Regulatory Impact Statement: Research and Development Tax Incentive: Commissioner's discretionary powers

Decision sought	*Agree to introduce discretionary powers for the Commissioner of Inland Revenue to accept and amend late Research and Development Tax Incentive filings.*
Agency responsible	*Inland Revenue*
Proposing Ministers	*Minister of Finance* *Minister of Science, Innovation and Technology* *Minister of Revenue*
Date finalised	*17 August 2026*

Description of the Minister's regulatory proposal

Ministers are proposing to amend the Tax Administration Act 1994 to allow the Commissioner of Inland Revenue to accept Research and Development Tax Incentive (RDTI) filings past the due date, and/or amend minor administrative errors in RDTI filings in limited circumstances.

Summary: Problem definition and options

What is the policy problem?

The RDTI was introduced in 2019, and the scheme aims to increase business expenditure on research and development (R&D). It provides businesses with a 15% tax credit on their eligible R&D expenditure. Increasing business expenditure on R&D is expected to generate wider economic benefits (spillovers).

Under current law, a late RDTI filing, or a filing with a minor administrative error that is not corrected within the short time limit for making an amendment, will result in the business being denied RDTI credits for the relevant income year.

These settings were initially put in place to maintain the integrity of the tax system, and to prevent businesses from retrospectively adding new expenditure to previous tax years' filings. However, there is a concern that these settings may be eroding trust and confidence in the RDTI scheme. If the financial impact on the firm is significant or reduces confidence in the RDTI process, this may discourage firms from undertaking additional R&D in future years. The material consequences of missed deadlines or errors increase compliance costs for R&D businesses and their tax agents.

What is the policy objective? The policy objective is to provide Inland Revenue with the ability to approve RDTI tax credits when minor administrative errors were made in a business's filings or if events outside of its control cause its RDTI returns to be filed late, to improve fairness and ensure the affected businesses are incentivised to conduct R&D.
What policy options have been considered, including any alternatives to regulation? Option 1: Status quo. Under the status quo there would continue to be no discretion for the Commissioner of Inland Revenue (the Commissioner) to accept and amend late RDTI filings. Option 2: The Commissioner be granted a discretion to accept late RDTI filings and amend minor administrative errors past the standard due dates. Businesses would apply to the Commissioner to exercise the discretion, the Commissioner would consider the facts of each case and decide if it is appropriate to do so. Option 3: Remove all special conditions placed on the RDTI filing and apply the general filing rules that apply to income tax returns. This would allow businesses to amend their filing for up to four years after they initially filed, and late filing would still be accepted (though subject to a small penalty). Inland Revenue's preferred option is Option 2. This would provide the Commissioner with a discretion to consider the facts and circumstances of individual case when a taxpayer has made a genuine attempt to comply with their RDTI obligations but has failed to meet a filing requirement. This option would best ensure that genuine R&D is appropriately supported by the RDTI. It allows for some tax credits to be received by businesses in respect of earlier income years but would be expected to have a lower fiscal cost and better supports the initial policy intent than Option 3.
What external consultation has been undertaken? Inland Revenue and the Ministry for Business, Innovation and Employment (MBIE) undertook targeted consultation with members of the Research and Development Advisory Group (RDAG),[1] Chartered Accountants Australia and New Zealand, and the Corporate Taxpayers Group between April and May 2024. These stakeholders supported change to address the inflexibility in filing. They suggested a variety of grounds for discretion to accept and amend late RDTI filings. The majority of these are reflected in Inland Revenue's preferred option. Inland Revenue undertook further targeted consultation of a more general nature with the same groups and other relevant stakeholders in 2025 and received similar feedback. This change was announced as part of Budget 2026. Inland Revenue met with RDAG shortly after to discuss the changes to the RDTI scheme. The feedback on the proposed Commissioner's discretions was generally positive.

[1] This group comprises officials and representatives from accounting firms and R&D businesses to function as a forum for identifying and resolving problems with the scheme.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs

Description of costs and where they fall

We estimate that allowing greater discretion would result in more credits being available each year.

Our estimate is that in the 2026/27 fiscal year, the fiscal cost would be $5 million, in the 2027/28 fiscal year the cost would be $2.5 million, and in subsequent outyears the ongoing cost would be $1.25 million per year. This is because we anticipate receiving applications relating to earlier tax years during the first two years of the provision being enacted.

There would also be a small unquantifiable administrative cost associated with the change. Initial costs include training staff on areas where discretion would be considered and there may be ongoing costs associated with managing amendments to claims.

Benefits

Description of benefits and where they fall

Key benefits include providing additional tax credits to the affected businesses (equal to the fiscal cost mentioned above) and more effectively incentivising R&D investment because businesses are more confident they will be able to access the RDTI credit despite events outside their control, or if they make minor errors in their returns. The discretion also extends to special circumstances when the business was unable to file on time, or has made errors, but a genuine effort was made to file on time or correct the errors. We expect a reduction in compliance costs for businesses applying for the RDTI because the avenue to correct a minor administrative error would be available to them if required, meaning they may reduce the reportedly excessive resources spent on RDTI filing.

In addition, more discretion could save Ministers, Cabinet, and Parliament time progressing bespoke legislative amendments to provide taxpayers relief for discrete events.

Balance of benefits and costs

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

Yes.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

Legislation would need to be passed to give the Commissioner the discretionary powers to accept late RDTI filings, and to make amendments to RDTI filings past the due date.

Limitations and constraints on analysis

The fiscal cost of introducing a discretion to accept and amend late RDTI filings is difficult to estimate because not all future situations that the Commissioner may want to exercise the discretion for can be anticipated. The forecast cost can only be made based on experiences to date within the regime. Inland Revenue does not always systematically record why someone may have filed late or not filed at all, so there is no exhaustive information on the reasons that some R&D businesses are not filing on time for the RDTI.

I have read the Regulatory Impact Statement, and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits, and impact of the preferred option.

Responsible Manager signature:	s 9(2)(a)

Claire McLellan

Acting Policy Lead

Inland Revenue

17 August 2026

Quality Assurance Statement

Reviewing Agency: Inland Revenue	**QA rating:** Partially meets

Panel Comment:

An Inland Revenue quality assurance panel has reviewed the Regulatory Impact Statement (RIS) prepared by Inland Revenue and considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria. Consultation and evidence supported understanding of the issue but due to timing constraints detailed consultation on options and impacts was not undertaken. The RIS is otherwise sufficient to enable Ministers to make an informed decision.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The RDTI, introduced in April 2019, is the Government's primary mechanism for increasing business R&D expenditure, providing a refundable tax credit of 15% of eligible R&D expenditure on eligible R&D activities.
2. To claim the RDTI, businesses must enrol, obtain approval for their planned R&D activities, and file a supplementary return (RDTI filings) with their income tax return. The approval process occurs before expenditure is incurred, providing certainty that the activities are eligible for the credit.
3. The RDTI was implemented with strict filing deadlines to provide certainty for taxpayers and administrators, and to prevent retrospective claims for expenditure from previous years (gravedigging). Allowing businesses to claim historical expenditure would be inconsistent with the RDTI's purpose of encouraging additional R&D activity and would instead provide a windfall for spending already undertaken without the expectation of a tax credit.
4. This issue has been observed in overseas R&D incentive regimes. To prevent this, the RDTI requires businesses to apply for approval for their R&D activities before claiming expenditure and generally restricts amendments to applications or returns after the filing deadline, except in limited circumstances. As a result, late filing will usually result in the loss of the entire RDTI tax credit for that tax year.
5. Accountancy firms have advised us that typically they file close to, or on, the due date. A failure to file on or before the due date could be caused by a sudden illness or injury, a natural disaster, unforeseen events or genuine mistakes made despite an effort to prepare a correct application on time. The impact of missing the due date would result in the loss of all the credit the R&D business would be entitled to if filed on time. This could be considered a harsh and disproportionate consequence.
6. A business can apply to increase its R&D tax credit, provided it filed the supplementary return on time and requests the adjustment by the earlier of four months after filing the relevant income tax return or one year after the relevant return's due date. This is intentionally more restrictive than most other types of tax positions, which can generally be amended within a four-year period after the return was filed (known as the four-year time bar).
7. "Minor administrative errors" could be misspelling the company name, mislabelling expenditure in the wrong tax year, or other errors of a similar nature that are clearly a mistake. The impact of these errors could result in the loss of some or all of the credit the R&D business would be entitled to if it were not for the error.
8. In the years the RDTI has operated, it has become apparent that the Commissioner's inability to amend or accept late filings for the RDTI may be preventing genuine R&D from being supported. If this status quo persists, this could lead to lower levels of confidence in the RDTI, which could reduce its effectiveness at encouraging additional R&D. It also increases the compliance burden on taxpayers and advisors when filing returns because small errors can result in significant consequences if tax credits are denied as a result.

What is the policy problem or opportunity?

9. When a taxpayer does not receive the RDTI because of late filing or an administrative error, it undermines the intent of the RDTI. In these cases, the RDTI is withheld for reasons that do not improve the scheme's integrity, but instead reduce its effectiveness as an incentive.
10. The inflexibility of RDTI due dates and error correction processes creates risks for all parties. R&D businesses face the greatest risk because late filings or minor administrative errors can result in the loss of expected tax credits, causing financial pressure when R&D expenditure has already been incurred and the credit factored into financial planning. Tax agents also face reputational and liability risks if clients lose credits due to filing issues, while Inland Revenue risks reducing confidence in the scheme and discouraging uptake of the RDTI.
11. In targeted consultation, stakeholders described a range of situations that resulted in late RDTI filings or uncorrectable errors after the due date. Common examples included administrative mistakes, such as filing for the wrong tax year, incorrectly entering data in myIR, or misreading which activities had been approved in myIR. Stakeholders also highlighted other circumstances, including adverse events and the illness or bereavement of key staff near filing deadlines, or misunderstandings about due dates.
12. Allowing flexibility for minor administrative errors and late filings would increase confidence in the RDTI and could improve uptake. Compliance costs for RDTI filings are high under the status quo, and it would be beneficial for R&D businesses to have assurance that minor administrative errors or late filings would not necessarily exclude them from receiving some or all of the credit.

What objectives are sought in relation to the policy problem?

13. The policy objective is to provide Inland Revenue with the ability to approve RDTI tax credits when minor administrative errors were made in a business's tax filings or if events outside of its control cause its RDTI returns to be filed late, to improve fairness and ensure the affected businesses are incentivised to conduct R&D.

What consultation has been undertaken?

14. In April and May of 2024, Inland Revenue undertook targeted consultation with individual members of RDAG, Chartered Accountants Australia and New Zealand, and the Corporate Taxpayers Group. Stakeholders supported the change to give the Commissioner discretionary powers to amend and accept late RDTI filings.
15. In 2025, Inland Revenue and MBIE undertook further targeted consultation with a range of stakeholders (including some of the same stakeholders from 2024) seeking more generalised feedback on the RDTI scheme. Stakeholders expressed frustration at the inability for the Commissioner to exercise discretion, noting that minor filing errors had disproportionate consequences and could result in a full loss of the credit for an R&D firm. They noted this inflexibility has led to a high administrative and compliance burden, and reportedly high pressure and stress on both R&D firms and their tax representatives.
16. Submitters suggested a variety of grounds on which a discretion to accept and amend late RDTI filings could be exercised. The majority of these were directly related to the factors described above, though submitters considered it important to not pre-empt the grounds on which the Commissioner may choose to exercise such a discretion if it was available. At the same time, businesses should also not expect the discretion to be exercised when they could generally have been expected to file on time (for example, the Commissioner would generally not expect the reason of "being busy" to be sufficient for the discretion to be

exercised). It will be important for Inland Revenue to communicate guidance to note these points.

17. Some stakeholders have raised that the Commissioner having no discretionary powers over the RDTI is not consistent with the rest of the New Zealand tax system, and that few tax provisions have such limited abilities for the Commissioner to exercise discretion.
18. Some stakeholders have raised the issue of certainty. Many of the firms undertaking R&D activities are small businesses and need certainty that they will receive the tax credit to plan their future R&D and forecast accordingly. The uncertainty in the status quo reduces confidence in the RDTI scheme and may prevent R&D activity, particularly for cash-constrained businesses.
19. In June 2026, after the Government announced this proposal as part of Budget 2026, Inland Revenue met with RDAG to discuss the changes to the RDTI scheme. RDAG responded positively to the proposal to give the Commissioner discretionary powers.
20. Some members of RDAG raised questions and suggestions about application dates and applying discretionary powers to past applications.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

21. The criteria that will be used to compare options are:
    - Effectiveness: Does the option support the initial policy intent of the RDTI by encouraging and incentivising additional R&D?
    - Compliance costs: Does the option reduce compliance costs on businesses participating in the RDTI?
    - Administrative costs: Does the option impose costs on agencies responsible for administering the RDTI?
    - Proportionality: Does the option ensure businesses are not unduly disadvantaged by minor errors or delays outside their control and support businesses with similar R&D activities receiving similar amounts of tax credits (horizontal equity)?
22. While all criteria are important, a higher weighting is placed on improving effectiveness and proportionality because these criteria best address the problem definition.
23. One key trade-off in these criteria is between effectiveness and administrative costs. For administering agencies to be more flexible in their approach to dealing with individual businesses in the RDTI, more manual intervention and engagement will be required (for instance, in the exercise of a case-by-case discretion).

What scope will options be considered within?

24. Under current law, there is limited ability to amend RDTI filing once the deadline has elapsed or to accept late filings. There are certain general discretionary powers available to the Commissioner; however, none of these powers enable the situations arising from the policy problem to be improved. Inland Revenue has already provided guidance on due dates, the consequences of late returns or minor administrative errors, and sends out reminders to taxpayers. This issue is persisting, and thus, a legislative solution is warranted.

What options are being considered?

Option 1 – Status quo

25. Under the status quo, there would continue to be strict time limits on filing and amending RDTI approval applications and supplementary returns.
26. Under the status quo, specific types of administrative errors, once encountered, may become less likely to occur in the future due to increased awareness, including through education and outreach efforts by administering agencies. However, there remains limited ability to address late filings when the underlying R&D expenditure is otherwise eligible, and genuine incidents can still prevent businesses from filing on time.

Option 2 – Commissioner’s discretion to accept late RDTI filings and to amend minor administrative errors in filings

27. Under this option, the Commissioner would be granted a discretion to accept RDTI filings past the due date, and to amend minor administrative errors in RDTI filings past the due date. Businesses would apply to the Commissioner to exercise the discretion, the Commissioner would consider the facts of each case and decide if it is appropriate to do so.
28. Given that this option takes the form of a discretion, it is not possible or desirable to prescribe all circumstances in which the Commissioner may exercise it. The discretion is intended to provide flexibility when a taxpayer has made a genuine attempt to comply with their RDTI obligations and access the credit but has filed late or made a minor error.
29. The Commissioner would consider the specific facts and circumstances of each case. While the discretion could apply in situations such as administrative errors, illness, bereavement, emergency events, or issues attributable to Inland Revenue, these examples are not exhaustive. The discretion is intended to remain sufficiently flexible to accommodate circumstances that cannot currently be anticipated.
30. When deciding whether to exercise the discretion, the Commissioner would consider all relevant factors, including the reason for the error or missed due date, the evidence supporting that explanation, the extent to which the taxpayer had taken reasonable steps to identify and document eligible R&D activities and expenditure, whether there was a clear intention to claim the RDTI, how promptly the issue was addressed once identified, and the taxpayer's overall history of compliance.
31. Allowing businesses that miss an R&D filing deadline to have their filings processed or corrected would alleviate some of the pressure felt by businesses. This is a more appropriate outcome; denying R&D support for genuine R&D due to a lack of flexibility would be inconsistent with the policy intent of the RDTI. Option 2 would promote a proportionate consequence when a taxpayer had a legitimate intention to accurately file for genuine R&D but would be denied the RDTI for the year due to inadvertent errors or mistakes.
32. The current settings result in a disproportionate consequence to R&D businesses, particularly when considering that many of these businesses are small or start-up novice businesses. The penalty for not filing on time or making a small administrative error is particularly harsh and this proposal would reduce this impact.
33. Businesses would face costs when applying for a discretion and are therefore likely to do so only when the value of the RDTI claim outweighs the additional administrative effort.

Because the discretions are relatively narrow, we expect few firms would apply to use the discretions and therefore the overall compliance costs would be low.

34. For most RDTI recipients, compliance costs would decrease. We have heard that accountancy firms devote significant resources to avoiding minor errors in applications. Providing an avenue for late corrections for minor administrative errors would reduce this burden and lower compliance costs for R&D businesses overall.

35. This option would increase administrative costs by a small and unquantifiable amount for Inland Revenue, which would need to process applications for the discretion. Internal guidance would need to be developed for applying the discretion and staff would need to be trained on that guidance.

36. The Commissioner's decision on whether to exercise the discretion should be final, and not subject to appeal.

Option 3 – Remove special RDTI conditions and apply general tax rules and four-year time bar

37. This option would remove any special RDTI restrictions and would apply the general filing rules that apply to income tax returns. This means RDTI filings could be amended for up to four years from the date they are filed, and applications received late could still be accepted with some minor penalties.

38. By removing special rules for RDTI filing, this option best promotes horizontal equity and gives RDTI recipients the same treatment as other taxpayers under most other tax positions.

39. However, allowing businesses to file very late claims for R&D completed up to four years ago could undermine the policy intent of the RDTI scheme. The RDTI scheme aims to encourage additional R&D activity that might not otherwise occur. Paying credits for R&D activity undertaken in previous tax years does not incentivise additional R&D. Instead, it provides a windfall gain for the business (known as "gravedigging"). Concerns about gravedigging in overseas R&D incentive regimes have contributed to the existing strict rules and approvals.

40. Allowing retrospective filing could also significantly increase the fiscal cost of the RDTI.

41. Applying the general tax rules and four-year time bar to the RDTI would give businesses the ability to make amendments that are not just minor or administrative in nature, but also significant changes to their filings up to four years after the tax year has ended. Because Option 3 would allow late filing (with a small penalty) it would remove the need for any consideration from the Commissioner about special circumstances or history for late filing as described in Option 2.

42. Option 3 also has a significantly higher administrative cost. Allowing retrospective claims for late filings and major amendments would require Inland Revenue staff to assess entire applications for up to four years, possibly multiple times. RDTI applications are heavily scrutinised to reduce the integrity risk. To allow this for not only current RDTI filings but multiple other previous years would require additional resource and incur further administration costs.

43. If businesses chose to submit multiple amendments over four years, this would increase their compliance costs, but it would allow businesses to correct any errors when identified and may alleviate the requirement for heavy resourcing to complete filings correctly and on

time (although businesses would face a late penalty fee and delayed cashflow because credits would not be available until after they eventually filed).

How do the options compare to the status quo/counterfactual?

	Option 1 – *Status quo*	Option 2 – Commissioner's discretionary powers	Option 3 – General tax rules apply
Effectiveness	0	+	-
Compliance cost	0	+	+
Administrative cost	0	-	--
Proportionality	0	+	+
Overall assessment	0	++	-

++ much better than the status quo
+ better than status quo
0 about the same as the status quo
- worse than the status quo
- - much worse than the status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

44. Option 2 is Inland Revenue's preferred option. This option addresses the problem and ensures that R&D firms that miss a deadline, or make a minor administrative error, would not be disproportionally disadvantaged. It also provides a way for businesses that would otherwise be eligible for the RDTI to receive a credit. This option has a fiscal cost of $10 million over the forecast period. Officials anticipate $7.5 million to occur in the first two tax years of enactment. Overall, compliance costs associated with applying for the RDTI would decrease due to the reduction in resourcing required by accountancy firms in the filing preparation stage, but applying for a discretion would incur costs.
45. Option 1 (status quo) would provide no remedy when a late RDTI filing might reasonably be accepted, and limited ability to amend RDTI filings with minor administrative errors. Therefore, it would not address the problem. This option has no fiscal cost, but the compliance costs for R&D businesses and accountancy firms would remain high because of the intensive resourcing required at the filing preparation stage. This option would continue to disadvantage firms that have made RDTI filings late or with minor administrative errors.
46. Option 3 would remedy both the late filing and the administrative errors issues and would best support horizontal equity across the tax system. However, it is expected to have a higher fiscal cost, increase administrative costs, and would not support the RDTI policy intent of encouraging and incentivising additional R&D. Instead, it would give businesses

the ability to claim credits for previous tax years on R&D that has already happened and would have occurred regardless of anticipation of the credit.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

47. Yes

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of preferred option compared to taking no action			
R&D performing businesses	There is a small increase in compliance costs for a few firms making an application for Commissioner's discretion.	Low	Low
Inland Revenue	Administrative costs for the exercise of the discretion, including preparation of guidance and training of staff.	Low	Medium
Crown	Total tax credits paid out would increase over the forecast period.	$10 million – based on Inland Revenue's knowledge of past cases for which the discretion could have been exercised and assumes a similar rate of cases in future.	Low – difficult to anticipate how many firms would seek to exercise this discretion and the value of the affected tax credits. We have estimated it based on Inland Revenue's knowledge of previous denied claims, but these may not accurately reflect eligible cases, including future cases.
Total monetised costs		$10 million over the forecast period	Low
Non-monetised costs		*Low*	*Low*

Additional benefits of preferred option compared to taking no action			
R&D performing businesses and their tax agents	Inflexibility of due dates impacts only a minority of RDTI recipients. However, since the consequence is losing access to the RDTI for the year, a discretion would be highly beneficial for these businesses.	$10 million over the forecast period in relation to tax credits paid to R&D performing businesses.	Low – difficult to anticipate how many firms would seek to exercise this discretion and the value of the affected tax credits.
	Reduction in compliance costs and undue risks associated with preparing RDTI returns on R&D businesses and accountancy firms.	Medium	Medium – based on stakeholder feedback.
Inland Revenue	Improved ability to assist R&D businesses and their tax advisors	Low	Medium
Other businesses and researchers	To the extent the changes increase the business confidence in the RDTI, this may increase R&D in New Zealand. This could generate additional spillover benefits such as new knowledge, technology or skills that benefit other businesses or researchers.	Medium	Low
Total monetised benefits		$10 million over the forecast period	Low
Non-monetised benefits		*Medium*	*Low*

Section 3: Delivering an option

How will the proposal be implemented?

48. Legislation would need to be passed to give effect to the changes to the RDTI introducing a discretion for the Commissioner to accept and amend late RDTI filings. The legislative changes would be included in the 2026–27 Annual Rates Bill, currently scheduled to be introduced in September 2026 and expected to be enacted before 1 April 2027.

49. The Commissioner's discretion could potentially be exercised for any RDTI approvals and returns, including those due in earlier tax years (prior to 1 April 2027). However, the standard four-year time bar would still apply to prevent income tax positions being amended more than four years after the end of the income year the income tax return was filed.

50. Inland Revenue and MBIE would incorporate information on the changes into existing guidance material on the changes and the impact of these on business.

51. Officials from all responsible agencies (Inland Revenue and MBIE) have engaged, and will continue to engage, with interested stakeholders on the appropriate settings for the RDTI. This includes R&D businesses, tax advisors, and groups like RDAG and Chartered Accountants Australia and New Zealand.

How will the proposal be monitored, evaluated, and reviewed?

52. Inland Revenue and MBIE will monitor the effectiveness of the proposed legislation when implemented. If we identify any evidence that the legislation is not operating as intended, we will consider options for addressing the issues raised.

53. Further, officials also meet and discuss with a broader range of stakeholders (including RDAG), at which policy and implementation issues pertaining to the RDTI are discussed. Ongoing feedback from RDAG members and regular stakeholder discussions will inform the monitoring and review of the proposed changes to due dates.