

11 October 2018

Hon David Parker, Attorney-General

## **Consistency with the New Zealand Bill of Rights Act 1990: Taxation (Research and Development Tax Credits) Bill**

### **Purpose**

---

1. We have considered whether the Taxation (Research and Development Tax Credits) Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. The Bill amends the Income Tax Act 2007 and the Tax Administration Act 1994. Its main objective is to afford businesses the opportunity to claim a research and development ('R&D') tax credit of 15 percent for eligible R&D expenditure.
3. The key features of the R&D tax incentive include:
  - a. A tax credit rate of 15 percent;
  - b. A \$120 million cap on eligible expenditure;
  - c. A minimum R&D expenditure threshold of \$50,000 per year;
  - d. A limited form of refunds for the first year of the scheme that will mirror the R&D tax-loss cash-out scheme run by Inland Revenue. A more comprehensive policy will be in place for the second year of the scheme;
  - e. A definition of R&D that ensures the credit can be accessed more easily across all sectors, including the technology sector;
  - f. The inclusion of State Owned Enterprises, Māori Authorities, industry research cooperatives, levy bodies, and minority-owned subsidiaries of select Crown entities; and
  - g. The 15 percent tax credit will be available from the beginning of a business's 2019/20 income year.
4. We also note that new section 68CE of the Bill specifies that the Commissioner of Inland Revenue must publish the names of the persons or entities who have received research and development tax credits and where the amount of their research and development tax credit falls for a tax year (using appropriate dollar bands).
5. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.