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Medicines Australia Submission

TREASURY DISCUSSION PAPER ON PATENT BOX POLICY DESIGN



Medicines
Australia

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Introduction

Medicines Australia congratulates the Australian Government on its decision to implement a patent box tax concession. A patent box scheme is a step in the right direction to incentivise innovative pharmaceutical companies to commercialise intellectual property (IP) in Australia and will also boost Australian medical and biotech manufacturing. Australia has a generally strong, stable and reliable IP system – comparable to many other advanced economies overseas - but we have historically struggled to capture the full value of innovative discoveries. With the right policy settings, a patent box will ensure Australian discoveries in health are developed here, ensuring Australia captures the opportunity for new industries and jobs in health innovation.

Comments on the proposed design of the patent box

While Medicines Australia supports the establishment of a patent box in Australia, the design proposed in the Treasury consultation paper is unlikely to be sufficient incentive for multi-national pharmaceutical companies to redirect research and development (R&D) activity and other IP commercialisation activities to Australia.

R&D by pharmaceutical companies is global in nature with manufacturing supply chains, clinical trials and other activities conducted across several countries. Although Australia retains several advantages in conducting clinical trials due to its well-developed and globally recognised medical system, its small population as well as other commercial factors mean that the amount of R&D investment is lower than other larger jurisdictions. Some of those barriers to investment are high labour and energy costs, and geographic distance to major global markets.

The Government’s proposed concessional tax rate of 17 per cent is well above global equivalents. For example, the concessional tax rate under the patent box in the United Kingdom, France and Spain is 10 per cent. As the policy aim of the government is to “encourage companies to base their medical and biotechnology R&D operations, and commercialise innovation, in Australia and to retain associated patent profits in Australia”,¹ the concessional tax rate must be viewed in a global context. For the patent box to be effective in increasing the competitiveness of the Australian tax system for globally mobile innovative companies, the proposed concessional tax rate of 17 per cent must be lowered.

¹ <https://treasury.gov.au/consultation/c2021-177849>

Medicines Australia also suggests that the concessional tax rate should be applied to all R&D expenditure directly incurred by the Australian taxpayer, regardless of whether it is conducted in Australia or overseas, where there has been substantive expenditure on R&D in Australia. This approach is consistent with the OECD's Base Erosion and Profit Sharing (BEPS) Action 5 Minimum Standard.

In addition, many of the issues raised by Medicines Australia and our members via submissions to the current House of Representatives committee inquiry into approval processes for new drugs and novel medical technologies must be properly addressed for the patent box to be successful. In addition to ensuring the regulatory and reimbursement systems are future proofed for early patient access to innovative medicines and treatments, Australia must improve its capacity and capability in R&D and its approach to IP.

Conclusion

We look forward to working with Treasury to ensure that the design of the patent box adequately incentivises innovative pharmaceutical companies in Australia to develop and manufacture medicines and vaccines onshore. With the right policy settings, a patent box will ensure discoveries in health are developed here in Australia, stimulating job creation and providing early access to lifesaving and life changing medicines and treatments for Australian patients.



About Medicines Australia

Medicines Australia is the peak body representing the innovative, research-based, medicines industry in Australia. Our members develop, manufacture and supply critical medicines and vaccines available on the Pharmaceutical Benefits Scheme (PBS) and the National Immunisation Program (NIP). Our membership comprises small, medium and large Australian and multi-national companies. Many of the world's multi-national medicines manufacturers are members of Medicines Australia through their local affiliates. These local affiliates provide a critical worldwide connection that enables Australians to access globally developed breakthrough medicines and therapies.

The COVID-19 pandemic has unquestionably established that Australia's overall health and economic indicators are inextricably linked. Medicines are an integral component of healthcare and assist Australians to live longer and healthier lives, remain productive and employed, avoid hospitalisation, and positively participate in, and contribute to, the community and the economy. Every innovative medicine made available in Australia generates a significant return on investment to the patient, the community, the economy, and the Government.