

# AusIndustry: Guide to Software R&D Claims

## PITCHER PARTNERS OBSERVATION:

We previously advised that the ATO was concerned with expenditure associated with software related R&D claims based on the Australian Financial Review article on ATO's rejection of Airtasker's software development R&D claim. As a result of significant public interest in this matter, AusIndustry has recently released guidance for companies undertaking software development R&D activities.

AusIndustry considers the generation of new knowledge for activities within software development projects to be dependent on a scientific and/or technological advance.

The outcome of these activities cannot be known or determined in advance; and can only be determined by conducting an experiment that applies a systematic progression of work.

AusIndustry's view of "outcome of activities being unknown" is a competent professional in the field would not be able to extrapolate results from existing knowledge. While software development may be systematic and involve testing, the process often uses existing knowledge, information or expertise and so may have an outcome that could be known or determined in advance by a software engineer.

Accordingly, it is our view that companies which do not adequately demonstrate the generation of new knowledge may be at risk of not satisfying the legislative core activity criteria. Albeit, the expenditure may still be able to be claimed as supporting activities if another core activity is identified. We are of the opinion that this is not a straight out denial of these expenses. However, a great deal of diligence will be required to ensure that there is an identifiable core activity in future R&D claims.



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# AusIndustry: Guide to Software R&D Clams (Cont.)

The below are examples of activities which, whilst they do not satisfy the core activity provisions, may still constitute supporting activities.

- software-related development activities of a routine nature;
- solutions to technical problems that have been overcome in previous projects;
- adding user functionality to existing application programs (including basic data entry functionalities);
- the use of standard methods of encryption, security verification and data integrity testing;
- the customisation of a product for a particular use, unless during this process knowledge is added that significantly improves the base program; and
- routine debugging of existing systems and programs, unless this is done prior to the end of the experimental development process.

If you would like to discuss how we can assist you further, please contact us on (07) 3222 8444.



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AusIndustry continues to emphasize the importance of maintaining contemporaneous records in relation to the R&D activities undertaken for the purposes of substantiating the R&D claim.

Businesses undertaking software development projects should evaluate their activities against AusIndustry's guidelines to determine if their activities meet the appropriate criteria to qualify as R&D.

Pitcher Partners is a proud patron member of FACCI. We are available to conduct a complementary R&D risk assessment of your company's R&D claims and provide you with a risk analysis report and consultation.