advance finding on an R&D entity's behalf:

- a [registered tax agent or an R&D consultant registered with the Tax Practitioners Board](#) and authorised to act on the R&D entity's behalf in this matter
- a [Research Service Provider](#) or a [Cooperative Research Centre](#).



If this application is completed by someone who is not an officer for the R&D entity, then the 'applicant' (e.g., a tax agent) will be different from the 'R&D entity' (e.g., the tax agent's client). The application will ask for details of both the applicant and the R&D entity.

You should only include activities in your application that you can assess to be either a core R&D activity or a supporting R&D activity. The [Guide to Interpretation](#) is our primary guide to explain key terms of the R&D Tax Incentive and how we apply the legislation. It is strongly advised that you read the Guide to Interpretation when assessing which activities to include in your application.

You will also need to be able to support why you consider your activities would be eligible if we ask for further information about your application.

## Section 1: Application type

The AOF form can be used to apply for findings about eligibility of activities before those activities can be registered. Two types of findings may be sought:

- an advance finding on whether activities are eligible R&D activities, as legislatively defined in the ITAA 1997
- an overseas finding on whether an activity conducted outside Australia meets the conditions of the legislation in the IR&D Act to be an eligible overseas activity.

### What is an advance finding?

An advance finding is a finding by the Board, under [section 28A](#) of the IR&D Act, about whether an activity meets the requirements in the ITAA 1997 to be either a core R&D activity (as defined in [section 355-25](#)) or a supporting R&D activity (as defined in [section 355-30](#)). An advance finding is intended to provide companies with certainty that activities planned to be registered are eligible under the R&D Tax Incentive program.

An advance finding can be sought in relation to:

- activities conducted in the current income year, whether completed or commenced in that year; and
- proposed activities to be conducted in the subsequent two income years.

### What is an overseas finding?

An overseas finding is a finding by the Board under [section 28C](#) of the IR&D Act about whether certain activities conducted outside Australia, as part of an Australian R&D project, are eligible.

Claiming expenditure on an overseas activity requires two things:

- a finding that the activity is eligible, and
- that the activity is registered.

An overseas finding requires an advance finding, as described above. This is because one of the conditions, listed under [section 28D](#) of the IR&D Act, is that an overseas activity must be either a core R&D activity or a supporting R&D activity.

The remaining eligibility conditions are that:

- one or more specified, eligible core R&D activities undertaken solely in Australia cannot be completed without the overseas activity
- the overseas activity cannot be undertaken solely in Australia for one of the four reasons specified under section 28D(4) of the IR&D Act, and
- expenditure on the overseas activity and certain other overseas activities must be less than the expenditure on specified, eligible Australian core R&D activities and their related Australian supporting R&D activities calculated as specified under section 28D(5) of the IR&D Act.

## Section 2: ASIC registration type

Generally only companies registered with the Australian Securities and Investments Commission can be eligible R&D entities for the R&D Tax Incentive.

You are an eligible R&D entity if you are a company that is:

- incorporated under an Australian law, or
- incorporated under foreign law but an Australian resident for income purposes; or
- incorporated under foreign law, and
  - a resident of a country with which Australia has a [double tax agreement](#), including a definition of '[permanent establishment](#)', and
  - carrying on business in Australia through a permanent establishment as defined in the double tax agreement.

You are not eligible to apply for a finding or the R&D Tax Incentive more broadly if you:

- are a corporate limited partnership, or
- are an exempt entity (because your entire income is exempt from income tax).

Trusts are generally not eligible entities. The exception is a body corporate in the capacity of trustee for a public trading trust. You should contact the ATO if you are unsure about whether you are an R&D entity.

## Section 3: Company details

You need to provide details about the company or companies applying for the advance or overseas finding. This includes details about:

- subsidiary companies
- control by tax exempt entities
- any ultimate holding companies.

We also request information to support delivery of the R&D Tax Incentive, including:



- whether the company is indigenous owned or controlled
- the Australian and New Zealand Standard Industrial Classification (ANZSIC) division and class that best describes the main business activity of the company.

### **Exempt entity**

An exempt entity cannot be an R&D entity. Only R&D entities should complete this application form.

### **Companies registered under a foreign law**

If the company applying for advance or overseas findings is registered under foreign law, you will need to show it is:

- a resident of a country with which Australia has a [double tax agreement](#), including a definition of 'permanent establishment', and
- carrying on business in Australia through a permanent establishment as defined in the double tax agreement.

### **R&D personnel**

Details for your R&D personnel will help demonstrate the capability of the R&D entity to undertake the project. Typically, this list should only include leading and key project personnel, such as the Project Manager, Research Director, Principal Investigators, Lead Technicians and External Experts.

### **Consolidated or multiple entry consolidated groups**

The head company of a consolidated or [Multiple Entry Consolidated](#) (MEC) group must apply for findings on behalf of the entire group. Subsidiary members of a consolidated or MEC company group cannot apply for findings. Any findings made on an application by a subsidiary will have no effect while the company is a subsidiary member of the group. Refer to sections [31](#), [31A](#) and [31B](#) of the IR&D Act.

## **Section 4: Contact details**

The person(s) completing this form must be authorised to represent, act on behalf of and bind the company. At least one contact from the R&D entity must be provided.

Each contact will need to tell us what role they have in the R&D entity or in the entity representing the R&D entity for this application.

### **About the contact**

The contact is not always an officer of the R&D entity or the same as the primary company contact.

The contact who completes the form may also be:

- a registered tax agent or R&D consultant registered with the Tax Practitioners Board acting with the R&D entity's consent
- an officer of a [Research Service Provider](#) (RSP) or
- an officer of a [Cooperative Research Centre](#) (CRC) or an entity that makes up a CRC.

## Primary company contact

The primary company contact is the officer of the company authorised (as described above) to provide any further information, and to receive correspondence, in relation to this application on behalf of the R&D entity.

## Tax agent or R&D consultant contact

You should provide details for tax agents or R&D consultants that have provided advice.

## Section 5: Employees

This information is required for the R&D entity. If the actual value is unavailable, please provide an estimate.

**Total number of employees** is the total number of employees on the R&D entity's payroll at the most recent pay period including working directors, partners, proprietors, full time, part time, and casual staff.

**The number of employees engaged in R&D** (person years) is the full time equivalent (FTE) number of staff (including working directors, partners, proprietors, full time, part time, and casual staff) that you expect to be working for the R&D entity on R&D in the period covered by this application.

For employees that do not work full time, calculate their fraction of a full-time load and incorporate them into your calculation on a pro-rata basis. For example, a part-time employee that works half the hours of a full-time employee, their fraction would be entered into the calculation as 0.5 for each year covered by the application. If the application covers three years, then this person would be entered as 1.5.

## Section 6: Finance

Your most recent financial information helps us understand more about the R&D entity.

## Section 7: Project and activities

This section is arranged under three sub-sections: 'Project', 'Core R&D activities' and 'Supporting R&D activities'. The R&D entity's planning documents will assist with completing this section.

### Project

An R&D entity may undertake several projects. A separate application is required for each project as each project's circumstances are relevant when considering the eligibility of activities. Each project should only include activities whose timing, extent, duration and relationship show they belong to the same project.

Telling us about your project provides context and background information about how the activities fit into the R&D entity's normal operations. This will assist us to understand:

- why the project is being undertaken
- what is beyond current knowledge and requires R&D to reach a solution.

The project budget will assist us in understanding the size and scope of the entire project. The R&D expenditure information provided for the current income year and income years 2 and 3, if applicable, will relate to the actual and reasonably anticipated expenditure on activities to be conducted in the project.

The capabilities of the R&D entity, how it identified and considered problems, sought answers, and then determined solutions are important contexts for assessing activities within a project. The duration of the project and where activities are conducted are also relevant to considering whether activities meet the requirements in the legislation.

Keeping adequate records will assist you to complete your application and demonstrate that your R&D activities and expenditure meet the legislative requirements of the program. Records may include a range of documents, for example experimental design plans and project reports.

When you register activities that have positive findings you must be able to declare that you have maintained records, while the activities were conducted, that substantiate conducting those activities.

Details about plants and facilities will assist to demonstrate the R&D entity's capability and capacity to undertake the project. You should explain how the particular plant or facility will be used in the conduct of R&D activities.

**Australian and New Zealand Standard Research Classification (ANZSRC).** Select the category and code from the drop-down lists in the form that best describes the field of research of the majority of R&D activities within the project. A full list of ANZSRC codes can be obtained from the [Australian Bureau of Statistics](#).

## R&D Activities

The information you provide about R&D activities in your application must address the eligibility conditions. If it does not, your finding will be delayed, and/or may either be negative or refused.

Please read all questions listed under the core R&D activities and supporting R&D activities section in the form carefully before commencing your response. The questions are seeking information about different aspects of the legislative criteria that are considered when your activities are assessed. Repeated text in answer to various questions may not adequately support eligibility of your claimed activities.

**The 'Core R&D activities' section** is used for activities that you have assessed as meeting the requirements to be a core R&D activity. The sub-section provides spaces

to describe what is done in the activity and how it meets the legislative requirements to be a core R&D activity.

**The 'Supporting R&D activities' section** is used for activities that you have assessed as meeting the requirements to be a supporting R&D activity. The sub-section provides spaces to describe what is done in the activity and how the activity meets the requirements to be a supporting R&D activity.

Additional questions will appear on the 'Core R&D activities' and 'Supporting R&D activities' sub-sections if an application is for an overseas finding. These questions allow you to explain how the conditions for overseas activities are met and which Australian activities are relevant.

### **Which activities need findings**

You may seek an advance finding for any unregistered activity to be undertaken in the current income year and the following two income years. Applications may include previously registered activities that are not subject to advance findings. These previously registered activities may still be formally assessed, unless covered by earlier findings, when they are relevant to the activities for finding.

Advance findings only bind the Commissioner of Taxation for the income year in which the application is lodged and for up to the following two income years. Activities commencing within this three-year period are only covered until the finding period expires.

If activities extend beyond this period, or are commenced after the period expires, a further advance finding application is required if you want the activities to be covered by a finding. You should, therefore, carefully consider the timelines for activities to be included in the application.

You may seek overseas findings for each overseas activity to be undertaken in the current income year and the following two income years. Overseas findings for activities undertaken as described in a finding certificate are in force from the income year in which the application for finding is made and are valid for the duration of the overseas activity.

You may not be requesting findings on your Australian activities. However, these activities are still formally assessed if the overseas activities have a significant scientific link to these Australian activities (see the information on overseas activities below). Activities for which you are not seeking findings may still be assessed. Post-registration assessments on previously registered activities may also be initiated.

Grouped activities that clearly contain discrete packages of work needing separate findings may be disaggregated during the assessment process and the findings listed separately in a findings certificate.

## Core R&D activities

This sub-section allows you to present the activities that you have [self-assessed](#) as meeting the requirements to be core R&D activities.

[Core R&D activities](#), under the R&D Tax Incentive, are activities that involve experiments. An activity will not qualify as a core R&D activity simply because it is essential to the conduct of a project.

[Certain activities are excluded](#) from being core R&D activities under section 355-25(2) of the ITAA 1997.

It is important to accurately and clearly describe what has been done or is planned to be done, within the core R&D activity. Findings cannot be given for unclear or vaguely described activities. It is also important to identify the entity that conducts the activity (or on whose behalf the activity is conducted) as well as when the activity is conducted. A finding about an activity will only have effect to the extent that the activity is registered and undertaken as described in the application.

It is not possible to change the description for an overseas activity after the end of the income year in which the application is lodged. This means the actual activity undertaken will not be eligible if it differs from the activity described in the finding.

### **Which core R&D activities need to be included in the application?**

You should include Australian and/or overseas activities that require a finding, or that need to be assessed as either core R&D activities or Australian core activities for an overseas finding. Care should be taken to ensure that each Australian core activity is conducted solely in Australia.

Your application should also include any other core R&D activities that are necessary to determine the eligibility of activities for which a finding is being sought. For example, core R&D activities previously registered or yet to be conducted that are needed for making findings about a supporting R&D activity.

For overseas activities, you need to make sure you include in your application:

- the Australian core activities and their supporting R&D activities that are conducted solely in Australia
- any relevant overseas activities that have previously received findings (including updated expenditure)
- any future activities that are known or reasonably anticipated to be next in the progression of the project.

### **Evidence for eligible activities**

You need to show that it is reasonable to expect that any activities yet to be conducted will be conducted in the income year in which you apply, or either of the following two income years. You could identify documentary evidence, for example, project plans, tender or recruitment documents, contracts, purchase or hiring approval documents,

experimental protocols, activity self-assessment records, and relevant emails, correspondence and meeting records.

You should also be able to provide evidence that activities being conducted or that are completed are eligible. This could include documents that you keep to record the details of the experiments, the reasons for undertaking the experiment, the results of the experiments and the conclusions drawn.

A key requirement for core R&D activities is that the outcome cannot be known or determined in advance on the basis of current knowledge, information or experience. You should be able to show for each of your core R&D activities why the outcome of a core R&D activity could not be known or determined in advance by a competent professional in the relevant research field on the basis of current knowledge, or the experience of and information available to persons in the research field.

You could be asked to provide details about the steps you took when you investigated the current knowledge, information and experience related to the unknown outcome when we assess your application.

### **Describing the core R&D activity**

Describe the activity so that an independent reader, who has knowledge of the field but no knowledge of the activities, could understand the essentials of what has been done, or will be done.

Describe the experiments so that a knowledgeable reader could understand how the experiment works, the scientific or technological idea being tested and be able to determine whether the uncertainty in the outcome is more than just not knowing the precise value of a result.

The activity title may be used simply as a unique identifier for the activity, but preferably should provide an indication of what the activity involves.

The activity description should set out the essential parts or steps of the core R&D activity so that it is clear what the hypothesis is testing, how the experiment is being set-up and run, what is being observed, how it is evaluated and what logical conclusions are expected to be drawn.

You could explain how the specific core R&D activity is eligible, by establishing:

- the methods, tests and procedures to be used and how they differ from ordinary business activities
- the nature of the scientific or technical problem and the idea (hypothesis) about why something might solve the problem
- that there is more involved than just collecting data, obtaining a value from a test subject or determining whether something works or not
- that the approach used provides confidence that the outcomes of the experiment—the evaluation and conclusions about the idea being tested—are sound
- why the outcomes of the experiments are not able to be known in advance.



You may be able to use the [clinical trials determination](#) which provides that certain clinical trial activities will be core R&D activities under the R&D Tax Incentive. Determinations are generally binding on the department.

For more information, please read the [clinical trials determination guide](#). This guide includes information about how to respond to questions in the customer portal. It also includes a link to the determination on the Federal Register of Legislation.

Providing information that explains the scope, scale and duration of a core R&D activity undertaken in a production environment can help clarify how it differs from normal production activities that are not eligible.

Eligibility to claim the R&D Tax Incentive is determined on an activity basis rather than on a project basis. It is, therefore, not sufficient to limit the activity description to:

- the outcomes of the project as a whole
- the project and its relationship to the company's commercial strategy and objectives
- the features of the product or service being developed
- the company's or the industry's general approach to product development.

You may decide to group a series of related experiments or similar experimental activities into a single activity. Grouping experiments may help you clearly communicate to an independent reader how the experimental activities fit together and meet all of the elements required for a core R&D activity.

However, care should be taken to not group:

- entire projects as a single activity
- activities which are too diverse
- potential core R&D activities with potential supporting R&D activities
- ineligible activities with eligible activities.

In some circumstances, disaggregating a large experimental activity can simplify the description of the activity and avoid forecasting too far into the future. You should therefore carefully consider the size and duration of core R&D activities and whether a large activity might be better described if separated into a number of discrete, successive activities.

Be careful not to separate core R&D activities too widely, as this may result in disrupting or breaking the systematic progression of work, which is necessary to demonstrate the eligibility of core R&D activities.

For overseas finding applications, do not:

- use identical descriptions for overseas and Australian activities without clearly distinguishing their differences. Note: There are potential issues for an overseas activity that is the same as one conducted in Australia about being able to meet the conditions for an overseas finding.

- group an earlier project, or series of activities, as a single Australian core activity where there is not a significant scientific link from the overseas activity to each of those activities.

## **Expenditure**

Applicants should ensure that the expenditure amounts provided are for the core R&D activities only and do not include ineligible amounts.

The expenditure amount to be provided should be the total actual and reasonably anticipated expenditure on the relevant R&D activities.

You should provide actual amounts for each of the previous income years and actual and/or reasonably anticipated expenditure for the current and any future income years for the activity.

For overseas finding applications, you must provide the total actual and reasonably anticipated expenditure of any entity, on the entire activity, across all income years for all relevant R&D activities.

Expenditure for an Australian core activity should only be included if the activity is undertaken solely in Australia.

Expenditure for overseas activities, including R&D activities undertaken wholly or partly outside Australia, must be reported as an overseas expenditure.

## **Overseas activities**

An activity is an overseas activity based purely on the location where it takes place.

If you are applying for findings to claim the R&D Tax Incentive for core R&D activities conducted overseas you will need to explain why:

- a) the overseas activity must be conducted to complete at least one core R&D activity which is undertaken 'solely' in Australia
- b) the overseas activity cannot be conducted 'solely' in Australia because:
  - i it requires access to a facility, expertise or equipment not available in Australia
  - ii its conduct in Australia would contravene a law relating to quarantine
  - iii it requires access to a population (of living things) not available in Australia
  - iv it requires access to a geographical or geological feature not available in Australia.

## **Supporting R&D activities**

This sub-section allows you to present the activities that you have [self-assessed](#) as meeting the requirements to be supporting R&D activities.

It is important to accurately and clearly describe what has been done or is planned to be done, within an activity that directly supports a core R&D activity. Findings cannot be given for unclear or vaguely described activities. It is also important to identify the entity that conducts the activity (or on whose behalf the activity is conducted) as well as when the activity is conducted. A finding about an activity will only have effect to

the extent that the activity is registered and undertaken as described in the application.

It is not possible to change the description for an overseas activity after the end of the income year in which the application is lodged. This means the actual activity undertaken will not be eligible if it differs from the activity described in the finding.

### **Which supporting R&D activities need to be included in the application?**

Activities that require a finding or, for an overseas finding, need to be assessed as supporting R&D activities to either Australian core activities or overseas core R&D activities, need to be included. Activities conducted or registered prior to the current income year should be included if needed to support eligibility of the activities for which a finding is being sought.

For advance findings, you should include the Australian activities for finding that have not yet been registered..

For overseas findings, you must include all activities undertaken overseas, either wholly or in part. Applications also need to include any other activities that have not been registered, including future activities, which may be relevant to determine the eligibility of an activity for which a finding is being sought.

You cannot claim only some of the overseas activities if it is known or reasonably anticipated that the expenditure on activities conducted wholly or partly outside Australia is more than the expenditure on activities conducted solely in Australia.

In addition to the overseas activities for which findings are being sought, you will need to include:

- any relevant overseas supporting R&D activities which have previously been registered or received findings (with updated expenditures)
- any future Australian and overseas activities, which will directly support core R&D activities, that are known or reasonably anticipated to be next in the progression of the project
- all supporting R&D activities that were, or will be, conducted solely in Australia to directly support the Australian core R&D activity.

### **Duration and timing of supporting R&D activities**

The duration of a supporting R&D activity should reflect the actual extent that the activity was directly related to a core R&D activity. For example, where the activity also supports commercial activities, the duration should be limited to the period in which the core R&D activity was being supported.

The income years in which the activity was or will be conducted should be provided if this is longer than the three-year period, starting with the current income year. You should consider whether a long or multi-year activity or an ongoing series of activities is actually a project rather than a distinct supporting R&D activity. If it is, only those discrete parts of the activity that directly support a core R&D activity should be included in the application.

Also consider whether an ongoing or frequently repeated activity is more closely related to, or undertaken to support, ordinary business operations.

If seeking an overseas finding, you must include all overseas activities related to the project, because of the requirement to include activity expenditure by any entity for all income years.

### **Describing the supporting R&D activity**

An activity should be described so that an independent reader, who has knowledge of the field but no knowledge of the activities, can understand the essentials of what has been done, or will be done.

The activity title may be used simply as a unique identifier for the activity, but preferably should provide an indication of what the activity involves.

The activity description establishes what is being undertaken and must be capable of demonstrating how the activity is directly related to one or more specific core R&D activities.

The activity description should identify both the specific core R&D activities being supported and how it supports those core R&D activities. The scope, scale and duration of the activity should be outlined to show how it provides direct support for the core R&D activity.

Eligibility to claim the R&D Tax Incentive is determined on an activity basis and not on a project basis. It is, therefore, not sufficient to limit the activity description to:

- how the activity is needed to support the project
- relationships to the project objectives
- the company's approach to managing the project.

You should consider the size and duration of the supporting R&D activities and whether a large activity should be disaggregated into discrete, successive activities.

If seeking an overseas finding, do not use identical descriptions for overseas and Australian activities without clearly distinguishing their differences. Note: Expenditure incurred on an activity conducted partly in Australia and partly overseas is treated as being incurred wholly overseas.

### **How the activity directly supports the core R&D activities**

An activity must be directly related to a core R&D activity before it can qualify as a supporting R&D activity. The relationship to a core R&D activity should be described in terms of how the activity supports at least one of the various elements of a core activity, i.e. proceeding from hypothesis, set-up and running an experiment, observation, evaluation and drawing logical conclusions.

An activity may still qualify as a supporting R&D activity even though it is excluded from being a core R&D activity, or it also serves a commercial objective and produces goods and services. In these situations, the dominant purpose of the activity needs to be established. If there is more than one purpose for conducting the activity, all

purposes including their relevance to the technical and commercial objectives of the project need to be described.

The context in which an activity is initiated and undertaken is therefore relevant in determining whether it is directly related and has the dominant purpose of supporting a core R&D activity.

Supporting R&D activities that are undertaken as a part of ordinary business operations, during production or during development of a customised product, should be carefully considered and adequately explained to ensure that:

- it is clear which parts of the activity directly support a core R&D activity, including how support is provided
- the dominant purpose for undertaking the activity is to support the core R&D activity
- the scope, scale and duration of the activity are clearly identified.

Explaining the scope, scale and duration of a supporting R&D activity can help to demonstrate how it was initiated with a specific experiment in mind and was conducted in proportion to the needs of the core R&D activity that it supports.

### **What does the activity produce?**

Please describe what the activity produces to support its core R&D activity, including how the outputs from the activity are directly used in the core R&D activity.

If an activity also serves a commercial purpose, any other major outcomes of the activity that are beyond its support for its core R&D activity should be identified and described in the application. If the supporting R&D activity is undertaken as a part of ordinary business operations, during normal production or during developing a customised product, then the major outputs produced by the activity should be identified and described in the application.

### **Overseas activities**

An activity is an overseas activity based purely on the location where it takes place.

If you are applying for findings to claim the R&D Tax Incentive for supporting R&D activities conducted overseas you will need to explain why:

- a) the overseas activity must be conducted to complete at least one core R&D activity which is undertaken 'solely' in Australia
- b) the overseas activity cannot be conducted 'solely' in Australia because:
  - i it requires access to a facility, expertise or equipment not available in Australia
  - ii its conduct in Australia would contravene a law relating to quarantine
  - iii it requires access to a population (of living things) not available in Australia
  - iv it requires access to a geographical or geological feature not available in Australia.

## Section 8: Supporting documentation

Please ensure you have uploaded any additional documentation or evidence you would like to provide that may further support your finding application.

For assistance with any technical issues experienced while completing this application form or attaching documents, please [contact us](#). Our website and staff can help you.

When you apply for either advance or overseas findings you must be able to provide evidence when requested that:

- the activities are eligible as either core R&D activities or supporting R&D activities
- the activities have been or will be carried out within the current or next two income years
- the state of the art relevant to the activity has been investigated to show that the outcome cannot be known or determined in advance from current knowledge, information or experience
- overseas activities cannot be conducted solely in Australia
- the estimate of the total actual and reasonably anticipated expenditure needed for the overseas expenditure condition is a reasonable estimate.

Maintaining adequate records will assist you to complete your application and demonstrate that your R&D activities and expenditure meet the legislative requirements of the program.

Failure to provide adequate records, if requested, may mean you cannot claim the R&D Tax Incentive, or need to repay the R&D Tax Incentive if it has already been claimed.

More information about records that you must keep is available from [business.gov.au/rdti](https://business.gov.au/rdti).

Identify what documentary evidence is available, for example, project plans, tender or recruitment documents, contracts, purchase or hiring approval documents, experimental protocols, activity self-assessment records, and relevant emails, correspondence and meeting records.

You can describe the type of documents that will be kept to record the details of the project. These records should include details of the experiments to be performed, including the reasons for undertaking the experiment, the results of the experiments and the conclusions drawn.

Documents related to expert opinion and/or studies can be attached under the 'Finalise Application' tab. While this information is best sourced externally, an expert opinion may also be provided by a person from within the R&D entity, provided that they have the necessary qualification, knowledge and experience in the industry.



## Section 9: Declare and submit

The person who makes the declaration at the end of this form is considered the declarant. The declarant must be authorised to represent, act on behalf of and bind the company.

The declarant will need to tell us what role they have in the R&D entity or the details of the entity representing the R&D entity for this application.

### About the declarant

The declarant is not always an officer of the R&D entity or the same as the primary company contact.

The declarant who completes the form may also be:

- a registered tax agent or R&D consultant registered with the Tax Practitioners Board acting with the R&D entity's consent
- an officer of a [Research Service Provider](#) (RSP) or
- an officer of a [Cooperative Research Centre](#) (CRC) or an entity that makes up a CRC.