Research and Development Tax Credit

Businesses undertaking research and development (R&D) activities may be eligible to receive a tax credit for their R&D expenditure.

Why an R&D tax credit scheme?

The Government has committed to raising New Zealand's R&D expenditure to 2% of GDP over 10 years. To encourage businesses to increase their R&D expenditure, the Government has introduced an R&D incentive in the form of a tax credit for R&D expenditure. The Government intends the R&D tax credit scheme to allow a broader range of businesses to access R&D incentives and offer businesses greater certainty by removing the need to apply for funding for their R&D.

The R&D tax credit scheme has supported over $1 billion in research and development activity in New Zealand since the scheme's implementation in June 2019.

What is R&D under the R&D tax credit scheme?

For the purposes of the scheme, R&D is an activity that uses a systematic approach to acquire new knowledge, or create new or improved processes, services, or goods. The activity must seek to resolve scientific or technological uncertainty.

If the information required to resolve that uncertainty is publicly available or a competent professional in the relevant field could resolve it, the activity is not R&D for the purposes of the scheme.

What are the key features of the R&D tax credit scheme?

The tax credit is set at 15% of the total eligible R&D expenditure of the business for the tax year.

To qualify for the tax credit, a business must spend a minimum of $50,000 on eligible R&D expenditure during the tax year. A business that contracts its R&D to an approved research provider will be eligible for the tax credit, even if its expenditure on R&D does not meet this threshold. The amount of eligible R&D expenditure is capped at $120 million per year. However, a business that can demonstrate its R&D activity provides a substantial net benefit for New Zealand may apply for a higher threshold.

Who is eligible for an R&D tax credit?

All businesses, regardless of their legal structure, are eligible to claim the R&D tax credit.

This includes industry research cooperatives (including levy bodies), state-owned enterprises, and mixed ownership model companies. However, Crown Research Institutes, District Health Boards, and tertiary education organisations, along with their majority owned subsidiaries, are ineligible.

What qualifies as “eligible R&D expenditure”?

Eligible R&D expenditure includes (but is not limited to):

- Salaries and wages of employees undertaking the R&D activity
- Depreciation of assets used in R&D
- Cost of consumables used in the R&D activity and overheads relating to R&D

The accounting treatment of expenditure does not determine its eligibility for inclusion in the tax credit calculation. However, R&D expenditure that is capitalised to a tangible depreciable asset for accounting purposes will be ineligible. Restrictions apply to the amount of foreign R&D expenditure that is eligible for the tax credit.

When the expenditure has a dual purpose (for example, an R&D activity occurring within commercial production) the expenditure is required to be apportioned between eligible and ineligible expenditure.

What happens if the business has a tax loss for the year?

Eligible businesses can receive a refund of their R&D tax credits provided that they have no other outstanding tax to pay. The total amount of R&D tax credits that can be refunded is limited to a cap based on the amount of labour-related taxes (PAYE, FBT and ESCT).

R&D tax credits that are not refunded are carried forward to the next tax year, subject to any changes in shareholding that may breach loss continuity requirements and the application of new same business test rules.

Further, the R&D tax loss cash out (introduced in 2015) remains in place. Eligible businesses can take advantage of both schemes, meaning they can claim an R&D tax credit and cash out their R&D tax losses. However, businesses seeking to take advantage of both schemes need to be aware of the different eligibility criteria and definition of R&D.

What is the Research and Development In-Year Payment scheme?

The Government introduced an in-year payments scheme from April 2023 so that businesses performing eligible R&D can access more frequent and faster payments of the R&D tax credit.

The scheme is suited towards businesses operating at a loss or those with R&D tax credits exceeding their tax liabilities.

The R&D in-year payments scheme offers interest-free loans to eligible businesses for their R&D expenditure throughout the income year. Businesses can receive up to 80% of their R&D tax credit on actual eligible R&D expenditure, with payments requested in three intervals during the year. The loan is repayable after the R&D Supplementary Return is assessed and no interest is charged if the loan is paid back on time.

Who needs to control or own the results of the R&D activity?

In general, the business claiming the R&D tax credit must be able to use the results of the R&D activity for no consideration.

If this is not the case, the business or, if it is a company, a company in the same group of companies that is either resident in New Zealand or in a country with which New Zealand has a double tax treaty, must own the results of the R&D activity. There is no requirement that the business bears the financial risk of the activity.

Who administers the R&D tax credit scheme?

Inland Revenue administers the R&D tax credit scheme with Callaghan Innovation providing support.

What paperwork is needed to claim the R&D tax credit?

A general approval application is required to be **filed by the 7th day of the second month after balance date end.** For a 31 March 2023 balance date, this means that a general approval application is required to be filed by 7 May 2023. This application sets out the R&D activities performed by the business and can be for the current financial year (or can be extended for a three-year period – multi-year general approval). Once approved, an R&D supplementary return is required to be filed with the R&D tax credit claims reflected in the business's income tax return for the corresponding tax year.

For businesses that incur R&D expenses of over $2m, they may want to opt into the significant performer regime which requires a criteria and methodologies approval to be **filed by the six months before the end of the balance date** (so 30 September for businesses with a 31 March balance date).

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Please contact one of our Findex Tax specialists to find out how we can assist you:

Katherine Ong
Associate Partner – Tax Advisory
Katherine.Ong@findex.co.nz
09 968 8554

Ryan Watt
Partner – Tax Advisory
Ryan.Watt@findex.co.nz
09 968 8552

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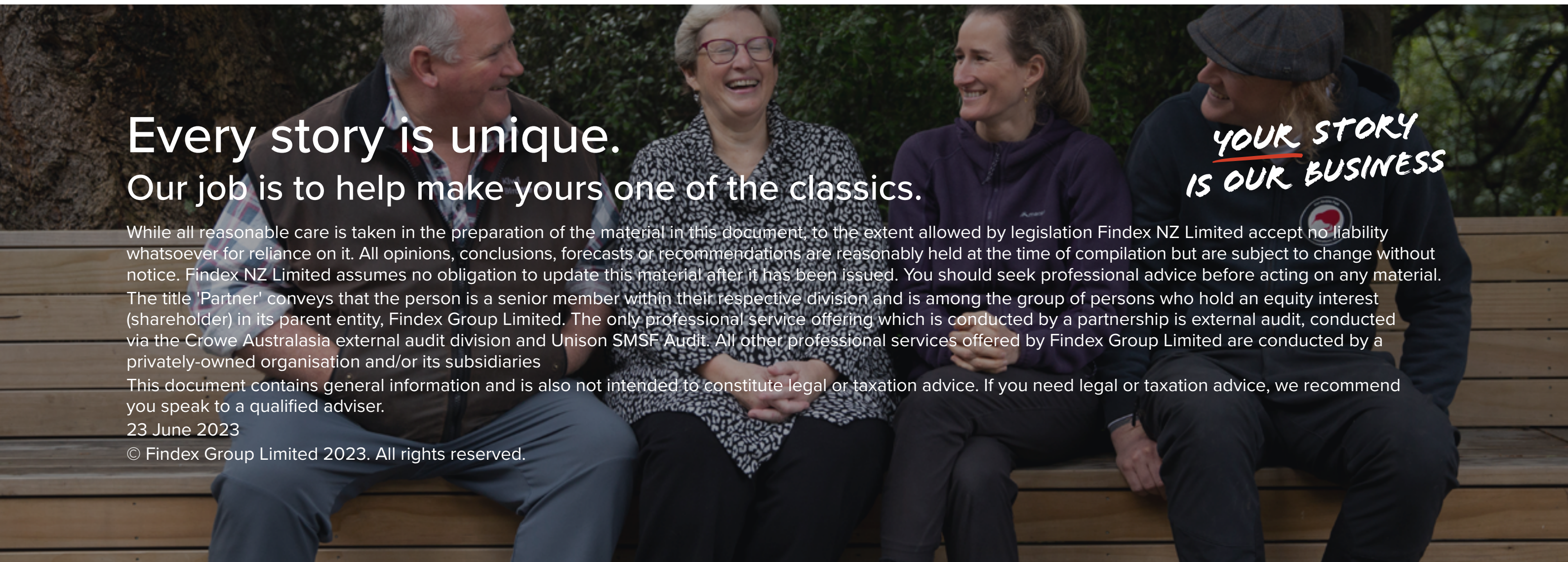

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