



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

16 July 2021

Mr Grant Hehir
Auditor-General of Australia
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Mr Hehir

Administration of the Research and Development Tax Incentive (R&DTI)

We welcome the performance audit into the administration of the Research and Development Tax Incentive (R&DTI) program and refer you to our review into the R&DTI program, released in December 2019¹. Since then, both the Australian Taxation Office (ATO) and AusIndustry have made improvements to the program, however we would like to take this opportunity to highlight some ongoing concerns.

1. Small businesses in certain industries appear to be targeted by AusIndustry.

We understand that AusIndustry choose to conduct compliance activities on registrations they deem 'high-risk'. However, in practice, it appears that AusIndustry are targeting businesses in particular industries (i.e. software development and automotive). Compliance reviews consume small businesses valuable time and resources. Compliance activities may also happen up to four years after initial registration, sometimes occurring after businesses have ceased R&D activities.

This targeting of 'high-risk' industries mean small businesses are deterred from registering for the R&DTI because of the elevated perception of risk of compliance reviews. This deters small businesses from research and development and leads to reduced innovation, stunted business and sector growth, and missed opportunities in domestic employment and income generation.

2. AusIndustry has conducted continuous compliance reviews on small businesses.

We are aware of instances where AusIndustry do not provide a finding from their compliance reviews of R&DTI registrations, however continue to audit the same businesses in subsequent financial years. Providing a finding at the end of a compliance review will provide small businesses with the clarity they need about their R&D registrations and importantly conclude compliance activities of their R&D registrations.

AusIndustry's actions in not issuing a finding has caused unnecessary stress on small businesses by redirecting their resources away from R&D to ongoing compliance activities. The absence of a finding may also affect the company's ability to secure investor finance which negatively impacts business growth. Delays in finalising a review are a clear example of poor administration of the R&DTI program.

3. AusIndustry and the ATO's poor communication often exacerbates compliance activities.

Small businesses describe communication with both the ATO and AusIndustry as 'misleading' and 'confusing' and in rare cases 'threatening'. While perceptions of 'threat' in correspondence from the agencies may be a misinterpretation on behalf of the businesses, it is important that agencies are cognizant of the significant power imbalance between regulators and small businesses, and tailor their communications to ensure accuracy and proportionality. Communication needs to be in plain language, with clear intent and nuanced to small business owners. Certainty is critical to time poor

¹ 'Review of the R&D Tax Incentive', Australian Small Business and Family Enterprise Ombudsman, December 2019

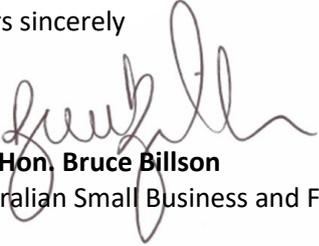
small business owners who need to be able to clearly identify what is required of the business; who the contact officer is; and avenues to progress the matter.

4. **Long delays in issuing advanced and overseas findings from AusIndustry.**

We understand that in some cases small businesses are waiting over 12 months to receive an advanced or overseas finding. Small businesses are told that delays are due to a backlog of finding applications that are yet to be assessed. Findings provide small businesses with the certainty they need to ensure that their R&DTI registration is compliant and prevent adverse compliance activities. Whilst we appreciate the significance of issuing a finding, more should be done to expedite these.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Paul Buckingham on 02 6243 7821 or by email to Paul.Buckingham@asbfeo.gov.au.

Yours sincerely



The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman