



R&D Tax Incentive: applying the law

‘Whole of farm’ claim

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For illustrative purposes this summary focuses on a specific aspect of the legislated definition of eligible R&D activities and may not describe the assessment of activities against the full eligibility criteria.

Issue

Can ‘whole-of-farm’ activities be eligible core R&D activities by satisfying the requirements of the legislation that governs the *R&D Tax Incentive* programme?¹

Finding

In general, no. Whole-of-farm activities are not likely to be conducted for the purpose of generating new knowledge.

Key reasons

- Evidence that the company did not expect to generate new knowledge.
- Scale of activity not consistent with purpose of generating new knowledge.
- Evidence that the reason for conducting the activities did not include a significant purpose of generating new knowledge.

For more information on the reasons for the findings see page 2.

Facts

A company that operated a wheat farm faced issues with poor growth and poor quality crops. The company changed its farming techniques to move towards strategies to build carbon and natural soil fertility. The company undertook activities across its entire farm to transform it from a conventional farm using chemicals to a more sustainable farm based on a biological input regime.

¹ Section 355-25 of the *Income Tax Assessment Act 1997*.

Reasons for Finding

The R&D Tax Incentive supports eligible R&D activities that are *conducted for the purpose of generating new knowledge* (including new knowledge in the form of new or improved materials, products, devices, processes or services).

The farming company decided to conduct the activities across the whole farm, and not to conduct trials on a limited area.

1. Evidence that new knowledge not expected to be generated

The company failed to provide evidence that there was a purpose in generating new knowledge about the efficacy of the treatments it applied, as it applied them with confidence to the whole of its productive area with no evidence that indicated technical risk that may affect production. This evidence indicated there weren't properly designed experiments conducted and that it was expected that new knowledge would not be generated.

2. Scale of activity not consistent with purpose of generating new knowledge

The expectation of an agricultural trial carried out for the purpose of generating new knowledge would be that it is limited in size to that which is necessary for that purpose, to investigate the experimental treatment and is carefully controlled. The size of the land used in the trials was excessive in comparison to that which would be reasonably necessary to conduct an experiment to generate new

knowledge. The large size of the land over which the treatments were applied indicated that generating new knowledge was not a significant purpose.

3. Evidence that the reason for conducting the activities did not include a significant purpose of generating new knowledge

The evidence was that the entity's reasons for applying the activities to the entire farm were for efficiency and cost reasons, not because they were scientifically necessary to generate new knowledge.

[JLSP v Innovation Australia \[2016\]](#) (para 52):

“the purpose of generating new knowledge must be more than an insubstantial purpose; it must be substantial enough to enable the activity to be accurately characterised as conducted for that purpose.”

Date of decision: 17 May 2016

Legislative References

Income Tax Assessment Act 1997

subsection 355-25(1)

subsection 355-100(1)

Keywords

core R&D activities

experimental activities

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