

# R&D tax credits are here. Are you ready?

**Oksana Simonoff**  
Partner, Tax



# 'New' R&D credits

- Calculated at 15% on eligible expenditure
  - Use to reduce tax liability
  - Carry forward (subject to shareholder continuity)
  - Refund (up to 255k in 2019/20, very limited, changes coming)
- Key requirements
  - Core R&D activity in New Zealand
  - Eligible entity
  - Type of expenditure
- Available from 2019/2020 income year



# ... haven't we been here before?

- 2008 R&D credits – repealed after one year
- 2016 R&D loss tax (cash out) credits – remains in place
  - Needs to be loss making
  - A 'loan' – refundable credit needs to be repaid upon 'loss recovery event'
  - Non listed New Zealand tax resident company
  - Not >50% owned by public authority, local authority, CRI or State enterprise
  - >20% R&D wage intensity
  - Calculated at 28% on lower of four values
- Callaghan Innovation – Growth Grants ending
  - Ineligible for R&D credit in year receive Growth Grant
  - Transitional options for 2019/20



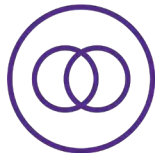
# Two R&D tax credit regimes

## Refundable R&D loss credits

- Start-ups
- Companies with high proportion of R&D activity
- Companies in loss
- Driven off accounting definitions of research and development
- No minimum threshold, maximum claim of \$476,000 (for 2019/20)

## 'New' R&D tax credits

- Established businesses
- Substantial R&D spend
- Taxpayers in profit or with reasonable prospect of profit in near future
- Tighter definition of R&D – scientific or technological uncertainty
- Contemporaneous documentation required



# What is R&D activity?

## Research and development

- Accounting definition
  - Research is original and planned investigation undertaken with the prospect of gaining new scientific or technical knowledge and understanding
  - Development is the application of research findings or other knowledge to a plan or design for the production of new or substantially improved materials, devices, products, processes, systems or services before the start of commercial production or use
- Narrower definition for R&D credit



# What is R&D activity?

## Core research and development activity

- Has a material purpose of :
  - creating new knowledge, or new or improved processes, goods or services
  - resolving ‘scientific or technological uncertainty’.
- Systematic approach
- And not...
  - To the extent performed outside New Zealand
  - Excluded activities
  - Knowledge publicly available or deducible by a competent professional in the relevant scientific and technological field



# What is R&D activity?

## Supporting activities

- Must have a 'main purpose' of supporting core activity
- Literature searches, software development, analysis, prototyping and administrative

## Thresholds

- Minimum R&D expenditure threshold of \$50,000 per year
  - Includes all 'eligible expenditure' – cost of goods consumed, services, overheads, to extent relates to R&D activities
  - Lesser spend if R&D contracted out to an approved research provider
- \$120m cap on eligible R&D spend



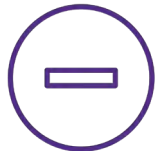
# What is not R&D activity?

## Core activities exclusions

- Software testing/debugging
- Stylistic/cosmetic
- Software for admin
- Management, social science, arts studies
- QC, routine testing
- Prospecting/mining
- Preproduction activities
- Market research
- Patenting

## Supporting activities exclusions

- Pre-production activities
- Routine software maintenance
- Patenting costs
- Market research
- Activities to comply with statutory requirements or standards
- Activities relating to organisational design





# Eligible entity

- New Zealand taxpayer (for non-residents includes fixed establishment)
- All private entity types eligible – no claim if entity is associated with or controlled by a CRI, DHB or TEO
- Results of R&D activity must be owned by:
  - the taxpayer
  - if the taxpayer is a company, their New Zealand resident group company or foreign group company in DTA country
  - a JV of which the person is a member

or available for their use without further consideration payable

- Not receiving Growth Grant for the year
- Not R&D contractor in respect of the activity



# Eligible expenditure

- Primarily only expenditure on activities conducted in New Zealand (up to 10% overseas)
- Types of expenditure
  - Amounts paid to employees
  - Expenditure or loss to acquire goods or services used in performing R&D
  - Depreciation loss for assets used in R&D
- Not capitalised expenditure



# Software

- External software development
  - Software that is developed for sale to customer
  - Software that is an integral part of goods that are sold (eg, washing machine software)
- Internal software - \$25 million cap
  - software developed for the purpose of enhancing non-digital services to customers
  - Eg, courier business, software to enable customers to pinpoint exact location and condition of packages
- Internal administration software does not qualify
  - Eg, payroll, HR, accounting, invoicing, inventory etc.



# Software

## Challenges to identify

1. scientific or technological uncertainty in software
2. the superficial similarity between the software development lifecycle and a 'systematic approach'
3. distinguishing activities eligible for the R&D tax credit from ineligible activities within the same overall project

Can the work be seen to be achievable from the outset, with the appropriate technical skills and expertise?



# Contemporaneous record keeping

- No specific format, but IRD requires records to be contemporaneous and include the record, the date and creator's name
- What new knowledge, or new or improved product, process or service are the core R&D activities directed towards?
- Evidence showing that the knowledge, product, process or service is new or improved (worldwide basis)
- What scientific or technological uncertainty does your core R&D activity is seek to resolve?

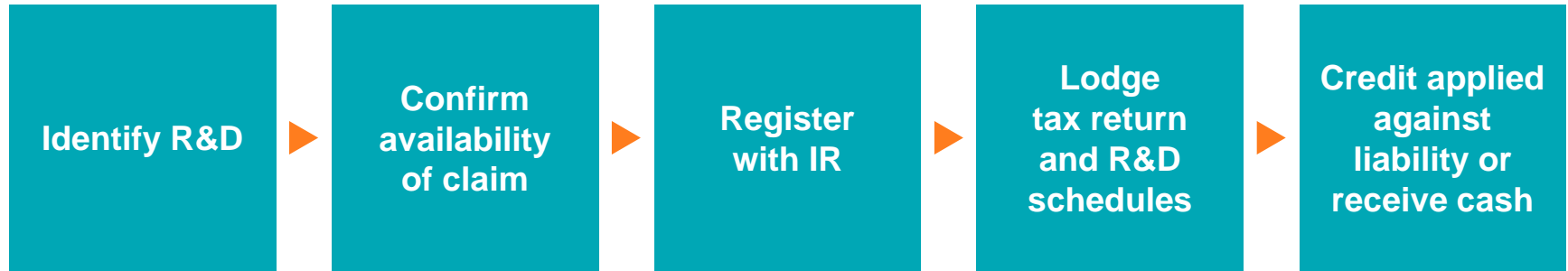


# Compliance

- Registration through IRD myIR login
- Prepare and hold supporting documentation
- Complete and file supplementary return (due 30 days from due date for filing)
- Ensure that income tax return is filed within one year of due date for filing



# Making an application



# Upcoming changes

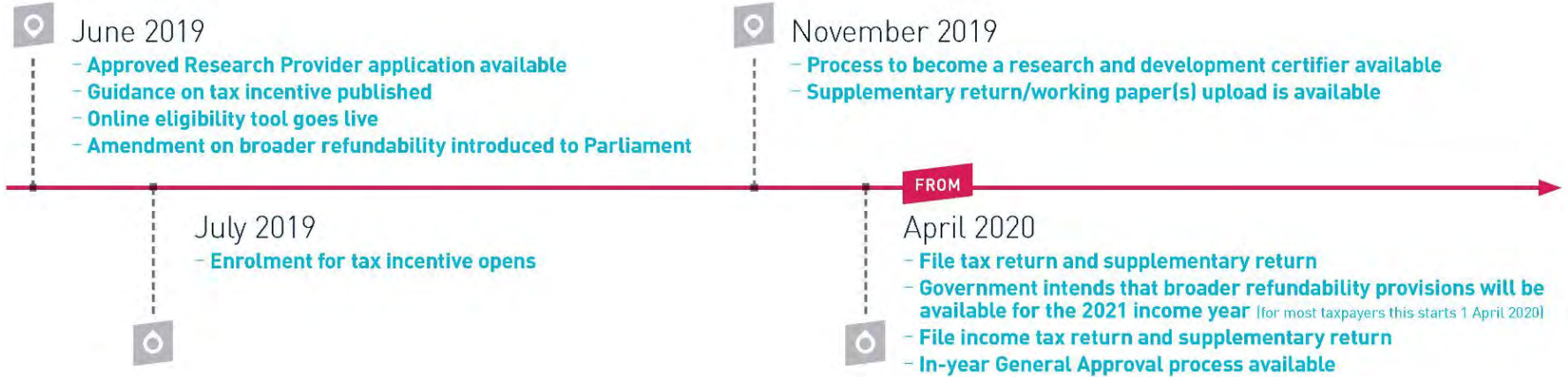
## From 2020/21 year

- Wider availability of refunds
  - Cap of \$255,000 on refunds to be removed
  - No wage intensity criteria (currently 20%)
  - No corporate eligibility criteria (current requirement is that claimants must be companies, not listed, and not tax resident of another jurisdiction under a DTA)
- Pre approval process
- Significant performer regime





# Timeline



# Contact

To discuss possible R&D activity or any of the credits/grants detailed above, contact:



## Auckland

Oksana Simonoff  
D +64 9 922 1233



## Wellington

Liz Gilbert  
D +64 4 498 9933



## Christchurch

Don MacKenzie  
D +64 3 964 6804



# Questions?

