

The Treasury

Budget 2014 Information Release

Release Document

July 2014

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

- [1] 6(a) - to prevent prejudice to the security or defence of New Zealand or the international relations of the government
- [2] 6(c) - to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
- [3] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [4] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [5] 9(2)(ba)(i) - to prevent prejudice to the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.
- [6] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [7] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [8] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [9] 9(2)(h) - to maintain legal professional privilege
- [10] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [11] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [12] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage
- [13] Not in scope
- [14] 6(e)(iv) - to damage seriously the economy of New Zealand by disclosing prematurely decisions to change or continue government economic or financial policies relating to the entering into of overseas trade agreements.

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [3] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.



Cabinet Business Committee

CBC Min (14) 1/3

Copy No: 21

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Cashing-out Research and Development Tax Losses

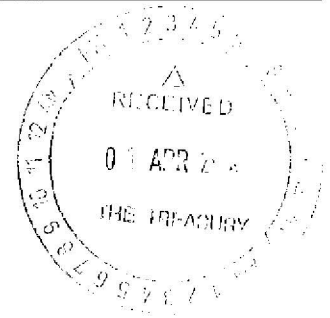
Portfolios: Science and Innovation / Revenue

On 31 March 2014, the Cabinet Business Committee:

Background and policy

- 1 **noted** that in May 2013, Cabinet agreed to release for public consultation the officials' issues paper, *R&D tax losses*, in July 2013 [CAB Min (13) 14/4];
- 2 **noted** that 24 submissions were received and considered, with a result that proposed policy settings were revised to improve the targeting of the policy towards R&D (Research and Development)-intensive start-up companies, and to reduce their compliance costs;
- 3 **agreed** to legislative amendments that will introduce new rules to allow R&D-intensive start-up companies to "cash out" their tax losses arising from qualifying R&D expenditure, with the following features, subject to the corresponding budget bid being approved by Cabinet:
 - 3.1 to be eligible for the policy, applicants should satisfy the following criteria:
 - 3.1.1 company expenditure (and group expenditure) on R&D wages and salaries must be at least 20 per cent of their total wage and salary expenditure;
 - 3.1.2 the company (and group) must be in a tax-loss position for the applicable income year;
 - 3.1.3 the company must be resident in New Zealand for tax purposes and cannot be a look-through company, listed company, qualifying company or special corporate entity;
 - 3.1.4 the company must be able to satisfy the Commissioner of Inland Revenue that it is carrying out eligible R&D;

3.2 [7]



- 3.3 [7]
- 3.4 the following expenditure should not be eligible as R&D expenditure:
- 3.4.1 interest expenses;
 - 3.4.2 the purchase of existing R&D assets;
 - 3.4.3 R&D undertaken offshore;
 - 3.4.4 financial lease payments for R&D equipment;
- 3.5 qualifying taxpayers will be able to cash out, for the relevant year, the lesser of:
- 3.5.1 1.5 times their eligible R&D salary and wage expenditure;
 - 3.5.2 total qualifying R&D expenditure;
 - 3.5.3 total tax losses;
 - 3.5.4 the overall cap on eligible R&D tax losses;
- 3.6 the initial cap is to be set at \$500,000 of losses per annum, which amounts to a cashed-out loss of \$140,000 under the current corporate income tax rate of 28 per cent;
- 3.7 losses should be recovered through requiring taxpayers to return the value of the cashed-out loss and reinstating the losses of the taxpayer if a “loss recovery event” occurs;
- 3.8 the “loss recovery events” are:
- 3.8.1 the company sells intellectual property;
 - 3.8.2 90 per cent of the company’s shares are sold;
 - 3.8.3 the company migrates overseas for tax purposes;
 - 3.8.4 the liquidation of the company;
- 4 **agreed** that the changes in paragraph 3 above be included in the next available omnibus tax bill;
- 5 **agreed** that the changes in paragraph 3 above be effective for income years beginning on or after 1 April 2015;

6 **authorised** the Minister of Finance, the Minister of Science and Innovation and the Minister of Revenue to make any minor or consequential amendments to the rules necessary to ensure their effective implementation, including any changes to the listed companies exclusion resulting from the announcement by the New Zealand Stock Exchange of a new market;

7 [7]

Fiscal and administration costs

8 **noted** that the estimated average fiscal cost of \$15 million per annum from the 2015/16 fiscal year will be included as a reduction in tax revenue:

Vote Revenue Minister of Revenue	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & out-years
Tax Revenue	0.000	(15.000)	(15.000)	(15.000)	(15.000)

9 [7]

10

11

[7]

12 **noted** that funding for the costs in paragraphs 9 and 10 above is being sought as a tagged contingency through the Budget 2014 Package Cabinet paper on 14 April 2014,[7]

[7]

- 13 **noted** that the implementation and operational costs will be refined further for the administrative options presented in the Business Case, which will likely lead to the contingency factor being adjusted and the overall project cost being revised.

Committee Secretary

Reference: CBC (14) 8
