

Business operations in the new environment

The Prime Minister announced that the Australian government will spend \$1.1B over the next four years to promote business based research, development and innovation. Mr Turnbull called the initiative an “ideas boom”.

The key focus revolves around strengthening ties between the business community, universities and scientific institutions. The government has decried the “fear of failure” and has declared that the government is keen to encourage a “culture of risk taking”. We take a look at how the new package may affect Australian business.

Insolvency Laws Reform

The government has acknowledged that, in many instances, entrepreneurs will fail several times before they “make it” and will invariably learn from the process. To help entrepreneurs to succeed the government has indicated it will require a “cultural shift”. The government wants to encourage Australians to take risks, to leave behind the fear of failure and to be more innovative and ambitious.

Many business operators have indicated that concerns over inadvertent breaches of insolvency trading laws are frequently cited as a reason why early stage (Angel) investors are reluctant to get involved in a start-up. The government has indicated that the current insolvency laws put too much focus on penalising and stigmatising business failures.

- The government is proposing to make changes by reducing the current default bankruptcy period from three years to one year.
- Introducing a “safe harbour” for directors from personal liability for insolvent trading, if they appoint a “restructuring advisor” to develop a turnaround plan for the company.
- Making “Ipso Facto” Clauses, which allow contracts to be terminated solely due to an insolvency event unenforceable if a company is undertaking a restructure.

The government anticipates legislation being introduced and passed relative to these changes by mid-2017.

Claiming Losses

The government’s documents indicate that, when companies make a loss, they can be discouraged from taking the leap and exploring other profit making activities for the reasonable fear that they will be denied access to valuable prior year tax losses.

The ability to offset losses against other profits is particularly important for small innovative companies because they have less diverse income streams and [cash flow](#) than established businesses. The government is proposing to introduce changes to the law relative to access to company losses.

- The current “same business test” will be relaxed to allow companies to access prior year losses when companies have entered into new transactions or business activities. This will encourage entrepreneurship by allowing loss making companies to seek out new opportunities to return to profitability.
- A new and more flexible “predominately similar business test” will be introduced.
- Under the “Predominately Similar Business Test” companies will be able to access losses where their business “while not the same” uses similar assets and generates income from similar sources. The government is proposing that the “Predominately Similar Business Test” will apply to losses made in the current and future income years.

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Intangible Asset Depreciation

Innovative businesses are more likely to hold a high proportion of intangible or knowledge based assets such as patents and copyrights. According to the government an investment in these assets is crucial to the business' innovation and growth.

Unlike tangible assets however, intangible assets with a statutory effective life can't be self-assessed to bring their tax life in line with the economic life of the asset. This can reduce the depreciation benefit and increase the cost of investment in these assets.

- The government proposes to introduce a new option to self-assess the tax effective life of acquired intangible assets. This will better align the tax treatment of the asset with the actual number of years the asset provides an economic benefit. The changes are expected to apply from 1 July 2016.
- This means that with a patent the current life is twenty years, however a business might elect to write off the cost of the patent over its tax effective life, which might only be five years.

Employee Share Schemes

Employee Share Schemes give employees shares or the option to buy shares in the company as part of their remuneration by aligning the employees' interests to those of the company.

Employee Share Schemes enable employees to share in the success of the business and provide an advantage for start-ups as they can avoid paying high salaries when they are mostly "cash poor". However, the current disclosure requirements can discourage small companies and start-ups from implementing an Employee Share Scheme because it may result in the release of commercially sensitive information and it is costly to produce the documents.

- The government proposes to make changes that will limit the requirement for disclosure documents, given to employees under an Employee Share Scheme, to be made available to the public.
- The government has also undertaken to consult with industry on options to make Employee Share Schemes more "user friendly".
- The government expects to introduce legislation for these changes in the first half of 2016.

Incubator Support Program

Incubators help innovative start-ups to rapidly transform their ideas into globally competitive businesses by giving them mentorship, funding, resources, knowledge and access to business networks. More high-performing incubators will mean more start-ups can realise their economic potential.

To support this process the government is adding a new component to the Entrepreneurs' Program - an \$8M Incubator Support Program - which will offer competitive matched funding to:

- support development of new incubators and accelerators in regions or sectoral areas with high innovation potential;
- boost the effectiveness of high performing incubators including support to expand their services and engage a commercialisation advisor to help them access other government services and programs, provide access to top quality research and technical talent through three to twelve months secondment of national or international expert advisers;
- coordinate and promote support for entrepreneurs and start-ups through the Australian Innovation Network.

The government expects to introduce the new incubators from 1 July 2016.

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Innovation Connections

The government has indicated that Australia's rate of collaboration on innovation between industry and researchers is the lowest in the OECD.

To connect more small and medium businesses with researchers, the government has announced an investment of \$18M in a component of the Entrepreneurs' Program for a new Innovation Connections Initiative. The Innovation Connections Initiative will expand and refocus the existing Research Connections Program to drive new industry collaborations between researchers and small and medium enterprises.

- The program will provide more facilitators so more businesses can access Australia's innovation infrastructure, particularly in regional areas.
- Make matched grants available to support graduate and post-graduate researchers placement in businesses.
- Make matched grants available to support business researchers to be placed in publicly funded research organisations.

The Entrepreneurs' Program is currently running and will progressively offer these expanded services from January 2016.

Global Innovation Strategy

The government has indicated that businesses that collaborate on innovation with research organisations are more likely to improve their productivity, increase sales and grow their exporting activity. The government has indicated that Australia's rate of collaboration between industry and researchers is low, so collaborating internationally allows Australian businesses and researchers to work together to improve research and business performance and access international supply chains and the global market.

Currently only 6% of Australian businesses engage in international innovation; the OECD average is 18%. To overcome this the government will invest \$36M over five years to establish five "landing pads" in global innovation hot spots - Silicon Valley, Tel Aviv and three other locations to support entrepreneurial Australians.

- Landing pads will be supported by an AusTrade coordinator and will have operational physical space in which Australian market ready start-ups can access entrepreneurial talent, mentors, investors and a wide connected network of innovation hubs.
- The government fund will provide seed funding to assist Australian businesses and researchers to collaborate with international businesses and researchers. The government expects that these initiatives will commence from July 2016.

Innovation in Agriculture and Regional Areas

The government is proposing to introduce a global innovation strategy which will provide seed funding for collaborative science workshops which regional economies on shared challenges such as food and bio-security and will support Australian business and research consortia to work with their international counterparts.

The Incubator Support Program will focus on regions and sectors with high innovation potential such as those identified as an industry growth centre or a science and research priority.

Research and development

The government has indicated that the current Research and Development Scheme relative to R&D Rebates for companies is still being reviewed and an announcement will be made as to whether any changes are proposed to the Research and Development Scheme later in 2016.

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Business research and innovation initiative

The government is going to encourage businesses to develop more innovative solutions to important government policy and service delivery problems with a pilot series of "challenges" called the "Business Research and Innovation Initiative". Entrepreneurs will receive funding to create new products and innovations while retaining their intellectual property and the right to commercialise the ideas in Australia or overseas.

This program will operate in three stages. The government will work with Innovation and Science Australia to nominate five National Policy and Service Delivery Challenges. Innovated businesses will be invited to submit proposals to address those challenges and the winners will receive grants of up to \$100,000 to test their ideas over three to six months of development.

The most successful ideas may be eligible for a further grant of up to \$1M to develop a prototype or proof of concept over the following eighteen months. The government has indicated that this initiative will be launched on 1 July 2016.

Digital marketplace

Currently start-ups for small to medium suppliers of digital services find it difficult to participate in Australian government procurements for large-scale ICT solutions. To make it easier for small businesses to compete for the government's \$5B a year spend on ICT, the government is creating a digital market place which will incorporate an online directory of digital and technological services for government agencies to procure ICT solutions from small and medium enterprise.

The digital market place will result in a broader base of suppliers being considered, more competition, more innovation and more jobs. As part of the program the directory will break down large scale ICT requirements into individual components, which scale down the procurement and allows for greater scope for innovation solutions.

Business suppliers of ICT software and hardware will be able to join the directory easily.

Government buyers will be able to search for services and identify suitable suppliers and procure the best value option for the project. The government is hopeful that this program will be introduced in 2016.

Supporting innovation through Visas

The government has indicated that a high performing innovative nation needs skilled talented people to drive ideas from research to commercial reality. To assist this process the government intends to enhance the current Visa system through:

- a new Entrepreneur's Visa for entrepreneurs with innovative ideas and financial backing;
- pathways to permanent residence for post-graduate research graduates with STEM (Science Technology, Engineering and Mathematics) knowledge and ITC qualifications will be enhanced.

The government has indicated that the Entrepreneur's Visa will be introduced in November 2016.

With additional initiatives around investors, including tax incentives, venture capital partnerships, the CSIRO's innovation fund and crowd funding, if you have any questions on any aspects of the government's Innovation Package and would like to discuss it with us, please contact Collins Hume on 02 6686 3000 to find out how your business may benefit.

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