

# UPDATE

## ***Automotive Transformation Scheme (ATS)***

### **ATS Regulations Amendment**

On 14 December 2010 an amendment to the ATS Regulations was registered on the Federal Register of Legislative Instruments.

The *Automotive Transformation Scheme Amendment Regulations 2010 (No. 1)* provides additional clarification on administrative issues that were identified through the development of the administrative framework for the ATS. The need for some amendments was also identified by the Senate Standing Committee on Regulations and Ordinances. There are no additional financial implications with regard to the Amendment and the total administered expenses for the ATS remains at an estimated at \$3,347 million over the period 2010 to 2020.

The Amendment:

- recognises plant and equipment acquired through hire purchase agreements by way of changes to regulations 1.5, 1.17, 1.18, 1.19 and 1.26
- confirms that goods produced and services provided in Australia, referred to in the definition of sales value in regulation 1.5, have the same meaning as in regulation 1.6
- makes it clear that automotive services provided in Australia can be in respect of production in Australia or overseas
- confirms that to be considered allowable research and development activity the conditions of both paragraph 1.20 (1) (a) and 1.20 (1) (b) of the regulations must be met
- clarifies that a motor vehicle producer (MVP) cannot claim research and development that is directed at any production or provision of automotive services for the MVP's own use through changes to subregulation 1.20 (6)
- makes it clear that allowable research and development can be treated as both an expense or a capital investment by way of changes to regulations 1.21 and 1.22
- clarifies paragraph 1.29 (2) (c) of the regulations to make it clear that the Secretary may only decide that an ATS participant should have its production value, sales value or investment value assessed as not being at arms length if the participant has been found guilty of being involved in a cartel or other price-fixing arrangement by a relevant jurisdiction and in accordance with the requirements of the *Trade Practices Act 1974*

cont.



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## ATS Regulation Amendment cont.

- includes provisions where in not granting registration in the national interest or continued registration in the national interest, the Minister is required to write to applicants outlining the reasons for these decisions through changes to regulation 2.8 and 2.25
- corrects the spelling error in regulation 2.28, changing 'affect' to 'effect'
- clarifies the ability for ATS participants to correct any sales value achieved and start-up investment amount spent for the ATS year and the previous ATS year in any of their quarterly returns for the purpose of determining the sales-based cap under regulation 3.11
- provides transitional arrangements in an ATS year for ATS participants completing their eligible start-up investment periods through changes to regulation 3.11
- clarifies that a request by an ATS participant to offset a scheme debt from one or more quarterly payments of assistance under regulation 4.2 must be agreed to by the Secretary. Any such decision is reviewable under paragraph 5.6 (f), and
- makes it clear that where agreement has been made for scheme debts to be deducted from future payment, the debt is not considered overdue.

Please visit the [ATS Website](#) where you can access the ATS Amendment Regulations 2010 and the updated ATS Regulations.

**The Automotive Transformation Scheme (ATS) applications for registration for 2011 must be lodged with AusIndustry by 31 December 2010.**