



R&D Tax Incentives

**TAX UPDATE**

## UAE's Ministry of Finance issues Public Consultation Paper on the Potential Introduction of Research and Development ('R&D') Tax Incentives in the UAE

### Introduction

The UAE Ministry of Finance (MoF) has recently issued a digital public consultation paper on the potential introduction of tax incentives for carrying out Research and Development (R&D) activities in the UAE. The Consultation Paper constitutes the consultation questionnaire and guidance paper.

The consultation paper is open for public comments till 14 May 2024. The MoF is keen on seeking inputs from stakeholders into the design process of the potential R&D Tax Incentive.

The public consultation has been released pursuant to the UAE Government's recognition of the importance of the wider benefits created by R&D in driving innovation and growing its knowledge base as part of creating a vibrant and diverse economy. Consequently, the UAE Government is exploring the possibility of implementing an R&D Tax Incentive within the Corporate Tax Law that would have widespread impact throughout the economy.

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*Please note that the consultation paper does not reflect the final policy and may be subject to change during the policy evaluation process.*

## 1. Guidance Paper - Foundations of R&D

The Guidance Paper on Foundations of R&D provides basic concepts of R&D such as definition, characteristics, and methods of identifying R&D activities. Some key concepts relating to R&D outlined in the Guidance Paper are provided below:

### Definition and Characteristics of R&D

R&D is about practising creative thinking processes in a systematic, logical, and orderly manner to increase the stock or balance of human, cultural, and societal knowledge, to create new applications based on the existing knowledge.

Research is categorized into three types:

- 1) Basic Research,
- 2) Application-Oriented Research, and
- 3) Experimental Research.

The Guidance Paper has elaborated on each type of research and further, it has highlighted that R&D should have the following key characteristics:

- (i) Its objective should be **Novel**
- (ii) Its objective should also be **Creative**
- (iii) The outcome is **Uncertain**
- (iv) R&D is conducted in a **Systematic** manner
- (v) R&D results should be **Transferable & Reproducible**

The Guidance Paper describes all the above terms along with examples and references to OECD's Frascati Manual. Furthermore, the Paper also provides guidance as to what are some of the key questions that may need to be asked to see whether the work carried out falls under the key characteristics highlighted above.

This will help distinguish R&D projects from traditional technical or technological activities.

### Common and Excluded R&D Activities

The MoF through the Guidance Paper provides an illustrative list of common R&D Activities. Furthermore, it has been clarified that traditional science and technology, and engineering and scientific activities are often not considered as R&D activities.

Below is the illustrative list of common activities that are considered as R&D activities and the list of engineering and scientific activities and science and technology activities that may not be considered as R&D:

Common R&D Activities	Engineering and Scientific Activities	Science and Technology Activities
<ul style="list-style-type: none"> <li>• <b>Laboratory research</b> for new knowledge</li> <li>• <b>Transforming research outcomes</b> to new knowledge or applications</li> <li>• <b>Testing</b> to find <b>alternatives</b> for products or processes or for evaluation</li> <li>• <b>Modifying product composition</b> or redesigning</li> <li>• <b>Preparing basic designs</b> for industrial models and experiment units</li> <li>• <b>Designing tools, equipment and molds</b> with new technologies</li> <li>• <b>Design, construction, and operation of experimental industrial units</b> that may not have economic feasibility for commercial production</li> <li>• <b>Design and developing tools, equipment, and devices</b> used to facilitate R&amp;D activities or components related to the production of products or processes related to R&amp;D projects</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Engineering operations</b> after development in the early stage of commercial production</li> <li>• <b>Quality control tests</b></li> <li>• <b>Inspection and maintenance</b> during commercial production</li> <li>• <b>Adapting capabilities</b> to meet specific customer requirements</li> <li>• <b>Other routine or regular design changes</b> for existing products</li> <li>• <b>Routine design</b> of tools, equipment, and molds</li> <li>• <b>Engineering designs, works, and structural engineering</b> related to the construction, transfer, rearrangement, or operation of facilities or equipment (excluding facilities or equipment used for R&amp;D)</li> <li>• <b>Legal work</b> related to patents (applications, sale, licensing, or litigation)</li> <li>• <b>Scientific and technical</b> training, excluding R&amp;D worker development and training</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Scientific and technical</b> information Services</li> <li>• <b>Testing and standards</b> unification</li> <li>• <b>Feasibility</b> studies</li> <li>• <b>Policies-related</b> activities</li> <li>• <b>R&amp;D Funding</b> management</li> <li>• <b>Indirect</b> support</li> </ul>

## 2. Consultation Questionnaire on Potential R&D Tax Incentive

**The MoF, recognizing the importance of engaging with stakeholders, has drafted a public consultation questionnaire.**

The consultation questionnaire seeks to ensure the potential R&D tax incentive is appropriately designed to meet the needs of businesses in the UAE, and it covers various aspects of the design features of a potential R&D tax incentive.

The initial questions are aimed to find out the current R&D practices of businesses like current R&D spend, where such activities are undertaken (UAE or outside UAE), if such R&D activities are outsourced or not etc. Some key aspects mentioned in the Consultation Questionnaire are highlighted in the next pages:

### 1 - Definition of R&D

- The consultation questionnaire seeks comments on whether any R&D activities fall outside the scope of the Frascati Manual's definition of R&D; and whether the stakeholders propose an alternative definition of R&D that better aligns with local contexts and industry practices.

### 2 - Qualifying Businesses, Activities and Location of Activities

- Stakeholders are invited to share their views on whether any specific sectors or businesses might gain more from the incentive than others.
- Questions are directed at multinational groups, exploring R&D activities in other jurisdictions, factors that influence R&D location decisions, strategies to attract R&D centers to UAE, and insights into tax incentives available in other jurisdictions.

- The MoF seeks opinions on whether R&D activities in social sciences, humanities, and the arts are integral to UAE businesses and should be included in the R&D definition.

### 3 - Qualifying R&D Expenditure

- MoF acknowledges that R&D expenditures may be current and capital in nature. Variations may exist in the approaches taken for incentivizing capital R&D spending and there can be complexities in allocating indirect costs.
- Views are also sought on expenses that should be explicitly included (including outsourced R&D) for the potential incentive and alternative approaches for the allocation of indirect costs.
- The paper assesses how limiting incentives for outsourced R&D activities may influence businesses' decisions to undertake R&D within the UAE.

### 4 - Type(s) of R&D Tax Incentive

- MoF suggests introducing expenditure-based R&D tax incentives, typically encompassing mechanisms such as tax credits, enhanced deductions, investment deductions, accelerated depreciation, etc.
- Furthermore, the type of incentive will also depend on its treatment by the Pillar Two - Global Anti-Base Erosion ("GloBE") Rules.

- The questionnaire seeks comments from the stakeholders on the type of potential R&D incentive that benefits businesses, regimes that effectively influence behaviour beyond merely rewarding R&D efforts, and jurisdictions that provide certainty over the incentive available.
- Suggestions are also sought for on how to enhance or ensure certainty about the availability of incentives.

### 5- Treatment of Unutilized Benefits

- The MoF recognizes that R&D-performing businesses may encounter losses or insufficient taxable income. To address this, unutilized tax benefits can be carried forward to offset future tax liabilities. Alternatively, cash refunds, subject to specific time limits, may also be an option.
- The MoF seeks input on whether cash refunds or carry-forward of unutilized benefits would align better with the stakeholder's business profile.

### 6 - Administrative Measures

- The MoF seeks suggestions from stakeholders on effective administrative measures that can be introduced to limit the risk of incorrect or fraudulent claims. Specifically, it requests the businesses to share their experience on the pre-approval process in other countries.
- Depending on the final policy design, businesses might be subject to additional requirements for administering R&D claims. The MoF seeks feedback from stakeholders on this matter. Example: Robust record-keeping and annual filing of stand-alone R&D reports/information with tax returns.

## 3. Andersen Takeaway

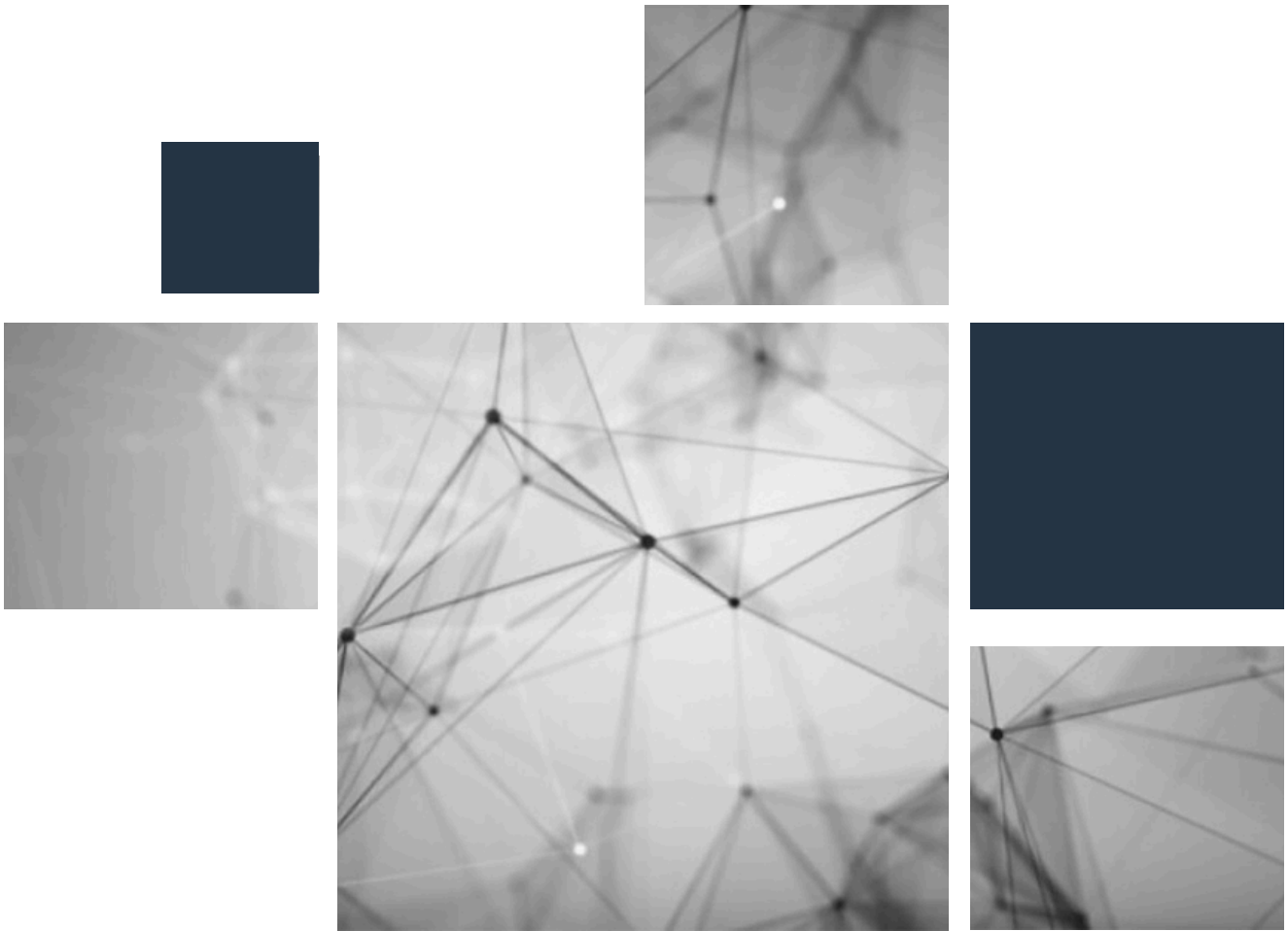
**The proposed R&D tax incentive scheme aims to benefit businesses of all sizes, from small and micro entities to large multinational companies; and aims to lower the effective cost of undertaking R&D activities.**

The inputs from various and diversified businesses will greatly help in devising an R&D tax scheme that is appropriate yet incentivizing.


The design of the questionnaire reflects the MoF's objective of creating a comprehensive policy, which aims to provide tax incentives while also incorporating effective administration measures to mitigate the risk of incorrect or fraudulent claims.

The consultation questionnaire represents a transparent and collaborative effort to create an enabling environment for innovation, research, and technological advancement within the UAE.

Going forward, it is recommended to all the stakeholders including businesses planning to expand their operations in UAE to share their views on key design features of the R&D tax incentive scheme that are covered in the consultation questionnaire and share comments on or before **14 May 2024**.




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