

# BusinessPlus+ Newsletter



## INDEX

Happy New Year!.....	1
Business Operations in the New Environment.....	1
Investors .....	3
Business Research and Innovation Initiative.....	4
Digital Market Place.....	4
Supporting Innovation through Visas .....	4
Research and Development .....	4

## Issue No 125 – January 2016

### Happy New Year!

Australian government's "Innovation Package" released.

The Prime Minister has 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". He indicated that 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".

### Business Operations in the New Environment

#### Insolvency Laws Reform

- The government has acknowledged that, in many instances, entrepreneurs will fail several times before they "make it" and the enterprises will usually learn a lot in the process. To help these 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 cashflow 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.

## Business Operations in the New Environment (cont'd...)

### 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 the 1st 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. Employee Share Schemes 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. The Incubator Support Program 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 the 1st July 2016.

### 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 lead 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.

### 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.

## Business Operations in the New Environment (cont'd...)

### 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. 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 these problems 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.

## Investors

### Tax Incentives for Investors

- The government's statement indicates that over 4,500 start-ups are missing out on equity finance each year. The government has indicated that it will make changes such that:
  - a 20% non-refundable tax offset on investment capped at \$200,000 per investment per year is introduced;
  - a ten year capital gains tax exemption for investments held for three years.
- The incentive will be available for investments in companies that:
  - undertake an eligible business (scope to be determined);
  - were incorporated during the last three income years;
  - aren't listed on any stock exchange;
  - have expenditure and income of less than \$1M and \$200,000 in the previous income year respectively.
- The government is hopeful that this new tax incentive will be available from the 1st July 2016.

### Venture Capital Partnership

- Venture Capital Limited Partnerships (VCLPs) are investment vehicles that provide tax exemptions for investors investing in innovative companies at the early and growth stages of a start-up. The government believes that reforming the VCLPs will make them more internationally competitive and will attract greater levels of venture capital investment.
- Under the proposed new arrangements:
  - partners in a new Early Stage Venture Capital Limited Partnership (ESVCLP) will receive a 10% non-refundable tax offset on capital invested during the year;
  - the maximum fund size for new ESVCLPs will be increased from \$100M to \$200M; and
  - ESVCLPs will no longer need to divest a company when its value exceeds \$250M.
- The government expects these changes to commence from the 1st July 2016.

### CSIRO Innovation Fund

- The CSIRO Innovation Fund will support the early stage commercialisation of innovations from CSIRO, universities and other public funded research bodies.
- The CSIRO Innovation Fund will have two parts:
  - an early stage innovation fund of about \$200M to support co-investment in new spin-out/start-up companies, products and services created by Australian research institutions.
  - A \$20M expansion to CSIRO Acceleration Program to include other publicly funded research organisations to more rapidly prepare their research for commercial adoption.
- The government believes that this program will commence from the 1st July 2016.

### Crowd Funding

- Crowd sourced equity funding schemes exist in other countries. Australia's current regulatory requirements create a barrier to wide spread use of Crowd Funding. This means small innovative companies are missing out on funding that could help them develop their ideas.
- The government proposes to introduce new laws that allow entrepreneurs to raise funds of up to \$5M per year from a large number of individuals in return for equity in their company.
- This approach will give companies, that become a public company for access to Crowd Funding, a five year exemption from the normal reporting and disclosure requirements that apply to public companies. Crowd Funding opportunities will be available to Australian public companies with a turnover and gross assets of less than \$5M.
- Individuals seeking to invest using the Crowd Funding platform can contribute up to \$10,000 per company per year.
- Legislation for Crowd Funding was introduced into the Australian parliament in December 2015 and the government has indicated that the Crowd Funding Scheme will commence within six months of the legislation receiving royal assent.
- Draft legislation setting out the details of the scheme will be released shortly.

## 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 the 1st July 2016.

## Digital Market Place

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 SMEs.

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.

## 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.

If you have any questions on any aspects of the government’s Innovation Package and would like to discuss it with us, please do not hesitate to contact us for a suitable appointment.

### An Important Message

*While every effort has been made to provide valuable, useful information in this publication, this firm and any related suppliers or associated companies accept no responsibility or any form of liability from reliance upon or use of its contents. Any suggestions should be considered carefully within your own particular circumstances, as they are intended as general information only.*

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