

New guidelines for approval of in-house R&D centres and submission of report under section 35(2AB) issued

24 June 2014

In brief

The Department of Scientific and Industrial Research (DSIR) has recently issued new guidelines for approval of in-house research and development (R&D) centres and submission of prescribed report under section 35(2AB) of the Income-tax Act, 1961 (the Act).

To encourage R&D initiatives by industry and to make R&D an attractive proposition, the Finance Act, 1997 had amended sub-section (2AB) of section 35 of the Act, providing for weighted tax deduction of 200% of expenditure incurred by a company engaged in the business of bio-technology, manufacture or production of any article/ thing (other than those specified in the Eleventh Schedule), on scientific research (not being expenditure in the nature of cost of any land or building) and on in-house R&D centres, approved by the 'Prescribed Authority'.

While the new guidelines are broadly in line with the extant guidelines issued in 2010, there are a few additional conditions specified with regard to the claim of weighted deduction under section 35(2AB) of the Act.

The additional conditions and amendments are as under:

In detail

Conditions subject to which approval is given

- Specific mention of providing an undertaking by the company to maintain separate set of accounts for each R&D centre and to reflect the expenditure in the Annual Report.
- The company has to give separate undertaking that they do not manufacture any product listed in the Eleventh Schedule of the Act.

- No weighted deduction for capital expenditure of an intangible nature.
- Personnel possessing at least a Degree/ Diploma in Science or engineering discipline shall be eligible for weighted tax deduction as R&D manpower.
- No weighted deduction for expenditure incurred on manpower under the category of retainership/ as consultants and/or on contract basis.

Policy and Procedure for approval

- R&D centres newly set up may be approved from the year in which recognition was granted subject to fulfilment of conditions
- Online submission of application for approval
 - Post online application three set of documents to be submitted to the Secretary, DSIR.

The takeaway

Capital Expenditure on intangibles

- No weighted deduction is allowable for amount spent on know-how, software, patents, copyrights, etc. which are essential for carrying out research at the approved R&D centres.
- However, a company can claim entire 100% of capital expenditure in the year of incurrance under section 35(1) (iv) read with section 35(2) of the Act as against claim of depreciation under section 32(1) (ii) of the Act with respect to these items of intangible assets subject to fulfilment of conditions prescribed under the Act.

R&D Manpower

- Narrows the scope and excludes domestic consultancy, retainership and contract labour in addition to foreign consultancy as an eligible expenditure for weighted deduction.
- Quantum of weighted deduction available to companies will be impacted although the expenditure may have been incurred directly for in-house R&D purpose.
- Salary costs of contract employees that possess necessary qualification and are hired for R&D purposes will not qualify for claiming weighted deduction.

Effective date of approval for newly set-up R&D centres

- This is a welcome policy which provides grant of weighted deduction from date of recognition and not from the date of signed cooperation agreement subject to fulfilment of conditions.
- Substantial controversies have arisen around interpretation of section 35(2AB) of the Act and the DSIR guidelines, with respect to interplay of section and the guidelines as also the date from which the deduction can be claimed under various scenarios, viz., where the R&D centre is not recognised at the time of application for approval, existing R&D centres are already recognised and an application for approval of new R&D centre is submitted, etc.
- It would have been desirable if the new guidelines had synchronized the date of deduction as starting with the date of recognition for claiming weighted deduction for all scenarios.

To sum up, the amendments to guidelines have provided stringent conditions for eligibility of expenditure, facilitating smooth processing of online approval process and clarity on date of deduction for certain scenarios. However, it is still silent on the period for which recognition and approval can be granted for R&D centres.

The new guidelines can be accessed from the following link:

http://www.dsir.gov.in/forms/irdpp/352ab_guidelines_may2014.pdf

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Tax & Regulatory Services – Direct Tax

Shyamal Mukherjee, *Gurgaon*
+91-124 330 6536
shyamal.mukherjee@in.pwc.com

Ketan Dalal, *Mumbai*
+91-22 6689 1422
ketan.dalal@in.pwc.com

Rahul Garg, *Gurgaon*
+91-124 330 6515
rahul.garg@in.pwc.com

Our Offices

Ahmedabad

President Plaza
1st Floor Plot No 36
OppMuktidhamDerasar
Thaltej Cross Road, SG Highway
Ahmedabad, Gujarat 380054
+91-79 3091 7000

Bangalore

6th Floor
Millenia Tower 'D'
1 & 2, Murphy Road, Ulsoor,
Bangalore 560 008
Phone +91-80 4079 7000

Chennai

8th Floor
Prestige Palladium Bayan
129-140 Greams Road
Chennai 600 006
+91 44 4228 5000

Hyderabad

Plot no. 77/A, 8-2-624/A/1, 4th
Floor, Road No. 10, Banjara Hills,
Hyderabad – 500034,
Andhra Pradesh
Phone +91-40 44246000

Kolkata

56 & 57, Block DN.
Ground Floor, A- Wing
Sector - V, Salt Lake
Kolkata - 700 091, West Bengal
+91-033 2357 9101/
4400 1111

Mumbai

PwC House
Plot No. 18A,
Guru Nanak Road(Station Road),
Bandra (West), Mumbai - 400 050
+91-22 6689 1000

Gurgaon

Building No. 10, Tower - C
17th & 18th Floor,
DLF Cyber City, Gurgaon
Haryana -122002
+91-124 330 6000

Pune

GF-02, Tower C,
Panchshil Tech Park,
Don Bosco School Road,
Yerwada, Pune - 411 006
+91-20 4100 4444

For more information

Contact us at
pwctr.knowledgemanagement@in.pwc.com

About PwC

PwC helps organisations and individuals create the value they're looking for. We're a network of firms in 157 countries with more than 184,000 people who are committed to delivering quality in Assurance, Tax and Advisory services.

PwC India refers to the network of PwC firms in India, having offices in: Ahmedabad, Bangalore, Chennai, Delhi NCR, Hyderabad, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, please visit www.pwc.in.

*PwC refers to PwC India and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details. Tell us what matters to you and find out more by visiting us at www.pwc.in



For private circulation only

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PwCPL, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Without prior permission of PwCPL, this publication may not be quoted in whole or in part or otherwise referred to in any documents.

© 2014 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity.