

The Treasury

Budget 2014 Information Release

Release Document

July 2014

www.treasury.govt.nz/publications/informationreleases/budget/2014

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 Economic Growth and Infrastructure Committee

EGI Min (14) 6/3

Copy No: 29

10 APR 2014

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.

Black Hole Tax Treatment of R&D Expenditure

Portfolios: Science and Innovation / Revenue

On 9 April 2014, the Cabinet Economic Growth and Infrastructure Committee:

Background

- 1 **noted** that the current tax rules may distort businesses' research and development (R&D) investment decisions because capitalised R&D expenditure is neither deductible nor depreciable;
- 2 **noted** that initial proposals to address the current distortions were consulted on in late 2013 through the release of a government discussion document, entitled *Black Hole R&D Expenditure* [CBC Min (13) 6/5];

R&D that creates an intangible asset with a reasonably certain useful life

- 3 **agreed** to make copyright in an artistic work that has been applied industrially depreciable (over its legal life) by adding it to schedule 14 of the Income Tax Act 2007 (the Act);
- 4 **agreed** to make registered designs (and applications for registered designs) depreciable (over their legal lives) by adding them to schedule 14 of the Act;
- 5 **agreed** to allow an immediate tax deduction for expenditure incurred for the purpose of applying for the grant of registration of a design if registration is not obtained because the application is not lodged or is withdrawn, or because registration is refused;
- 6 **agreed** to include capitalised development expenditure that relates to an asset that is listed in schedule 14 of the Act as part of the depreciable costs of the asset, for taxpayers who have developed the asset;

R&D that does not create a depreciable intangible asset

- 7 **agreed** to allow a one-off tax deduction for capitalised R&D expenditure upon the intangible asset to which it relates being written off for accounting purposes, for taxpayers who have developed intangible assets that are not depreciable for tax purposes;

Transitional approach

- 8 **agreed** to allow only capitalised expenditure incurred from the date of the release of the government’s discussion document entitled *Black Hole R&D Expenditure* (that is, from 7 November 2013), to be eligible for deductibility under the changes in paragraphs 3, 4, 6, and 7 above;

Integrity measures

- 9 **agreed** that, in the event that an intangible asset that has been written off for accounting purposes becomes useful, any capitalised development expenditure previously allowed as a tax deduction be clawed back as income, with the clawed-back amount able to be depreciated over the estimated useful life of the asset if the asset is depreciable;
- 10 **agreed** that, in the event that an intangible asset that has been written off for accounting purposes is sold, any capitalised development expenditure previously allowed as a tax deduction (or the sale proceeds, if this amount is lower) be clawed back as income;

Application date

- 11 **agreed** that the changes referred to in paragraphs 3 to 10 above take effect from the 2015/16 income year;

Financial implications

- 12 **noted** that the above decisions will have estimated fiscal costs, to be funded through the tax policy scorecard, with a corresponding impact on the operating balance as outlined in the following table:

	\$m increase / (decrease)				
Vote Revenue Minister of Revenue	2013/14	2014/15	2015/16	2016/17	2017/18
Tax Revenue	-	(0.700)	(2.700)	(4.100)	(5.600)

Successful software development

- 13 **agreed** to amend the Act to clarify that capitalised expenditure incurred by a person in the successful development of software for use in their own business is depreciable, with effect from the statutory time-bar;

Legislative vehicle and next steps

- 14 **agreed** that enabling legislation to give effect to the above paragraphs be included in the next available taxation bill after Budget 2014;
- 15 **invited** the Minister of Revenue to issue drafting instructions to Inland Revenue to draft legislation to give effect to the above paragraphs;

- 16 **authorised** the Minister of Revenue to make any minor or consequential amendments to the rules that may be necessary to ensure the effective implementation of the changes referred to in the paragraphs above.

Committee Secretary

Reference: EGI (14) 43
