



## Application: Advance and Overseas Finding

### Application Guidance

#### About this guidance

This guidance provides an overview of how to access and progress through, the online Advance / Overseas Finding application smart form. The guidance is broken down into sections which cover individual parts of the application form.

#### How to use the form

##### Purpose of the form

The form should be used to apply for Advance Findings or Overseas Findings to determine eligibility of activities under the R&D Tax Incentive program. An Advance Finding is intended to provide companies with certainty prior to registration about the eligibility of their activities. An Overseas Finding is a requirement in order for companies to claim an eligible overseas activity. An R&D Entity may seek an Advance Finding for Australian activities and an Overseas Finding for overseas activities in the same application.

##### Accessing the form

The Application form can be accessed from [business.gov.au](https://business.gov.au).

Before commencing the form, applicants will be asked if they:

- are an [eligible R&D Entity](#); and
- [assessed their activities and kept records](#) to demonstrate that the activities are R&D activities, as legally defined.

**The form is not downloadable**, so applicants will not be able to copy the form to a device. However, the saved application will be accessible at any time via a **secure internet link** on a desktop, laptop or portable device.

##### Tracking and saving

When the form is first saved, applicants will receive a **'tracking code'** (e.g. 'YPH332') and a **secure, customised link** to reopen to the application form. The tracking code is visible immediately above the 'Finalise application' tab at the top of the form. The tracking code should be recorded and the secure link saved, as they are required to reopen a saved application form (note time limit below) and as a reference if technical assistance is required. There is also an option to have the tracking code and link emailed to the applicant.

A form that has not yet been submitted can be saved at any time by clicking the **'Save for later'** button located immediately under the 'Finalise application' tab at the top of the form. Unsaved information in a yet to be submitted form can be automatically saved by clicking the **'Continue'** or **'Go back'** buttons at the end of each section (i.e. without closing the form by clicking the 'Save for later' button).

**The form will not be saved** if you close the web page without using the save functions described above. A warning notice will appear on screen if you attempt to leave or close the web page without saving. If this warning is ignored, **you will lose any unsaved information**.

Forms that have not been submitted are **only retained for a maximum of 60 days** (from the last save date) before being deleted. If you do not submit your form within this time frame, it will be deleted and you will need to start a new form. **This means that you could potentially lose a significant amount of information**. It is

strongly recommended that you **have a backup of all information entered in the form**. A good backup may be the documents in which the R&D entity has recorded how it planned and conducted their experiments and self-assessed their activities.

## Navigation

**Do not use your internet browser's 'back' or 'refresh' button** as this will cause the form to close and any unsaved information will be lost. Navigate between sections by using the **'tabs'** at the top of the form or by clicking the **'Continue'** or **'Go back'** buttons at the bottom of each page.

**Please complete all of the mandatory questions under the 'Before you start' tab** to establish your eligibility **before entering any data in the remaining tabs**. You may otherwise spend a significant amount of time and effort, only to find that you are not eligible when you attempt to submit the form.

It should also be noted that certain fields will only be visible depending on selections that have been made in earlier questions. For example: If you have selected 'No' to the question "*Are you seeking an advance finding for Overseas Activities?*", only the questions pertaining to Australian activities will be displayed. If you have inadvertently incorrectly answered a prerequisite question, return to the previous section and correct the error.

## Mandatory questions

If you do not complete all of the mandatory questions (i.e. those marked with a red asterisk) in a section and attempt to continue to the next section, a warning will be displayed. The unanswered questions will be listed immediately under the tab menu at the top of the page. Clicking on any one of the unanswered questions displayed in the list will take you directly to that question in the form.

Forms that have not been submitted may be saved without addressing all of the unanswered questions on the list (refer 'Tracking and saving' on the previous page). When you reopen the saved form and navigate to that particular tab and the unanswered questions list will reappear.

You may toggle between tabs without answering all of the unanswered questions. However, you will be prevented from submitting the form until all mandatory questions and been completed and you have attached any supporting documentation. A list of unanswered questions will appear, as previously described, at that point.

## Attachments

Attachments are added to your form after all questions have been answered and you have progressed to the 'Finalise application' tab.

The following restrictions apply to attachments:

- a maximum of 20 attachments
- file size of each attachment cannot exceed 2Mb
- the total size of all attachments cannot exceed 20Mb
- only the following file types can be uploaded (.pdf, .txt, .doc, .docx, .xls, .xlsx, .rtf, .jpg, .bmp)

## Printing

The **'Print'** button is located immediately under the 'Finalise application' tab at the top of the form. The form can be printed at any time, regardless of the amount of information entered. It should be noted that only activated fields will be printed and so not all fields will appear in the printed version of an incomplete form.

## Getting help

Throughout the application form, various fields will display static text, pop-up information boxes, help icons and warnings as follows:

- Static text is always visible and provides basic information about completing the section

- Pop-up information boxes appear depending on how you have answered a particular question and provide specific information in relation to that question
- Clicking on help icons will display further information and clarification about the question or data requirements of the form fields
- Warnings will generally be displayed if you have overlooked answering mandatory questions or if you attempt to close the form without saving.

### **Need further assistance?**

For assistance with any technical issues experienced while completing the application form or attaching documents, please [Contact Us](#). Our website and staff can help you.

## **Before You Start Tab**

### **Due date for lodgement**

**You must submit an application for an Advance/Overseas Finding before the end of the income year in which the activity was conducted.** There is no provision under the *Industry Research and Development Act 1986* for accepting Advance/Overseas Finding applications received after the statutory deadline. Innovation and Science Australia (the Board) has no discretion for accepting a late application.

### **A Finding is NOT Registration**

**A finding is not the same as, nor is it a substitute for, registration.** In order to claim the R&D Tax Incentive, the R&D Entity must register its R&D activities annually with AusIndustry (within 10 months of the end of the income year in which the activity was conducted). Failure to register R&D activities by the due date will result in the R&D Entity being unable to claim the R&D Tax Incentive for those activities.

### **Registration is NOT a Finding**

Registration of activities does not, by itself, render the activities described in the registration as eligible core or supporting R&D activities, nor is it an indication of compliance with the requirements of the R&D Tax Incentive.

It is the responsibility of the R&D Entity to [self-assess](#) the eligibility of activities it has, or intends to register under the R&D Tax Incentive, unless it has previously received an Advance/Overseas Finding Certificate specifically for those activities. AusIndustry may examine the eligibility of some or all of the registered activities, for which an Advance/Overseas Finding Certificate has not been specifically issued.

Registered activities without an Advance/Overseas Finding Certificate that are included in this application, for which findings are not being sought, will still be examined as a matter of course. Separate findings, outside the findings sought in this application, on those activities may be initiated, if necessary.

### **Types of Finding**

This form should be used to apply for Findings about activities prior to registering those activities which are found to be eligible. Two types of Findings may be sought:

- an Advance Finding on whether activities are *R&D activities*, as legally defined;
- an Overseas Finding on whether an overseas R&D activity meets the conditions to be eligible.

An R&D Entity may seek an Advance Finding for Australian activities and an Overseas Finding for activities conducted outside Australia in the same application.

## What is an Advance Finding?

An Advance Finding is a finding by the Board, under [section 28A](#) of the *Industry Research and Development Act 1986* (IR&D Act), about whether an activity meets the requirements in the *Income Tax Assessment Act 1997* to be either a *core R&D activity* (as defined in [section 355-25](#)) or a *supporting R&D activity* (as defined in [section 355-30](#)). An Advance Finding is intended to provide companies with certainty that planned activities are eligible under the R&D Tax Incentive programme.

An Advance Finding can be sought in relation to:

- activities conducted in the current income year, whether completed or commenced in that year; and
- proposed activities to be conducted in the subsequent two income years.

## What is an Overseas Finding?

An Overseas Finding is a finding by the Board under [section 28C](#) of the IR&D Act about whether certain activities conducted outside Australia, as part of an Australian R&D project, are eligible.

Claiming expenditure on an overseas activity requires two things:

- a finding that the **activity is eligible**; and
- that the **activity is registered**.

An Overseas Finding is also an Advance Finding, as described above. This is because one of the conditions, listed under [section 28D](#) of the IR&D Act, is that an overseas activity must be either a *core R&D activity* or a *supporting R&D activity*.

The remaining eligibility conditions are that:

- one or more specified, eligible *core R&D activities* undertaken solely in Australia or the External Territories cannot be completed without the overseas activity;
- the overseas activity cannot be undertaken solely in Australia or the External Territories for one of the four reasons specified under section 28D (4) of the IR&D Act; and
- expenditure on the overseas activity must be less than the expenditure on specified, eligible Australian *core R&D activities* and their related Australian *supporting R&D activities*.

## Who is eligible to apply for an Advance Finding or an Overseas Finding?

Only an [eligible R&D Entity](#) can apply for an Advance Finding or Overseas Finding. You are an eligible R&D Entity if you are a company that is:

- incorporated under an Australian law; or
- incorporated under foreign law but an Australian resident for income purposes; or
  - incorporated under foreign law; and
  - a resident of a country with which Australia has a [double tax agreement](#), including a definition of ['permanent establishment'](#); and
  - carrying on business in Australia through a permanent establishment as defined in the double tax agreement.

You are not eligible to apply for a finding or the R&D Tax Incentive more broadly if you:

- are a corporate limited partnership; or
- are an exempt Entity (because your entire income is exempt from income tax).

Trusts are generally not eligible entities. The exception is a body corporate in the capacity of trustee for a public trading trust. You should contact the Australian Taxation Office (ATO), if you are unsure about whether you are an R&D Entity.

**Note:** If you are part of a [consolidated group](#) or [multiple entry consolidated \(MEC\) group](#), only the head company of the group may apply for an Advance or Overseas Finding.

The following entities may also apply for an Advance Finding on an R&D Entity's behalf:

- a [registered tax agent](#) that has written authorisation to act on the R&D Entity's behalf in this matter;
- a Research Service Provider or a Cooperative Research Centre.

If this form is completed by someone who is not an officer for the R&D Entity, then the 'applicant' (e.g. a tax agent) will be different from the 'R&D Entity' (e.g. the tax agent's client). The form will ask for details of both the applicant and the R&D Entity.

### **Which activities need Findings?**

Applicants may seek advance findings for any unregistered activity to be undertaken in the current income year and the following two income years.

Applicants may seek overseas findings for each overseas activity to be undertaken in the current income year and the following two income years.

Findings may still be made on activities for which applicants are not seeking findings, and post-registration examinations may also be initiated.

### **The Finding process**

An AusIndustry assessor will assess whether the information provided about the activities demonstrates that they will satisfy the eligibility requirements in the R&D Tax Incentive legislation. Background research may be conducted to verify information provided by the applicant, and the assessor may contact the applicant to seek clarification or further information about the activities. Documents where the R&D entity has self-assessed their activities and recorded how experiments were planned, conducted and analysed can support eligibility.

The assessor uses the information provided to make recommendations to a decision maker, i.e. either the Board or a delegated decision maker. There are four possible decisions on the activities: findings that the activities are eligible, ineligible, or partially eligible, or the decision maker may refuse to make a finding. In all instances, except refusal to make a finding, a finding certificate is provided to the applicant and copied to the ATO.

### **Where do I find more information?**

Detailed information on Advance and Overseas Findings, eligibility of R&D activities and associated R&D expenditure can be found on the [Business.gov.au](#) and [Australian Taxation Office](#) web sites.

The sections of the web site listed under the dot points below are **essential reading** and can be found on the [Business.gov.au](#) web site by searching for R&D Tax to get to the following webpage:

<https://www.business.gov.au/assistance/research-and-development-tax-incentive>

- How it works
- Eligibility
- Record keeping
- How to apply

## Project Overview Tab

### About the Project Overview

The project overview provides context for the project and background information regarding how the activities fit into the R&D entity's normal operations. This will assist in understanding why the project is being undertaken and what is beyond current understanding that needs formal experimentation to reach a solution to continue the project. The capabilities of the R&D Entity, how it identified and considered problems, sought answers and then determined solutions are important contexts for assessing activities within a project. The duration of the project is also relevant to considering whether activities meet the requirements in the legislation.

An R&D Entity may undertake several projects and **a separate application is required for each project** as each project's circumstances are relevant when considering the eligibility of activities. Each project should only include activities whose timing, extent, duration and relationship show they belong to the same project.

This section is arranged under three sub-tabs, Company/project overview, Project activity overview and Project expenditure. The R&D Entity's planning documents will assist in completing this section.

## **Company/project overview sub-tab**

### **Text boxes**

Text boxes in this sub-tab are limited to 2500 characters including spaces. This equates to 375 words, or about half a page. Answers should therefore be clear and concise to maximise use of the available space. Additional information may be attached under the 'Finalise Application' tab.

### **Company overview**

Provide a brief overview of the R&D Entity (company), group company structure (if any), history, principal business and industry sector. Group company structure charts and/or company organisation charts can be attached under the 'Finalise Application' tab.

### **ANZSIC divisions and classes and ANZSRC categories and codes**

Australian and New Zealand Standard Industrial Classification. Select the division code and class from the drop-down lists in the form that best describes the R&D Entity's principal business activity. A full list of ANZSIC codes can be obtained from the [Australian Bureau of Statistics](#).

Australian and New Zealand Standard Research Classification. Select the category and code from the drop-down lists in the form that best describes the field of research of the majority of R&D activities within the project. A full list of ANZSRC codes can be obtained from the [Australian Bureau of Statistics](#).

### **Project start and completion**

The actual duration of the full project should be provided, as a project may start before discovering any need to experiment and be completed after any eligible activities have concluded.

### **Project overview**

The overview should cover the project's objectives, the challenges that need to be overcome, the R&D Entity's resources used in the project, how the project is undertaken in the R&D Entity's normal business operations, and whether any goods or services are expected to be produced during the project. The description should include enough detail for AusIndustry to understand the circumstances in which the project is conducted.

### **Project purposes and additional resources needed**

Describe briefly the technical and commercial reasons for undertaking the project, the outcomes (such as knowledge; methods/protocols, goods, services, contracts/reports, plans/designs, or regulatory approvals) and the resources needed for the project which the R&D Entity cannot provide itself. The description should include enough detail for AusIndustry to identify the purposes for conducting the project.

### **Areas of uncertainty in the project requiring experimentation**

Provide an outline of the scientific or technical challenges that need experimentation to overcome the problems in the project. Describe briefly any investigations to find existing solutions and how it was decided that experimentation was the only way to find an answer. The description should include enough detail so that AusIndustry can understand the areas of uncertainty in the project.

### **Expert opinion**

Briefly describe, including references to relevant industry publications, why the outcome of an experimental activity could not be known or determined in advance by a competent professional in the relevant research field on the basis of current knowledge, or the experience of and information available to, persons in the research field.

Documents related to expert opinion and/or studies can be attached under the 'Finalise Application' tab. While this information is best sourced externally, an expert opinion may be provided by a person from within the R&D Entity, provided that they have the necessary qualifications, knowledge and experience in the industry.

**Evidence of intent to conduct and register eligible activities**

Briefly describe preparations for conducting the activities, whether the activities were [self-assessed](#) for registration and any previous registrations or findings. Identify what evidence is available for example, project plans, tender or recruitment documents, contracts, purchase or hiring approval documents, experimental protocols, activity self-assessment records, and relevant emails, correspondence and meeting records.

**Description of documentation that will be kept in relation to the project**

Please describe the type of documents that will be kept to record the details of the project. These records should include details of the experiments to be performed, including the reasons for undertaking the experiment, the results of the experiments and the conclusions drawn.

## **Project activity overview sub-tab**

### **Company(ies) performing the activities**

Selecting who will be performing the activities will open other relevant fields later in the form. Select the appropriate option covering “Others”, if subsidiaries of the R&D Entity or other companies within the consolidated group undertake activities on behalf of the R&D entity.

### **Personnel**

Personnel details will assist to demonstrate the capability of the R&D Entity to undertake the project. Typically, this list should only include leading and key project personnel, such as the Project Manager, Research Director, Principle Investigators, Lead Technicians and External Experts. **The form is limited to 10 key personnel.** If space is insufficient, details of additional personnel can be attached under the ‘Finalise Application’ tab later in the form.

### **Project Expenditure sub-tab**

The total project expenditure will assist AusIndustry in understanding the size and scope of the entire project. The R&D expenditure information provided for the current income year and income years 2 and 3, if applicable, will relate to the actual and reasonably anticipated expenditure on activities to be conducted in the project. Note that the income years covered by this application will auto-fill in the boxes on the left hand side of the R&D expenditure fields.

Further guidance for the program can be found here:

<https://www.business.gov.au/assistance/research-and-development-tax-incentive>

## R&D Activities Tab

The information you provide about R&D activities listed under this tab must address the eligibility conditions. If it does not, your finding will be delayed, and may either be negative or may be refused.

Please read all questions listed under the R&D Activities tab in the form carefully before commencing your response. The questions are seeking information about different aspects of the legislative criteria that are considered when your activities are assessed. Repeated text in answer to various questions may not adequately support your claims against the legislative criteria.

### R&D Governance – Record keeping

Keeping adequate records will assist you in completing your application and demonstrate that your R&D activities and expenditure meet the legislative requirements of the program. **Activities without evidence to substantiate eligibility are not eligible.** Records may include a range of documents, for example experimental design plans and project reports.

Failure to produce adequate records, if requested, will result in the R&D Entity not being able to claim the R&D Tax Incentive, or repaying the R&D Tax Incentive if it has already been claimed.

Further information about records that an R&D Entity must keep is available from [Business.gov.au](http://Business.gov.au) and can be found here [Record Keeping](#)

### Expenditure

**The Australian Taxation Office has rules about how expenditure related to R&D activities is treated. Applicants must ensure that expenditure provided in the application form is eligible under the R&D Tax Incentive and does not include ineligible amounts.**

**Queries about Eligible, and [Ineligible Expenditure](#) should be directed to the [Australian Taxation Office](#).**

Applications for Advance and Overseas Findings are lodged in advance of conducting or completing the Australian and overseas activities and expenditure is not likely to be exactly known. Expenditure reported should be the total actual and reasonably anticipated expenditure on the relevant R&D activities.

The requirement for applicants seeking an Overseas Finding is broader. The relevant expenditure amounts are the total actual and reasonably anticipated expenditure **of any entity, on the entire activity, in all income years**, of the relevant R&D activities.

R&D activities that have been aggregated or grouped with activities undertaken overseas will have the entire aggregated expenditure treated as overseas expenditure.

Expenditure on project activities that do not qualify as R&D activities should not be included.

### Structure of the R&D activities tab

The R&D Activities tab has two sub-tabs, Experimental Activit(ies) and Supporting Activities.

An experimental activity may contain a number of interrelated experiments, or conversely, a single experiment may be related to a number of experimental activities. The form allows *supporting R&D activities*, described under the Supporting Activities sub-tab, to be identified with Experimental Activities to which they have a direct, close and relatively immediate relationship

- The **Experimental Activities** sub-tab is used for activities that the Applicant has assessed as meeting the requirements to be a core R&D activity. The sub-tab provides spaces to describe what has been done in the activity and the other aspects of the activity to be explained that support how it meets the legislative requirements to be a core R&D activity.
- The **Supporting Activities** sub-tab is used for activities that the Applicant has assessed as meeting the requirements to be a supporting R&D activity. The sub-tab provides spaces to describe what has been

done in the activity and other aspects of how the activity meets the requirements to be a supporting R&D activity.

Additional questions will appear on the Experimental Activities and Supporting Activities sub-tabs if an application is being made for an Overseas Findings. These questions allow applicants to explain how the conditions for overseas activities are met and which Australian activities are relevant.

Limitations on the number of experimental activities and supporting activities within the sub-tabs are as follows:

- The number of **experimental activities** that can be listed in the form is **limited to 15**.
- The number of **supporting activities** that can be listed in the form is **limited to 15**.

If the number of your experimental activities or supporting activities exceed these limits, you may provide information about additional activities and experiments as attachments under the 'Finalise application' tab. Information provided about the additional activities and experiments in the attachments must address the same questions asked in the form and follow the same sequence.

### **Text boxes**

Text boxes under the Experimental Activities tab have two sizes. Activity descriptions are limited to 3000 characters including spaces. This is approximately equal to 475 words, or about two thirds of a page. Text boxes for other questions under this tab are limited to 1000 characters including spaces. This is approximately equal to 175 words, or about one third of a page.

Text boxes in the Supporting Activities tab are limited to 1000 characters including spaces. This is approximately equal to 175 words, or about one third of a page.

**Answers to questions must be clear and concise to maximise use of the available space.** Additional information may be attached under the 'Finalise Application' tab.

### **About R&D Activities**

The R&D Tax Incentive provides tax benefits for expenditure on eligible R&D activities, categorised as core R&D activities and supporting R&D activities. Core R&D activities cover designing, setting-up and running experiments; observing and evaluating the results; and drawing logical conclusions. Activities initiated with the intention to support an experimental activity and which are directly associated with the planning, carrying out, or completion of a core R&D activity are likely to be supporting R&D activities. An activity cannot be a supporting R&D activity without a core R&D activity.

Eligibility is dependent on individual activities meeting the requirements set out in sections [355-20](#), [355-25](#), and [355-30](#) of the [Income Tax Assessment Act 1997](#) (ITA Act). Not all project activities are likely to meet these requirements. This means *R&D activities* need to be clearly distinguished from other project, business or operational activities that are not eligible. Activities need to be clearly described so that an independent reader can understand what was done and why it was done.

It is not necessary for the core R&D activity to be undertaken in the same year as the supporting R&D activity. However, if this is the case, the R&D Entity must be able to provide contemporaneous evidence about when the core R&D activity has, or will, be undertaken.

### **Which activities need Findings**

Applicants may seek Advance Findings for any unregistered activity to be undertaken in the current income year and the following two income years. Applications may include previously registered activities that are not subject to advance findings. However, these activities are still formally assessed unless covered by earlier findings.

Advance Findings only bind the Tax Commissioner for the income year in which the application is lodged and for the following two income years. Activities commencing within this three year period are only covered until the period expires.

If activities extend beyond this period, or are commenced after the period expires, a further advance finding application would be required. Applicants should therefore carefully consider the timelines for activities to be included in the application.

Applicants may seek Overseas Findings for each overseas activity to be undertaken in the current income year and the following two income years. Overseas Findings for activities undertaken as described in a finding certificate are in force from the income year in which the application for finding is made and are valid for the duration of the overseas activity.

Applicants may request not to have findings on their Australian activities. However, these activities are still formally assessed unless they have been previously registered and are covered by earlier findings. Findings may still be made on activities for which applicants are not seeking findings, and post-registration assessments may also be initiated.

Aggregated activities that clearly contain discrete packages of work needing separate findings may be disaggregated during the assessment process and the findings listed separately in a findings certificate.

### **Core R&D activities**

[Core R&D activities](#) under the R&D Tax Incentive require an activity to involve experiments. An activity will not qualify as a core R&D activity simply because it is essential to the conduct of a project. An experimental activity may be a core R&D activity if it:

- a) includes an experiment with a scientific or technical outcome that:
  - i represents a new understanding about causal relationships among relevant variables
  - ii can only be obtained by conducting an experiment
  - iii is not already known or predictable by a competent professional in the field, and
  - iv has a clear risk of not delivering the expected outcomes
- b) is not just the application of existing knowledge in a different context or location
- c) uses what is generally known as the scientific method to reach logical conclusions
- d) produces new knowledge and does not merely confirm something that is already known
- e) is conducted after the need for new knowledge has been identified, with the specific intent and purpose of obtaining that new knowledge.

[Certain activities are excluded](#) from being core R&D activities under section 355-25(2) of the ITA Act.

### **Supporting activities**

[Supporting R&D activities](#) are activities initiated and principally conducted, with the deliberate aim of directly supporting a *core R&D activity* wherein the need for an experiment has previously been identified.

An activity may be a supporting R&D activity if:

- a) it has a direct, close and relatively immediate relationship to at least one core R&D activity
- b) it makes a direct contribution to the design, setup, conduct, observation, evaluation, drawing logical conclusions and completion of an experiment in a core R&D activity
- c) the dominant (or sole) purpose of undertaking the activity is to support a core R&D activity if the activity:
  - i is referred to in the [exclusions list](#) section 355-25(2) of the ITA Act
  - ii produces, or is directly related to producing, goods or services.

A direct, close and relatively immediate relationship will not arise simply because an activity takes place nearby or near in time to a core R&D activity, or that the activity is otherwise an essential part of the project. This means that activities such as general scoping and exploratory work, undertaken before the need to conduct a *core R&D activity* arises, are unlikely to be eligible supporting R&D activities.

An activity is not precluded from qualifying as a supporting R&D activity because it serves a commercial objective, in addition to being directly related to core R&D activities. Activities conducted in a production environment (which can range from one-off events to mass production of goods or services), may be eligible where the dominant purpose for undertaking the activity is to support the core R&D activity.

An activity undertaken as part of normal project, production or business operations will not qualify as an eligible supporting R&D activity solely because a core R&D activity is undertaken during those operations. Similarly, an activity conducted as part of a project will not qualify as an eligible supporting R&D activity solely because a core R&D activity is undertaken later in the project. In both instances, the

Activities that are on the [exclusions list](#) must be undertaken for the dominant purpose of supporting a core R&D activity to be eligible as supporting R&D activities.

The dominant purpose is the purpose which was the ruling, prevailing or most influential purpose at the time the activity was brought into existence.

### **Overseas activities**

**The following guidance is only applicable if you answer ‘Yes’ to the question “Are you seeking an advance finding for overseas activities?” under the ‘Before you start’ tab.**

Overseas activities can be either [core R&D activities](#) or [supporting R&D activities](#), and are subject to the same eligibility criteria previously described.

Additionally, overseas activities must meet the eligibility conditions specified under [section 28D](#) of the *Industry Research and Development Act 1986* (IR&D Act), summarised as follows:

- a) the overseas activity must be an [R&D activity](#)
- b) the overseas activity must be conducted in order to complete at least one Australian core R&D activity, i.e. a *core R&D activity* which is undertaken ‘solely’ in Australia
- c) the overseas activity cannot be conducted ‘solely’ in Australia because:
  - i it requires access to a facility, expertise or equipment not available in Australia
  - ii its conduct in Australia would contravene a law relating to quarantine
  - iii it requires access to a population (of living things) not available in Australia
  - iv it requires access to a geographical or geological feature not available in Australia
- d) the total expenditure (by any entity in any income year) on the relevant overseas activities is less than the total expenditure on the related Australian core activity and its supporting activities conducted wholly in Australia.

The conditions listed above are ‘not’ met simply because it is less expensive or because the overseas expertise, facilities, equipment, population or geographical or geological features are better than the Australian equivalent.

Determining whether an activity is an Australian or overseas activity is based purely on the location in which the activity takes place. This will normally be the location of the personnel undertaking the activity at the time it is performed - regardless of where they are usually employed or where invoices are generated, received and paid.

An eligible R&D activity may be undertaken solely in Australia, solely overseas or part in Australia and part overseas. Activities that are aggregated from Australian and overseas parts (in order to qualify as *R&D activities*), and integrated activities that are undertaken both in Australia and overseas are ‘not’ activities undertaken ‘solely in Australia’ and are therefore deemed to be overseas activities.

An overseas activity must be related to at least one core R&D activity undertaken ‘solely’ in Australia which cannot be completed without conducting the overseas activity. An overseas activity undertaken after its intrinsically linked Australian core R&D activity has finished will not be eligible because the Australian core activity was (or can be) completed without the overseas activity being conducted.

An overseas activity does not complete an Australian core activity simply by being the next activity in a multi-stage experimental activity or ongoing series of activities, or by advancing an earlier project to the next stage.

It is important to note that:

- a) the relevant activity undertaken in Australia does not rely on being aggregated with an overseas activity to qualify as a core R&D activity
- b) the Australian core activity is a discrete activity and not a project
- c) the overseas activity completes every activity claimed as a related Australian core activity
- d) the overseas activity is undertaken before the related Australian activity is completed.

### **Eligibility conditions for overseas activities governed by expenditure**

Eligibility conditions for overseas activities governed by expenditure are specified in [section 28D \(5\)](#) of the IR&D Act.

The total actual and reasonably anticipated expenditure for all overseas activities (by any entity in any income year) **must be less than** the total actual and reasonably anticipated expenditure for the related Australian R&D activities.

If expenditure on the overseas activities is anticipated to be **more than** on the related Australian activities, then **none of the overseas activities will be eligible**. This cannot be remedied by claiming only a proportion of the overseas expenditure or by including Australian expenditure for the project not incurred on eligible R&D activities.

The amounts used in comparing the overseas and Australian expenditure are:

- a) overseas expenditure—expenditure on all activities undertaken solely overseas, plus all the expenditure, both Australian and overseas, for activities that are not undertaken ‘solely in Australia’
- b) Australian expenditure—only expenditure on relevant activities undertaken ‘solely in Australia’.

All overseas activities and their related Australian core and supporting R&D activities, whether undertaken currently or in the past, and all reasonably anticipated future R&D activities for the project must be included in expenditure comparison calculations. This applies regardless of whether the activities are being undertaken, were being undertaken or are planned to be undertaken by another entity.

### **Changes to activities**

Findings only relate to activities as specifically described in the application. If the activity conducted is different from that described in the findings certificate, the finding will not apply to the activity conducted, regardless of whether it may or may not be an R&D activity.

Changing an activity to a different activity requires an additional advance/overseas finding application, which must be submitted before the end of the income year in which the activity is undertaken.

Note: It is not possible to change either an Australian or overseas activity to a different activity after the end of the income year in which the application was made.

## **Experimental Activities sub-tab**

This sub-tab allows applicants to present the experimental activities that have been self-assessed as meeting the requirements to be core R&D activities.

Applicants should ensure that what has been done or is planned to be done within an experimental activity is accurately and clearly described. Furthermore, applicants should describe experimental activities exactly as they are intended to be undertaken. A positive finding would then provide the applicant with the certainty they are seeking.

### **Which experimental activities need to be included in the application?**

Australian and/or overseas experimental activities that require a finding, or that need to be assessed as either core R&D activities or Australian core activities, need to be included in the application. Care should be taken to ensure that each Australian core activity is conducted solely in Australia.

Applicants need to include any other activities that are necessary to determine the eligibility of activities for which a finding is being sought. For example, related experimental activities conducted or registered prior to the current income year.

Applicants seeking findings on overseas activities also need to include:

- any relevant overseas activities that have previously received findings (including updated expenditure)
- any future activities that are known or reasonably anticipated to be next in the progression of the project
- the Australian core activities and their supporting R&D activities that are conducted solely in Australia.

Activities registered prior to 2011-12 income year can be included in applications for advance and overseas findings. However, it should be noted that the eligibility requirements changed with the introduction of the R&D Tax Incentive and those activities may no longer qualify as R&D activities.

### **Describing the experimental activity**

An activity should be described so that an independent reader, who has knowledge of the field but no knowledge of the activities, could understand the essentials of what has been done, or will be done.

Experiments should be described so that a knowledgeable reader could understand how the experiment works, the scientific or technological idea being tested and be able to determine whether the uncertainty in the outcome is more than just not knowing the value of a result before the test is conducted.

The Activity Title may be used simply as a unique identifier for the activity, but preferably should provide an indication of what the activity involves.

The activity description should set out the essential parts or steps of the experimental activity so that it is clear how the experiment is being set-up and run, what it is being observed, how it is evaluated and what logical conclusions are expected to be drawn. The activity description must be capable of explaining how the specific experimental activity is eligible, by establishing

- the experimental methods, tests and procedures to be used and how they differ from similar procedures undertaken during ordinary business activities
- the nature of the scientific or technical problem and the idea (hypothesis) about why something might solve the problem
- that there is more involved than just collecting data, obtaining a value from a test subject or determining whether something works or not,
- that the approach used provides confidence that the outcomes of the experiment—the evaluation and conclusions about the idea being tested—are sound, and
- why the outcomes of the experiments are not able to be known in advance.

If an established industry development process or a standard scientific or technical approach is used, it can be briefly outlined. Providing information that explains the scope, scale and duration of an experimental activity undertaken in a production environment can help clarify how it differs from normal production activities that are not eligible.

Eligibility to claim the R&D Tax Incentive is determined on an activity basis rather than on a project basis. It is therefore, not sufficient to limit the activity description to:

- the outcomes of the project as a whole
- the project and its relationship to the company's commercial strategy and objectives
- the features of the product or service being developed
- the company's or the industry's general approach to product development.

Applicants may decide to group a series of related experiments or aggregate similar experimental activities into a single activity. Grouping experiments may help applicants clearly communicate to an independent reader how their experimental activities fit together and meet all of the elements required for a *core R&D activity*.

However, care should be taken to not group:

- entire projects as a single activity
- activities which are too diverse
- potential core R&D activities with potential supporting R&D activities
- ineligible activities with eligible activities.

In some circumstances, disaggregating a large experimental activity can simplify describing the activity and avoid forecasting too far into the future. Applicants should therefore carefully consider the size and duration of experimental activities and whether a large activity might be better described if disaggregated into a number of discrete, successive activities.

Applicants should be careful not to separate experimental activities too widely, as this may result in disrupting or breaking the systematic progression of work necessary for the activities to qualify as *core R&D activities*.

Applicants seeking an Overseas Finding should not:

- use identical descriptions for overseas and Australian activities without clearly distinguishing their differences. Note: Expenditure incurred on an activity conducted partly in Australia and partly overseas is treated as being incurred wholly overseas
- group an earlier project, or series of activities, as a single Australian core activity where not every activity is completed by the overseas activity.

### **Duration and timing of experimental activities**

The duration of the described experimental activities should reflect the actual extent of a discrete experimental activity or a logically grouped set of experimental activities.

The income years in which the experimental activity was or will be conducted should be provided if this is longer than the three year period starting with the current income year. Applicants should carefully consider whether a long, multi-year experimental activity is actually a project or an ongoing series of activities, rather than a distinct experimental activity.

Applicants seeking an Overseas Finding must include the full duration for all overseas activities. This is because the total actual and reasonably anticipated expenditure of any entity on the entire activity, across all income years, is required in applications for Overseas Findings.

### **Expenditure notes**

**Applicants should ensure that the expenditure amounts provided are for *R&D activities* only and do not include ineligible amounts.**

The expenditure amount to be reported should be the total actual and reasonably anticipated expenditure on the relevant R&D activities.

Applicants should provide actual amounts for each of the previous income years and actual and/or reasonably anticipated expenditure for the current and any future income years for the activity.

Applicants seeking an Overseas Finding must provide the total actual and reasonably anticipated expenditure of any entity, on the entire activity, across all income years for all relevant R&D activities.

Expenditure for an Australian core activity should only be that which is undertaken solely in Australia and the External Territories.

Expenditure for overseas activities, including R&D activities undertaken wholly or partly outside Australia and the External Territories must be reported as overseas expenditure.

## **Supporting Activity(ies) sub-tab**

This sub-tab allows applicants to present the activities that have been [self-assessed](#) as meeting the requirements to be supporting R&D activities.

It is important to accurately and clearly describe what has been done or is planned to be done, within an activity that directly supports an experimental activity. Findings cannot be given for unclear or vaguely described activities. A finding about an activity will only have effect to the extent that the activity is registered and undertaken as described in the application.

It is not possible to change the description for an overseas activity after the end of the income year in which the application is lodged. This means the actual activity undertaken will not be eligible if it differs from the activity described in the finding.

### **Which supporting activities need to be included in the application?**

Activities that require a finding or need to be assessed as supporting R&D activities to either Australian core activities or overseas core R&D activities need to be included. Activities conducted or registered prior to the current income year should be included if needed to support eligibility of the activities for which a finding is being sought.

Applicants seeking Advance Findings should include Australian activities that have not yet been registered. However, it may be necessary to include previously registered activities if, for example, an activity is a supporting R&D activity directly related to a core R&D activity for which the finding is being sought.

Applicants seeking Advance and Overseas Findings must include all activities undertaken overseas, either wholly or in part. Applications also need to include any other activities which may be relevant in determining the eligibility of an activity for which a finding is being sought.

Applicants cannot claim only some of the overseas activities if it is known or reasonably anticipated that the expenditure on activities conducted wholly or partly outside Australia is more than the expenditure on activities conducted solely in Australia.

In addition to the overseas activities for which findings are being sought, applicants will need to include:

- any relevant overseas supporting R&D activities which have previously been registered or received findings (with updated expenditures)
- any future activities, which will directly support experimental activities, that are known or reasonably anticipated to be next in the progression of the project
- all supporting R&D activities that were, or will be, conducted solely in Australia in order to directly support the Australian core activity.

Activities registered prior to 2011-12 income year can be included in applications for an Advance and Overseas Finding where relevant. However, it should be noted that:

- the eligibility requirements changed with the introduction of the R&D Tax Incentive and these earlier activities may not qualify as R&D activities
- it is necessary to explain how these earlier activities are not complete and how undertaking the current overseas activity (after significant time has passed) is necessary to complete them.

### **Describing the supporting activity**

An activity should be described so that an independent reader, who has knowledge of the field but no knowledge of the activities, can understand the essentials of what has been done, or will be done.

The Activity Title may be used simply as a unique identifier for the activity, but preferably should provide an indication of what the activity involves.

The Activity Description establishes what is being undertaken and must be capable of demonstrating how the activity 'directly' supports a specific experimental activity.

The Activity Description should identify both the specific experimental activities being supported and which part(s) of the experimental activity it supports; i.e. the set-up and running, observation, evaluation or drawing of logical conclusions. The scope, scale and duration of the activity should be outlined to show how it provides direct support, specifically for the experimental activity.

Eligibility to claim the R&D Tax Incentive is determined on an activity basis rather than on a project basis. It is therefore, not sufficient to limit the activity description to:

- how the activity is needed to support the project
- relationships to the project objectives
- the Company's approach to managing the project.

Applicants should consider the size and duration of the supporting activities and whether or not a large activity should be disaggregated into discrete, successive activities.

Applicants seeking an Overseas Finding should also be careful not to use identical descriptions for overseas and Australian activities without clearly distinguishing their differences. Note: Expenditure incurred on an activity conducted partly in Australia and partly overseas is treated as being incurred wholly overseas.

### **How the activity directly supports the experimental activities**

An activity must have a direct, close and relatively immediate relationship to a core R&D activity before it can qualify as a supporting R&D activity. The relationship to an experiment should be described in terms of how the activity supports at least one of the various elements of an experiment in an experimental activity, i.e. set-up and running, observation, evaluation and drawing logical conclusions.

An activity may still qualify as a supporting R&D activity even though it also serves a commercial objective and produces goods and services. In this situation, the dominant purpose of the activity needs to be established. If there is more than one purpose for conducting the activity, all purposes including their relevance to the technical and commercial objectives of the project need to be described.

A supporting R&D activity needs to have been initiated and conducted with the deliberate aim to support a specific experimental activity. The context in which an activity is initiated and undertaken is therefore relevant in determining whether it is directly related and has the dominant purpose of supporting a core R&D activity.

Supporting activities that are undertaken as a part of ordinary business operations, during production or during development of a customised product, should be carefully considered and adequately explained to ensure that:

- it is clear which parts of the activity directly support a core R&D activity, including how support is provided
- the dominant purpose for undertaking the activity is to support the core R&D activity
- the scope, scale and duration of the activity are clearly identified.

Explaining the scope, scale and duration of a supporting activity can help to demonstrate that it was initiated with a specific experiment in mind and was conducted in proportion to the needs of the experimental activity that it supports.

### **What does the activity produce?**

Describe what the activity produces to support an experiment or group of experiments, in an experimental activity, including how the outputs from the activity are directly used in the experiment(s).

If an activity also serves a commercial purpose, any other major outcomes of the activity that are beyond its support for an experiment in an experimental activity should be identified and described in the application. If the supporting activity is undertaken as a part of ordinary business operations, during normal production or during developing a customised product, then the major outputs produced by the activity should be identified and described in the application.

## **Duration and timing of supporting activities**

The duration of the supporting activities should reflect the actual extent that the activity was directly related to a core R&D activity. For example, where the activity also supports commercial activities, the duration should be limited to the period in which the experimental activity was actually being supported.

The income years in which the activity was or will be conducted should be provided if this is longer than the three year period starting with the current income year. Applicants should consider whether a long or multi-year activity or an ongoing series of activities, is actually a project rather than a distinct support activity. In which case, only those discrete parts of the activity that directly support an experimental activity should be included in the application.

Applicants should also consider whether an ongoing or frequently repeated activity is more closely related to, or undertaken to support, ordinary business operations.

Applicants seeking an Overseas Finding must include all overseas activities for the full duration of the project, because of the requirement to include activity expenditure from all income years.

## **Expenditure notes**

**Applicants should ensure that the expenditure amounts provided are for *R&D activities* only and do not include ineligible amounts.**

The expenditure amount to be reported should be the total actual and reasonably anticipated expenditure on the relevant R&D activities.

Applicants should provide actual amounts for each of the previous income years and actual and/or reasonably anticipated expenditure for the current and any future income years for the activity.

Applicants seeking an Overseas Finding must provide the total actual and reasonably anticipated expenditure of any entity, on the entire activity, across all income years for all relevant R&D activities.

Expenditure for an Australian core activity should only be that which is undertaken solely in Australia and the External Territories.

Expenditure for overseas activities, including R&D activities undertaken wholly or partly outside Australia and the External Territories must be reported as overseas expenditure.

Further guidance for the program is available on the [Business.gov.au](http://Business.gov.au) web site and can be found here: [R&D Tax Incentive Guidance and information](#)

## Applicant Details Tab

### About the applicant

The person who completes this form and makes the declaration on the final page is considered the applicant. The applicant is not always an officer of the R&D Entity to whom the application refers.

The applicant who completes the form may also be:

- a registered tax agent acting with the R&D Entity's consent;
- an officer of a Research Service Provider (RSP); or
- an officer of a Cooperative Research Centre (CRC) or an entity that makes up a CRC.

If the applicant is not an authorised officer of the R&D Entity, they **must attach evidence that they have the [consent of the R&D Entity](#)** to make the application on its behalf. The application is then taken to have been made by the R&D Entity itself. Attach evidence of this consent at the 'Finalise Application' tab.

### Applicant details sub-tab

If the application is being made by an authorised officer of the **R&D Entity**, the following information is required.

- Entity legal/registered name [Australian Securities and Investment Commission](#)
- R&D Entity type (individual entity, head company of consolidated or multiple entry consolidated (MEC) group)
- ABN, ACN or ARBN [Australian Business Register](#) [Australian Securities and Investment Commission](#)
- Date of incorporation in Australia
- Website address (URL).

If the application is being made by an authorised **agent acting on behalf of the R&D Entity**, the following information is required, in addition to information to be provided about the R&D Entity.

- Agent entity type – refer list under 'About the applicant' above
- Entity legal/registered name [Australian Securities and Investment Commission](#)
- ABN, ACN or ARBN [Australian Business Register](#) [Australian Securities and Investment Commission](#)
- Tax agent number (if applicable) [Tax Practitioners Board Register](#)
- Research Service Provider number (if applicable), which can be found here: [List of RSPs](#)

If this application is being made on behalf of [more than one R&D Entity](#), i.e. a joint venture application, please attach the following details of all R&D Entities to be covered by the application at the 'Finalise application' tab.

- Entity legal/registered name;
- R&D Entity type (individual entity, head company of consolidated or multiple entry consolidated (MEC) group);
- ABN, ACN or ARBN;
- Date of incorporation in Australia, or Country of Residence (if registered outside Australia);
- Main business address;
- Website address (URL).

### Company details sub-tab

Subsidiary members of a consolidated company group, or [Multiple Entry Consolidated](#) (MEC) company group, cannot apply for findings. Rather, the head company of a consolidated or MEC group must apply for findings

on behalf of their entire group. Any findings made on an application by a subsidiary will have no effect while the company is a subsidiary member of the group. Refer sections [31](#) , [31A](#) and [31B](#) of the Industry Research and Development Act 1986.

### **Company address and facilities sub-tab**

Details about plant and facilities will assist in demonstrating the R&D Entity's capability and capacity to undertake the project. Explain how the particular plant or facility will be used in the conduct of R&D activities.

### **Company turnover and employment sub-tab**

This information is required for the R&D Entity. If the actual value is unavailable, please provide an estimate.

Taxable income or loss: is the R&D Entity's taxable income or loss for the most recent completed income year. Losses should be shown as negative figures.

Turnover: is defined as the total aggregated turnover of the R&D Entity in the most recent completed income year.

Total number of employees: is the total number of employees on the R&D Entity's payroll at the most recent pay period including working directors, partners, proprietors, full time, part time, and casual staff.

The number of employees engaged in R&D (person years) is the full time equivalent (FTE) number of staff (including working directors; partners, proprietors, full time, part time, and casual staff) that you expect will be working for the R&D Entity on research and development in the period covered by this application.

For employees that do not work full time, calculate their fraction of a full time load and incorporate them into your calculation on a pro-rata basis. For example, a part-time employee that works for half of the hours of a full-time employee would be entered into the calculation as 0.5 for each year covered by the application. If the application covered three years then this person would be entered as 1.5.

## Finalise Application Tab

### Supporting Documentation sub-tab

Please upload any additional documentation or evidence you would like to provide that may further support your finding application.

The following restrictions apply to attachments:

- a maximum of 20 attachments
- file size of each attachment cannot exceed 2Mb
- the total size of all attachments cannot exceed 20Mb
- only files with the following file type extensions can be uploaded (.pdf, .txt, .doc, .docx, .xls, .xlsx, .rtf, .jpg, .bmp)

For assistance with any technical issues experienced while completing this application form or attaching documents, please [Contact us](#). Our website and staff can help you.

### Declaration and acknowledgement sub-tab

The declaration must be made by a person authorised by the R&D Entity as follows.

I declare that I am authorised by the R&D Company to provide the information in the application and sign it on behalf of the Company.

I declare that I am one of the following:

- an officer of the R&D Company with authority to complete this application
- a registered tax agent that has written authorisation to act on the R&D Company's behalf in this matter
- an officer of a Registered Service Provider or a Cooperative Research Centre or an entity that makes up a Cooperative Research Centre with written authority to apply for a finding on a R&D Company's behalf.

I declare that:

- to the best of my knowledge and belief the information in this application is true and correct and accurate in all material details, and that the activities and corresponding expenditure described in this application meet all prescribed eligibility requirements for the R&D Tax Incentive. I understand that giving false or misleading information is a serious offence; and
- I may be required to provide further information in support of this application.

I agree that as a third party representative in lodging an application on behalf of a R&D Company:

- I have a written authorisation to lodge this application by an appropriate person in accordance with the requirements of [section 28B](#) of the Industry Research and Development Act 1986; and the application will be treated as a confidential Commonwealth record and information in the application will not be disclosed to any other person (unless required or permitted by law to do so).

I give approval for the information in this form being communicated to the Department of Industry, Innovation and Science in electronic form.

By checking the check boxes under this tab, you agree to all of the above declarations and confirm all of the above statements to be true

By checking the check boxes under this tab you acknowledge that Australian Government entities will securely share data to improve efficiencies and inform policy development and decision-making. In doing so, Australian Government entities will uphold the highest standards of security and privacy for the individual, national security and commercial confidentiality. For more information on the Australian Government's Public Data

Policy and the commitment to use Public Data to help grow the economy, stimulate innovation and improve service delivery across Government, please visit [data.gov.au](http://data.gov.au)

**Nominated contact sub-tab**

The nominated contact is the person authorised (as described above) to provide any further information, and to receive correspondence, in relation to this application on behalf of the R&D Entity.

Further guidance for the program is available on the [Business.gov.au](http://Business.gov.au) web site and can be found here:  
[R&D Tax Incentive Guidance and information](#)