

Treasury Releases Guidance on Updates to OBBBA's R&E Provision

September 16, 2025



On August 28, 2025, the IRS issued Revenue Procedure 2025-28, offering much-needed guidance on how taxpayers should comply with the changes introduced by the One Big Beautiful Bill Act, specifically as they relate to Internal Revenue Code (IRC) Sections 174 and 280C, which govern the tax treatment of research and experimental (R&E) expenditures and are designed to work together.

Large businesses (defined as businesses with more than \$31M average gross receipts in the prior three years) will be able to deduct unamortized R&E either in 2025 or ratably between 2025 and 2026. They will need to file a statement with their return in lieu of a Form 3115 (Application for Change in Accounting Method). Form 3115 is used to request a change in either the overall method of accounting or the accounting treatment of a specific item.

Small businesses (defined as businesses with equal to \$31M or less average gross receipts in the prior three years determined on a controlled group basis) may file a timely or superseded 2024 return and elect to deduct domestic Section 174A costs for that year. However, once they elect to deduct R&E expenses for any year within the 2022-2024 timeframe, they must consistently apply that election across all three years.

Additionally, under this election, the taxpayer must either:

- Make a Section 280C election to claim a reduced credit, or
- Reduce their R&E expense deduction by the amount of the credit.

All amended returns under this procedure must be filed by the earlier of July 6, 2026, or three years from the original filing date of the 2022 return.

Importantly, in the first year a new method is adopted, taxpayers may submit a statement with their return in lieu of filing Form 3115.

Additionally, it is unclear how the states will react and whether they will conform to this new guidance. It will need to be evaluated on a state-by-state basis.

Lastly, foreign R&E costs will continue to remain subject to mandatory capitalization and 15-year amortization under Section 174.

Anchin R&D Tax Credits team works with clients of all sizes and industries to stay fully compliant while unlocking the full potential of their R&E tax credits. Our experienced professionals help identify and document qualified activities and expenses, including employee wages, supplies, consulting fees, and software development costs. We also guide businesses through new opportunities under the OBBBA's R&E provisions, ensuring they maximize available federal and state credits. By combining technical expertise with practical, tailored strategies, we help clients improve cash flow, reduce tax liability, support sustainable growth, and ultimately catalyze R&E innovation by taking advantage of the new OBBBA provisions.

To determine the best option based on your fact pattern, please contact [Yair Holtzman](#), Partner and Leader of Anchin's [Research & Development Tax Credits group](#), or your Anchin Relationship Partner.