Daily Tax Report

2016

Don't Forget to Examine Your Company's State Research and Development Credits

Yair Holtzman, CPA, MBA, MS, CGMA
Tax Partner and Practice Leader
Research and Development Tax Credits Group
Anchin, Block & Anchin LLP

Gleb Gorkhover, CPA, MS
Tax Manager
Research and Development Tax Credits Group
Anchin, Block & Anchin LLP

Michael Ganz, BS, MS
Tax Supervisor
Research and Development Tax Credits Group
Anchin, Block & Anchin LLP

Matthew Bechtold, CPA, MS
(Former) Tax Supervisor
Research and Development Tax Credits Group
Anchin, Block & Anchin LLP

Bloomberg BNA

Daily Tax Report®

R&D

Yair Holtzman, Gleb Gorkhover, Michael Ganz and Matthew Bechtold of Anchin, Block & Anchin offer a state-by-state examination of the various state R&D credits and incentives currently available to taxpayers. ''State R&D tax credits are truly powerful opportunities that should have all taxpayers who claim federal R&D credits examining their eligibility for additional claims in each of the states where they have business operations,'' they write.

Don't Forget to Examine Your Company's State Research and Development Credits

BY YAIR HOLTZMAN, GLEB GORKHOVER, MICHAEL GANZ AND MATTHEW BECHTOLD

Federal and state research and development (R&D) tax credits are powerful yet underutilized opportunities that can make a big difference in operating performance and cash flow for companies that rely upon technology and science in their trade or business. R&D tax credits are extremely beneficial as they provide for a direct, dollar-for-dollar reduction in tax liability for eligible taxpayers.

Yair Holtzman, CPA, CGMA, MBA, MS, is a tax partner at Anchin, Block & Anchin LLP in New York. He is the practice leader of the Research & Development Tax Credits and Incentives Group, Life Sciences Industry Group, and Chemicals and Energy Industry Group. He has more than 20 years of experience with national public accounting and management consulting firms focusing on federal tax consulting issues and assisting senior executives with strategy development and implementation. Holtzman's expertise in the R&D area crosses a wide variety of industries, with special emphasis on chemicals, life sciences and technology services.

Gleb Gorkhover, CPA, MS, is a tax manager at Anchin, Block and Anchin in the R&D Tax Credits and Incentives Practice.

Michael Ganz, MS, is a tax supervisor at Anchin, Block and Anchin in the R&D Tax Credits and Incentives Practice.

Matthew Bechtold, CPA, MS, was a tax supervisor at Anchin, Block and Anchin in the R&D Tax Credits and Incentives Practice.

Individual states are continuously trying to outdo one another by offering incentives to attract corporate America to their local geographies in hope of boosting employment and revenue. R&D tax credits are one of many such incentives. Since most state R&D tax credits are derived from the federal calculation methodology, the incremental effort to quantify and claim them is minimal, assuming a taxpayer has already substantiated the federal R&D tax credit.

Some state R&D tax credits have the potential to cover a taxpayer's entire tax obligation or may even be refundable, thereby providing newfound cash for fueling additional R&D initiatives to drive growth and expansion. In summary, state R&D tax credits are truly powerful opportunities that should have all taxpayers who claim federal R&D credits examining their eligibility for additional claims in each of the states where they have business operations.

To best understand the opportunities being offered by the states, one should first examine and become familiar with the fundamentals of the federal credit, including the criteria for qualifying activities and the expense categories that will be included and ultimately drive the credit calculation.

Federal Credit Mechanics

The perception that the federal R&D tax credit only applies to laboratory drug discovery companies or high-tech manufacturing companies is false. The truth is that any business operating in a technical field, whose employees experiment to develop new or improved products or processes, may potentially qualify and claim valuable R&D tax credits. In fact it is the time that each employee spends performing qualified activities that will be far and away the most significant catalyst for the credit calculation.

The federal R&D tax credit was first introduced by Congress in 1981 to reward U.S. companies for increasing spending on R&D within the U.S. The R&D tax credit is available to businesses that design or develop new, improved or technologically advanced products, processes, principles, methodologies or materials. In addition to ''revolutionary'' activities, in some cases, the credit may be available to companies that have performed ''evolutionary'' activities, such as investing time, money and resources toward improving products or processes.

In order for an activity to qualify for the federal R&D tax credit, the taxpayer must show that it meets all the requirements as described in Section 41(d) of the Internal Revenue Code. Under Section 41(d), the term ''qualified research'' means:

- The purpose of the activity or project must be to create new (or improve existing) functionality, performance, reliability or quality of a business component. A business component is defined as any product, process, technique, invention, formula or computer software that the taxpayer intends to hold for sale, lease, license or actual use in the taxpayer's trade or business.

- The taxpayer must intend to discover information that would eliminate uncertainty concerning development or improvement of the business component. Uncertainty exists if information available to the taxpayer doesn't establish the capability to develop or improve, the optimal method of development or improvement, or the appropriate design of the business component.

- The taxpayer must undergo a systematic process of experimentation designed to evaluate one or more alternatives for achieving a desired result where the capability or the method of achieving that result, or the appropriate design of that result, is uncertain as of the beginning of the taxpayer's research activities. Treasury regulations provide some guidance, defining this process from a formal conventional implementation of the scientific method to something as informal as a systematic trial and error process.

- The process of experimentation used to discover information must fundamentally rely on principles of the physical or biological sciences, engineering or computer science. A taxpayer may employ existing technologies and may rely on existing principles of the physical or biological sciences, engineering or computer science to satisfy this requirement.

Conversely, the following activities don't constitute qualified research as defined in Section 41(d):

- research conducted after the beginning of commercial production of the business component;
- adaptation of existing business components;
- duplication of existing business components;
- reverse engineering;
- surveys, studies or activity relating to management function/technique, market research, routine data collection or routine testing/quality control;
- foreign research conducted outside the U.S., the commonwealth of Puerto Rico, or any possession of the U.S.;
- research related to social sciences, arts or humanities; and
- research to the extent funded by any grant, contract, government entity or person.

In order to properly claim federal R&D tax credits, participating companies must provide contemporaneous documentation that links employees' time directly to qualifying projects or activities. There are two acceptable methods for providing this documentation—a project approach and a departmental approach.

The project approach relies on a taxpayer's time-tracking documentation to directly link an employee's hours logged to a specific qualifying R&D project. The departmental approach relies on oral testimony, contemporaneous engineering documentation, job descriptions, educational background and other information to arrive at a reasonable time estimate.

Eligible expenses as defined in Section 41(d) are:

- wages paid to employees for engaging in qualified research, directly supervising qualified research or supporting qualified research;
- supplies directly linked to qualified research activities, including testing materials and prototypes;
- contract research performed by a third party on behalf of the taxpayer—the taxpayer must retain rights in intellectual property and financial risk unrelated to research success (these expenses are included at 65 percent of actual taxpayer expense); and
- basic research payments made to qualified non-profit organizations and institutions (these expenses are included at 75 percent of the actual taxpayer expense).

State Credits and Incentives

With a good understanding of the federal R&D tax credit, let us now turn to R&D tax credits and incentives offered by individual states. The purpose of state R&D tax credits is to encourage investment within each state, thereby creating jobs and stimulating growth.

In many cases, the rules for determining state R&D credits closely follow federal regulations. However, state guidelines vary in terms of the expenditures that are eligible for the credit as well as the methodology for calculating and claiming the credit.

For instance, several states offer R&D tax credits that are refundable. These refundable credits are particularly important to eligible businesses as they provide for an immediate cash benefit even when there is no tax liability for the credit year. Additionally, several states offer R&D credits that are even more generous than the federal credit due to the allowance of a higher percentage of eligible expenditures.

For these reasons, it is extremely important that state credits and incentives aren't overlooked by eligible businesses.

This article will provide a closer examination of the various state R&D credits and incentives that are currently available to taxpayers. The information reflects

   ISSN 0092-6884

laws in effect as of September 2015. The tax credit analysis in this article was done to identify states offering tax incentives leveraging I.R.C. Section 41. The article doesn't highlight other economic growth incentives and programs that may be offered by individual states.

Alaska

Alaska doesn't have a specific R&D tax credit. However, where a credit is allowed under the Internal Revenue Code, it is also allowed in computing Alaska income tax. It is limited to 18 percent of the amount of credit determined for federal income tax purposes, and apportioned, if applicable.[1] The credit is reported on Form 6390, Alaska Federal-based Credits.

Arizona

The Arizona R&D tax credit follows the same R&D qualification criteria as I.R.C. Section 41. For purposes of the Arizona credit, qualified research expenditures (QREs) may include only research conducted in Arizona. The amount of the credit is based on the federal regular credit computation method for Arizona QREs and taxpayers can't use the alternative simplified credit (ASC) method.

The allowable current taxable year credit is a percentage of:

- the excess, if any, of the Arizona QREs for the taxable year, over the base amount; and
- the Arizona basic research payments.

For 2014, if the allowable expenses don't exceed \$2.5 million, the allowable credit is 24 percent of this amount. If the allowable expenses exceed \$2.5 million, the allowable credit is \$600,000 plus 15 percent of the amount of expenses over \$2.5 million, subject to certain limitations.

If the current taxable year's credit for increased research activities exceeds a taxpayer's income tax liability for the taxable year, a portion of the excess credit may be refundable. In order to qualify, taxpayers must apply to the Arizona Commerce Authority (Commerce) and receive a Certificate of Qualification (Certificate) to receive a refund. In order to be eligible, the taxpayers must also have fewer than 150 full-time employees.

The refund is the lesser of 75 percent of the excess credit or the maximum refund on the Certificate from Commerce. The 75 percent refund is only available for the current year's excess credit for increased research activities. Once the taxpayer files a return with the department, the excess credit for increased research activities is carried forward; therefore, the taxpayer may not claim a refund for that taxable year. Taxpayers that elected to receive a refund of 75 percent of the excess credit can't carry forward any amount from the year of the refund.

If the current taxable year's credit exceeds the taxpayer's tax liability for the taxable year, the taxpayer may carry forward the unused credit to the next 15 consecutive taxable years.[2]

One item of note is that the termination provisions of I.R.C. Section 41 don't apply to the Arizona R&D tax credit, and Arizona credits can continue to be taken even if the federal tax credit isn't extended. Form 308, Credit for Increased Research Activities, is used by taxpayers that are corporations, exempt organizations with unrelated business taxable income (UBTI), S corporations or partnerships. Individual taxpayers must use Form 308-I, Credit for Increased Research Activities—Individuals.

Arkansas

Arkansas offers several R&D tax credits to companies within the state, including the Research & Development with Universities Tax Credit, the In-House Research Income Tax Credit, the In-House Research by Targeted Business Income Tax Credit and the In-House Research in Area of Strategic Value Income Tax Credit.

The Research & Development with Universities Tax Credit is available to taxpayers that contract with one or more Arkansas colleges or universities in performing research. They may qualify for a 33 percent income tax credit for qualified research expenditures.

In order to qualify for the income tax credit for research and development with universities, an eligible business must submit an application and project plan to the Arkansas Economic Development Commission, which is then reviewed by the Arkansas Science and Technology Authority. To claim the credit, taxpayers should attach to the tax return a copy of the Certificate of Tax Credit issued by the Arkansas Science and Technology Authority.[3]

The In-House Research Income Tax Credit authorizes an income tax credit to eligible businesses that conduct "in-house" research within a research facility that is operated by the eligible business. New or existing eligible businesses that conduct in-house research in a research facility operated by the business and that qualify for federal research and development tax credits may qualify for an income tax credit equal to 20 percent. However, the maximum credit that can be earned by each qualified business shall not exceed \$10,000 per tax year.

The income tax credit may be used to offset 100 percent of an eligible business's annual income tax liability. To claim the credits authorized, taxpayers must attach to their tax return a copy of the Certificate of Tax Credit issued by the Arkansas Science and Technology Authority.[4]

The In-House Research by Targeted Business Income Tax Credit provides for income tax credits for businesses deemed by the Arkansas Economic Development Commission to fit within the six business sectors classified as "targeted businesses." Such taxpayers may enter into a financial incentive agreement for income tax credits based on qualified research and development expenditures. The six business sectors are:

- advanced materials and manufacturing systems;
- agriculture, food and environmental sciences;
- bio-based products;

[1] Alaska Stat. Section 43.20.021(d).
[2] Ariz. Rev. Stat. Section 43-1168.
[3] Ark. Code Ann. Section 15-4-2708(a).
[4] Ark. Code Ann. Section 15-4-2708(b).

- biotechnology, bioengineering and life sciences;
- information technology; and
- transportation logistics.

An eligible business may be approved for an income tax credit each year equal to 33 percent of the qualified research and development expenditures incurred each year for the first five years of the financial incentive agreement. The income tax credit for research and development earned by targeted businesses may be sold. The business must make application to the Arkansas Economic Development Commission within one year of issuance in order to sell a credit, and the credits can only be sold one time.

To claim the credits authorized, taxpayers must attach to their tax returns a copy of the Certificate of Tax Credit issued by the Arkansas Science and Technology Authority.[5]

The In-House Research in Area of Strategic Value Income Tax Credit authorizes an income tax credit equal to 33 percent of qualified research expenditures for an Arkansas taxpayer that invests in:

- in-house research in an area of strategic value; or
- a project under the research and development programs offered by the Arkansas Science and Technology Authority and approved by its board of directors.

The taxpayer must apply to the Arkansas Economic Development Commission in order to qualify for the income tax credit. Research in an area of strategic value means research in fields having long-term economic value.

The tax credit may be earned for the first five years following the signing of a financial incentive agreement. The maximum tax credit that may be claimed by a taxpayer under this program is $50,000 per tax year. To claim the credits authorized, taxpayers must attach to their tax returns a copy of the Certificate of Tax Credit issued by the Arkansas Science and Technology Authority.[6]

All of the Arkansas tax credits above have a carryforward of nine years beyond the year in which the credit was first earned.

California

California conforms to the federal definition for qualified research expenses under I.R.C. Section 41(b) for research conducted within California. For taxpayers that conduct business both within and outside of California, for purposes of determining the base amount, gross receipts are receipts from the sale of property that is held primarily for sale to customers (in the ordinary course of a trade or business) and that is delivered or shipped to customers in California.

Taxpayers have two alternative methodologies for claiming the R&D tax credit. Under the regular research method, the credit is 15 percent of the excess of qualified research expenses for the taxable year over the base period research expenses. Corporations are allowed the 15 percent credit amount plus credit for 24 percent of the basic research payments.

Instead of the regular credit, taxpayers may elect the alternative incremental credit in which taxpayers are assigned a smaller three-tiered fixed-base percentage and a reduced three-tier credit rate (1.49 percent, 1.98 percent and 2.48 percent).

Form 3523, Research Credit, is used to compute the research credit for increasing the research activities of a trade or business, and should be used for entities including corporations, S corporations, estates, trusts, partnerships and limited liability companies.

If the available credit exceeds current-year tax liability, the unused credit can be carried over to succeeding years until exhausted but can't be carried back. The credit can't reduce the minimum franchise tax (corporations and S corporations), annual tax (partnerships and qualified Subchapter S subsidiaries), alternative minimum tax (corporations, exempt organizations, individuals and fiduciaries), built-in gains tax (S corporations) or excess net passive income tax (S corporations).

S corporations face another limitation in that they may claim only one-third of the credit against the 1.5 percent entity-level tax (3.5 percent for financial S corporations) after applying the limitations relating to passive activity losses and credits.

If a taxpayer owns an interest in a disregarded business entity, the amount of the credit that can be utilized is limited to the difference between the taxpayer's regular tax computed with the income of the disregarded entity, and the taxpayer's regular tax computed without the income of the disregarded entity. If the disregarded entity reports a loss, the taxpayer may not claim the credit this year but can carry over the credit the credit amount received from the disregarded entity.[7]

Colorado

Colorado offers an R&D tax credit to taxpayers who make expenditures on research and experimental activities in enterprise zones. The state offers a 3 percent income tax credit that is based on the increase of a company's research and experimental expenditures within an enterprise zone over the average of such expenditures conducted in the same enterprise zone during the previous two income tax years.

The total amount of the calculated credit must be divided equally over four years. The taxpayer may claim 25 percent of the tax credit in the year the expenditure is made and 25 percent in each of the following three years. The expenditures must meet the research and experimental activities as defined in Section 174 of the federal Internal Revenue Code of 1986, as amended.[8]

For any credit generated on or after Jan. 1, 2012, most enterprise zone credits must be pre-certified by the zone administrator prior to any business activity that would generate the enterprise zone credit.[9]

---

[5] Ark. Code Ann. Section 15-4-2708(c).

[6] Ark. Code. Ann. Section 15-4-2708(d).

[7] California Franchise Tax Board Form 3523, Research Credit (2014). Retrieved from https://www.ftb.ca.gov/forms/2014/14_3523.pdf.

[8] Colo. Rev. Stat. Section 39-30-105.5.

[9] Colo. Rev. Stat. Section 39-30-103(7).

   ISSN 0092-6884

Connecticut

Connecticut has two R&D tax credits available to taxpayers under Forms CT-1120RC, Research and Experimental Expenditures Tax Credit, and CT-1120RDC, Research and Development Expenditures Tax Credit. Connecticut research and experimental expenditures are those that may be deducted under Section 174 of the Internal Revenue Code of 1986 and related regulations.

Form CT-1120RC is used to claim the Research and Experimental Expenditures Credit, which is equal to 20 percent of the incremental increase in research and experimental expenditures that are conducted in Connecticut that exceeds the amount spent by that corporation on those expenditures during the previous income year.[10]

For income years beginning on or after Jan. 1, 2000, unused tax credits can be carried forward for 15 years. A taxpayer whose gross income doesn't exceed $70 million and who can't take the credit as a result of having no tax liability under the corporation business tax may elect to carry 100 percent of the credit forward or may be eligible to exchange the credit with the state for a credit refund equal to 65 percent of its value.[11]

Form CT-1120 RDC is used to claim the Research and Development Credit for research and development conducted in Connecticut. Connecticut research and development expenses are those amounts deductible under Section 174 of the Internal Revenue Code of 1986, as in effect on May 28, 1993, (determined without regard to Section 280C(c) thereof), and basic research payments as defined under I.R.C. Section 41, to the extent not deducted under I.R.C. Section 174.

The expenses must be paid or incurred by the taxpayer for research and development and basic research conducted in Connecticut. For a qualified small business, the tentative tax credit allowed for research and development expenses is equal to 6 percent of such expenses. Any company other than a qualified small business must use a rate schedule to determine the amount of the tentative credit.

A qualified small business is defined as a company that has gross income for the previous income year that doesn't exceed $100 million and hasn't met the gross income test through transactions with a related person. The amount of credit available to companies that have revenue in excess of $3 billion, employing more than 2,500 employees, and based in an enterprise zone shall be the tentative credit allowed or 3.5 percent of the total research and development expenses, whichever is greater.

A company that pays or incurs research and development expenses in excess of $200 million for the income year must obtain an eligibility certificate from the Department of Economic and Community Development (DECD) prior to claiming the credit.[12]

[10] State of Connecticut Department of Revenue Services. (2014). Form CT-1120RC. Retrieved from http://www.ct.gov/drs/lib/drs/forms/2014forms/corp/ct-1120rc.pdf.

[11] Conn. Gen. Stat. Section 12-217ee.

[12] State of Connecticut Department of Revenue Services. (2014). Form CT-1120RDC. Retrieved from http://www.ct.gov/drs/lib/drs/forms/2014forms/corp/ct-1120_rdc.pdf.

Delaware

Delaware's R&D tax credit is based on the federal definitions of I.R.C. Section 41. Taxpayers have two alternative methodologies for computing the R&D tax credit within the state:

- Method A is 10 percent of the excess of the taxpayer's total Delaware qualified research and development expenses for the taxable year over the taxpayer's Delaware base amount.
- Method B is 50 percent of Delaware's apportioned share of taxpayer's federal research and development tax credit calculated using the alternative incremental credit method under I.R.C. Section 41(c)(4), using federal definitions and methodology.

Form 2070AC, Application and Computation Schedule for Claiming Delaware Research and Development Tax Credits, must be completed and submitted on or before Sept. 15 after the end of the taxable year during which the qualified research and development expenses were made. The R&D tax credit for all eligible companies is capped at $5 million. The credit is also limited to 50 percent of the Delaware income tax liability.[13]

Florida

The Florida R&D credit is available annually, and is based upon qualified research expenses in Florida allowed under I.R.C. Section 41. Only qualified target industry businesses in the manufacturing, life sciences, information technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials science and nanotechnology industries may qualify for a tax credit under this section.

A business applying for a credit must include a letter from the Department of Economic Opportunity, certifying whether the business meets the requirements, with its application for credit. The Department of Economic Opportunity shall provide such a letter upon receiving a request. To receive a Florida research and development tax credit, the corporation must also claim and be allowed a research credit for the taxable year against federal income tax for qualified research expenses under I.R.C. Section 41.

The combined total amount of tax credits that is granted to all business enterprises is $9 million. However, the combined total amount of tax credits that may be awarded to all business enterprises in the 2016 calendar year is increased to $23 million. Applications may be filed with the department on or after March 20 and before March 27 for qualified research expenses incurred within the preceding calendar year. If the total credits for all applicants exceed the credit cap, the credits will be allocated by the department on a prorated basis.

The tentative allowable amount of credit is equal to 10 percent of the amount of qualified research expenses incurred in Florida that exceeds the base amount, defined as the average of the qualified research expenses

[13] State of Delaware Division of Revenue Form 2070AC (2014). Retrieved from http://revenue.delaware.gov/services/current_bt/2070AC.pdf.

incurred in Florida for the four tax years preceding the tax year for which the credit is determined.

The Florida research and development tax credit taken may not exceed 50 percent of the Florida corporate income tax liability after all other credits have been applied. Any unused credit authorized under this section may be carried forward and claimed by the taxpayer for up to five years.[14]

Georgia

The Georgia R&D tax credit is allowed for a business enterprise that has qualified research expenses in Georgia in a taxable year exceeding a base amount, provided that the business enterprise for the same taxable year claims and is allowed a research credit under I.R.C. Section 41. ''Qualified research expenses'' means qualified research expenses for any business enterprise as that term is defined in I.R.C. Section 41, except that all wages paid and all purchases of services and supplies must be for research conducted within the state of Georgia.

''Base amount'' means the product of a business enterprise's Georgia gross receipts in the current taxable year and the average of the ratios of its aggregate qualified research expenses to Georgia gross receipts for the preceding three taxable years or 0.300, whichever is less; provided, however, that a business enterprise need not have had a positive taxable net income for the preceding three taxable years in order to claim the credit provided.

The tax credit is 10 percent of the excess over the base amount. The credit taken in any one taxable year shall not exceed 50 percent of the business enterprise's remaining Georgia net income tax liability after all other credits have been applied. Any unused credit claimed may be carried forward 10 years from the close of the taxable year in which the qualified research expenses were made. In addition, excess R&D tax credits can be used against state payroll withholding.[15]

Hawaii

Hawaii's credit may be claimed by a qualified high technology business (QHTB) as defined under Hawaii Revised Statutes Section 235-7.3(c). Hawaii adopts I.R.C. Section 41 as of Dec. 31, 2011, with the further requirement that eligible research expenses don't include research expenses incurred outside of Hawaii. Additionally, Hawaii requires that in order for a taxpayer to claim the R&D credit, a taxpayer must also claim the federal tax credit for increasing research activities under I.R.C. Section 41.

In order to claim the credit, every qualified high technology business, before March 31 of each year in which qualified research and development activity was conducted in the previous taxable year, shall submit a written, certified statement to the director of taxation identifying:

- qualified expenditures, if any, expended in the previous taxable year; and
- the amount of tax credits claimed, if any, in the previous taxable year.

The director of taxation shall issue a certificate to the taxpayer verifying information submitted to the department, including the qualifying costs or expenditure amounts, the credit amount certified for each taxable year and the cumulative amount of the tax credit during the credit period. The taxpayer then has to file the certificate with the taxpayer's tax return with the department.

In order for a taxpayer to compute the amount of the Hawaii R&D credit, it is necessary for the taxpayer to first compute the amount of the federal tax credit for increasing research activities, since the federal tax credit is the baseline upon which the Hawaii tax credit research activity is measured.

To calculate the credit, taxpayers have to multiply the federal tax credit for increasing research activities by a fraction, the numerator of which is the amount of eligible research expenses for research conducted in Hawaii and the denominator of which is the amount of expenses eligible for the federal tax credit for increasing research activities.

Claims for the credit, including any amended claims, must be filed on or before the end of the 12th month after the close of the taxable year. If the tax credit for qualified research activities claimed by a taxpayer exceeds the amount of income tax payment due from the taxpayer, the excess of the tax credit over payments due shall be refunded to the taxpayer.[16]

Idaho

The Idaho research credit conforms to the Internal Revenue Code definitions of basic research payments, basic research, qualified research expenses and qualified research, except that only the amounts related to research conducted in Idaho qualify for the Idaho research credit.

The Idaho nonrefundable credit follows regular research methodology, and equals 5 percent of qualified research expenses for research conducted in Idaho over the base amount and 5 percent of basic research payments. Gross receipt calculations include only those gross receipts that are attributable to Idaho using the multistate corporation apportionment rules. The credit carryover is limited to 14 tax years.[17]

Illinois

Illinois adopts I.R.C. Section 41 for defining qualified research and expenditures that are conducted in Illinois. The credit equals 6.5 percent of the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period. Base period means the three taxable years immediately preceding the taxable year for which the determination is being made.

Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax li-

[14] Fla. Stat. Section 220.196.
[15] Ga. Code. Ann. Section 48-7-40.12.
[16] Act 270, Session Laws of Hawaii 2013.
[17] Idaho State Tax Commission Form 67, Credit for Idaho Research Activities (2014). Retrieved from http://tax.idaho.gov/forms/EFO00037_08-25-2014.pdf.

   ISSN 0092-6884

ability of the taxpayer for the next five years or until it has been fully utilized, whichever occurs first.[18]

Indiana

Indiana adopts the I.R.C. Section 41 definition for qualified research and expenditures that are conducted in Indiana, and utilizes the federal regular research credit methodology. The credit is 15 percent of the increase in Indiana qualified research expenses paid or incurred in the taxable year over the taxpayer's base amount if it is $1 million or less. The credit is 10 percent if the amount is in excess of $1 million.

Indiana also has an alternative incremental credit that can be used only if a taxpayer is engaged in the aerospace industry. The alternative incremental credit is 10 percent of the taxpayer's Indiana qualified research expenses for the taxable year minus 50 percent of the taxpayer's average Indiana qualified expenses for the three taxable years preceding the taxable year for which the credit is being determined.

A taxpayer isn't entitled to any carryback or refund of any unused credit. However, it isn't limited, unlike the federal credit, to just the taxes imposed on income attributed to a particular business that generated the expense credit. Any excess credit, or the full credit if there is no current year tax liability, may be carried over for up to 10 succeeding taxable years.[19]

Iowa

Research expenses qualified for the Iowa Research Activities Tax Credit are based on the rules governing the federal research tax credit. Iowa offers two methods for calculating the R&D credit—the regular research credit or the alternative simplified research activities credit.

The Iowa regular credit equals 6.5 percent of the lower of qualified research expenditures in the state above the base amount or 50 percent of the qualified research expenditures. Iowa uses the same fixed-base percentage calculated for the federal research credit, rounding to four decimal places (1/100th of 1 percent), not to exceed 16.00 percent, and average U.S. annual gross receipts for the four tax years preceding the tax year for which the credit is being determined in calculating the fixed base percentage.[20]

The alternative simplified credit is 4.55 percent of the difference between the qualified research expenditures for the current year and 50 percent of the average of the qualified research expenditures for the prior three years.[21]

Any credit in excess of tax liability can be refunded or credited to tax liability for the following year. Businesses with tax incentive contracts under the High Quality Jobs Program or the Enterprise Zone Program can be awarded a Supplemental Research Activities Tax Credit by the Iowa Economic Development Authority.

Kansas

A Kansas credit may be deducted from a taxpayer's Kansas income tax liability if the taxpayer had qualifying expenditures in research and development activities conducted within Kansas. Qualifying expenditures are expenditures made for research and development purposes (other than expenditures of monies made available to the taxpayer pursuant to federal or state law) that are expenses allowable for deduction under the provisions of the federal Internal Revenue Code of 1986 and amendments thereto.

The allowable credit is 6.5 percent of the amount by which the amount expended for the activities in the taxable year exceeds the taxpayer's average of the actual expenditures in the preceding two years. The amount of credit allowable in any one taxable year is limited to 25 percent of the total amount of the credit plus any applicable carryforward. The amount of any remaining unused credit may be carried forward until the total amount of the credit is used.

For tax year 2013 and all tax years thereafter, new credits shall be available to only corporations that are subject to the Kansas corporate income tax (i.e., C corporations). New credits aren't available to individuals, partnerships, S corporations, limited liability companies and other passthrough entities.[22]

Louisiana

The state of Louisiana provides for an R&D credit that, in general, is defined the same as I.R.C. Section 41. However, there are several notable differences. The tax credit was refundable from 2009 through June 30, 2015. As of July 1, 2015, the credit is no longer refundable and has a carryforward period of five years. Credits claimed prior to 2009 that can't be utilized may be carried forward, transferred or sold.

For purposes of the Louisiana R&D tax credit, qualified research expenses must be incurred in Louisiana. Louisiana defines its base amount as 70 percent of the prior three years of QREs. The credit amount is 40 percent for companies that employ up to 50 Louisiana residents, 20 percent for companies that employ 50-99 employees, and 8 percent for companies with 100 or more employees. For taxpayers with fewer than 50 employees, a federal Form 6765, Credit for Increasing Research Activities, must be filed for the current tax year or a completed Agreed Upon Procedures Report.

In order for the R&D tax credits to be awarded, a taxpayer must claim the expenditures within one year after Dec. 31 of the year in which the expenditures were incurred. Prior to claiming the R&D tax credits, a company must apply for and obtain a credit certification from the Department of Economic Development. The application requires a $250 fee. Once the credits are authorized, a taxpayer must file an amended return.[23]

---

[18] Ill. Admin. Code. Title 86, Section 100.2160.

[19] Indiana Department of Revenue Schedule IT-20REC, Indiana Research Expense Tax Credit (#822) (2014). Retrieved from https://forms.in.gov/Download.aspx?id=10893.

[20] Iowa Department of Revenue Form IA 128, Iowa Research Activities Tax Credit (2014). Retrieved from https://tax.iowa.gov/sites/files/idr/forms1/2014IA12814.pdf.

[21] Iowa Department of Revenue Form IA 128S, Iowa Alternative Simplified Research Activities Tax Credit (2014). Retrieved from https://tax.iowa.gov/sites/files/idr/forms1/2014IA128S14.pdf.

[22] Kan. Stat. Ann. Section 79-32,182b.

[23] Louisiana Administrative Code Title 13 Chapter 29.

Maine

A taxpayer is allowed an R&D credit against tax due equal to the sum of 5 percent of the excess, if any, of the qualified research expenses for the taxable year over the base amount, and 7.5 percent of the basic research payments determined under I.R.C. Section 41(e)(1)(A). The term ''base amount'' means the average amount per year spent on qualified research expenses over the previous three taxable years by the taxpayer.

Unless the context otherwise indicates, the terms ''qualified research expenses,'' ''qualified organization base period amount,'' ''basic research'' and any other terms affecting the calculation of the credit have the same meanings as under I.R.C. Section 41, but apply only to expenditures for research conducted within Maine.

The credit allowed is limited to 100 percent of a corporation's first $25,000 of tax due, as determined before the allowance of any credits, plus 75 percent of the corporation's tax due in excess of $25,000. In the case of passthrough entities, the partners, members, shareholders, beneficiaries or other owners are allowed a credit in proportion to their respective interest in these entities.[24]

Maryland

Businesses that have QREs in Maryland may qualify for two state income tax credits, the Basic R&D Tax Credit and the Growth R&D Tax Credit. The Basic R&D Tax Credit equals 3 percent of QREs that don't exceed the Maryland base amount. The Growth R&D Tax Credit equals 10 percent of QREs in excess of the Maryland base amount.

The base amount is determined by dividing the aggregate QREs by the aggregate Maryland gross receipts for the four years prior to the credit year. If either of the credits applied for exceeds $4.5 million, the tax credit is prorated.

Maryland follows the federal definition of qualified R&D and QREs, as defined by Section 41(b) of the Internal Revenue Code.

In order to claim the credit, a business must submit an application by Sept. 15 for expenses incurred in the previous calendar year. R&D tax credits certified after Dec. 15, 2012, are refundable for ''small businesses'' to the extent that the tax credits exceed the income tax liability for that taxable year. A small business is defined as one having net book value assets totaling less than $5 million at the beginning or end of the taxable year.[25]

Massachusetts

The Massachusetts R&D Tax Credit closely parallels the federal research credit available under Section 41 of the Internal Revenue Code as of Aug. 12, 1991. However, there are several important differences between the federal and Massachusetts research credits. The Massachusetts research credit is equal to the sum of:

- 15 percent of the incremental basic research payments; and

- 10 percent of the incremental qualified research expenses.

If the taxpayer didn't have qualified research expenses in any one of the three taxable years preceding the taxable year for which the credit is being determined, the amount of the credit is equal to 5 percent of the taxpayer's qualified research expense for the taxable year. The amount of credit is limited to:

- 100 percent of the corporation's first $25,000 of corporate excise tax liability; and

- 75 percent of such liability over $25,000.

The credit can't reduce the tax below the minimum tax of $456.

An S corporation may apply the research credit against its excise tax due under Massachusetts General Laws Chapter 63, but may not share any excess credit with its shareholders. For unincorporated entities, such as partnerships and joint ventures, the credits that are paid or received by such entities shall be attributed to the owners of the entities and shall be taken into account in determining the credit for the taxable year during which the taxable year of the unincorporated flow-through entity ends.

A corporation may carry over for an unlimited period of time any portion of the credit that is disallowed under the 75 percent limitation. Any credits disallowed that aren't given unlimited status may be carried forward for 15 years.[26]

Michigan

The Michigan R&D credit closely follows federal I.R.C. Section 41. If an entity qualifies for the federal R&D tax credit then it will most likely qualify for the Michigan R&D tax credit, assuming it has incurred QREs in Michigan.

For 2014, the credit is equal to 1.9 percent of Michigan QREs, limited to 75 percent of a taxpayer's tax liability.[27]

Minnesota

Minnesota allows a company to claim the R&D credit on its income tax return if it had qualifying R&D expenses in Minnesota that exceeded its ''base amount'' (as calculated for the federal R&D credit, but based on Minnesota gross receipts).

The amount of the credit is equal to 10 percent of qualifying expenses for the first $2 million, and 2.5 percent for expenses above $2 million. Qualifying expenses include:

- R&D expenses that qualify for the federal R&D credit under Section 41 and are for research performed in Minnesota; and

- contributions to qualified nonprofit organizations that make grants to small, technologically innovative

---

[24] Me. Rev. Stat. Title 36, Section 5219-K.

[25] Md. Code Ann., Tax-General Section 10-721.

[26] 830 Mass. Code Regs. 63.38M.1.

[27] Michigan Department of Treasury Form 4570, Business Tax Credits for Compensation, Investment, and Research and Development (2014). Retrieved from http://www.michigan.gov/documents/taxes/4570_ty2014_478630_7.pdf.

   ISSN 0092-6884

businesses in Minnesota during their early development stages.

Beginning with tax year 2013, the credit is nonrefundable. Any amount of the credit that a taxpayer isn't able to claim in the current year may be carried forward for up to 15 years. For tax years before 2013, the credit is refundable and may be claimed even if a business didn't make a profit for the year.[28]

Nebraska

The Nebraska Advantage Research and Development Act created a research tax credit available for tax years beginning on or after Jan. 1, 2006. A business that incurs QREs in Nebraska is eligible for the tax credit.

A business that incurs QREs as defined in Section 174 of the Internal Revenue Code may claim a tax credit equal to 15 percent of the federal tax credit allowed. The tax credit may be subject to apportionment if a business makes expenditures in research and experimental activities in other states.

The tax credit may be used to obtain a refund of sales and use taxes paid, or as a refundable income tax credit. The tax credit is allowed for the first tax year it is claimed, and may be claimed for the following 20 tax years if the business continues to earn the federal credit.

In addition, businesses that make expenditures in research and experimental activities on the campus of a college or university in Nebraska, or at a facility in Nebraska owned by a college or university, are allowed a tax credit equal to 35 percent of the federal credit instead of the usual 15 percent. The tax credit is allowed for the first tax year it is claimed and may be claimed for the following four tax years if the business continues to earn the federal credit and continues to have expenditures on campus.

On and after Oct. 1, 2009, all businesses claiming the tax credit must electronically verify the work eligibility status of all newly hired employees in Nebraska during the tax year in which the credit is claimed.[29]

New Hampshire

Business organizations that have expenditures made during the fiscal year for qualified manufacturing research and development are eligible for an R&D tax credit. Qualified manufacturing research and development expenditures are wages paid to employees of the business organization for services rendered in New Hampshire that qualify and are reported as a credit by the business organization under Section 41 of the Internal Revenue Code.

More specifically, qualified manufacturing research and development expenditures are the wage amounts attributable to New Hampshire that make up lines 5 or 24 of the business organization's federal Form 6765.

The credit may be taken against taxes due on account of taxable periods ending on and after Sept. 7, 2007. The credit is first applied against the Business Profits Tax. Any remainder may be applied against the Business Enterprise Tax. Unused portions of the credit may be carried forward for up to five years.

The amount of the credit is the lesser of 10 percent of the business organization's qualified manufacturing QREs or $50,000.[30]

New Jersey

The state of New Jersey R&D Tax Credit generally follows the federal Section 41 rules regarding the calculation and qualification of qualified research activities, with some differences. An R&D tax credit against the entire net income component of the corporation business tax is allowed for qualifying research activities performed in New Jersey.

The New Jersey R&D tax credit is equal to 10 percent of the excess of the qualified research expenses for the tax period over the base amount, plus 10 percent of basic research payments for the tax period, as determined under I.R.C. Section 41.

The R&D tax credit is only available to C and S corporations. A New Jersey S corporation's credits are limited to its New Jersey corporation tax liability and passthrough of the credit to the individual shareholders isn't permitted. The R&D credit isn't available to partnerships and other passthrough entities.

The credit is allowed based on QREs incurred in taxable years beginning after 1993. Any unused R&D tax credits can be carried forward for seven years. A taxpayer that has been allowed a research and development credit for the fiscal or calendar tax year in which the QREs have been incurred, and basic research payments have been made, for research conducted in New Jersey in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology and medical device technology, is allowed to carry forward the tax credit for 15 years.[31]

New Mexico

New Mexico's R&D incentive is known as the technology jobs tax credit. The definition of R&D for purposes of the credit closely follows I.R.C. Section 41. The credit is equal to 4 percent of QREs or 8 percent of QREs if the qualified facility is located in a rural area.

The term "qualified facility" means a factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex of buildings located in New Mexico. These include the land on which the facility is located and all machinery, equipment and other real and tangible personal property located at or within the facility and used in connection with the operation of the facility. Any facility operated by the taxpayer for the U.S. government is excluded.

QREs include any expenditure or allocated portion of an expenditure connected to qualified research at a qualified facility. Such expenditures can include:

---

[28] Minn. Stat. Section 290.068 (2015).

[29] Nebraska Department of Revenue Form 3800N, Research Tax Credit Worksheet (2014). Retrieved from http://www.revenue.nebraska.gov/tax/current/fill-in/f_3800nwkst_rd.pdf.

[30] New Hampshire Department of Revenue Administration Form DP-165, Research & Development Tax Credit Application (2014). Retrieved from http://revenue.nh.gov/forms/2013/documents/dp-165.pdf.

[31] New Jersey Corporation Business Tax Form 306, Research & Development Tax Credit for Taxable Periods Beginning on and after January 1, 2013 (2015). Retrieved from http://www.state.nj.us/treasury/taxation/pdf/current/cbt/306.pdf.

- depletable land and rent paid or incurred for land improvements;
- allowable amounts paid or incurred to operate or maintain a facility;
- buildings;
- equipment;
- computer software;
- computer software upgrades;
- consultants and contractors performing work in New Mexico;
- payroll;
- technical books and manuals; and
- test materials.

The basic tax credit may be applied against the taxpayer's compensating tax, gross receipts tax or withholding tax due to the state of New Mexico. No taxpayer may claim an amount of approved basic credit for any reporting period that exceeds the sum of the taxpayer's gross receipts tax, compensating tax and withholding tax due for that reporting period.[32]

North Carolina

North Carolina provides an R&D tax credit for increasing qualifying research activities conducted in the state. North Carolina follows the federal Section 41 rules regarding the qualification of qualified research activities. However, there are several differences in the calculation of the R&D tax credit.

In order to qualify for the R&D credit, North Carolina requires that a taxpayer must meet certain criteria, including meeting the wage standard, providing health insurance for employees, maintaining a good environmental record and having a good Occupational Safety and Health Act record. Any taxpayer that meets these criteria is eligible to claim the tax credit, regardless of its type of business.

North Carolina provides for five different tiers of tax credit rates that can be applied depending on the taxpayer's business type:

- small business, 3.25 percent;
- low-tier research, 3.25 percent;
- university research, 20 percent;
- eco-industrial park, 35 percent; and
- other expenses, which is dependent on the level of expenses, 1.25 percent to 3.25 percent.

Only one credit rate is allowed for the same expenses. If more than one category applies to the same expenses, the higher credit rate is used. Unused R&D tax credits may be carried forward for up to 15 years.

The credit allowed can't exceed 50 percent of the amount of tax against which it is claimed, reduced by the sum of all other tax credits allowed against that tax. This limitation applies to the cumulative amount of credit, including carryforwards.[33]

North Dakota

An individual, estate, trust, partnership, corporation or limited liability company is allowed an income tax credit for conducting research in North Dakota. The credit is equal to a percentage of the excess of qualified research expenses in North Dakota over the base amount in North Dakota.

The definitions of QREs and the base amount are the same as under federal Section 41. The applicable percentage is 25 percent for the first $100,000 of excess expenses in a tax year. For expenses exceeding $100,000 in a year, the applicable percentage is 20 percent, if qualified research in North Dakota first begins in 2007 through 2010, or 8 percent, if qualified research in North Dakota first begins after 2010.

An unused credit may be carried back three tax years and carried forward up to 15 tax years. Subject to certain conditions, unused research credits may be sold, assigned or transferred to another taxpayer. In order to sell, assign or transfer unused credits, the taxpayer must apply for certification to the North Dakota Commerce Department's Division of Economic Development and Finance.[34]

Ohio

The Ohio Research and Development Investment Tax Credit, which is authorized within Section 5751.51 of the Ohio Revised Code, is a nonrefundable credit against the Commercial Activity Tax (CAT). It is available annually and is based upon QREs in Ohio as defined in I.R.C. Section 41. To receive an Ohio R&D tax credit, the taxpayer must be allowed a research credit for the taxable year against federal income tax for qualified research expenses under I.R.C. Section 41.

Ohio's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms.

The credit amount equals 7 percent of the amount of Ohio QREs in excess of the taxpayer's Ohio base amount (average investment in Ohio QREs over the three preceding taxable years). Any excess credit not used for the taxable year in which it is earned may be carried forward for up to seven years.

There is no special application or approval process for this tax credit. The credit may be claimed on a tax

[32] State of New Mexico Taxation and Revenue Department Form RPD-41239, Application for Technology Jobs Tax Credit (2014). Retrieved from http://gonm.biz/uploads/documents/TechnologyJobsCreditApplication102014.pdf.

[33] North Carolina Department of Revenue Form NC-478I, Tax Credit—Research and Development Instructions (2014). Retrieved from http://www.dor.state.nc.us/downloads/nc478i_instructions.pdf.

[34] North Dakota Office of State Tax Commissioner Schedule ND-1TC, Tax Credits (2014). Retrieved from https://www.nd.gov/tax/indincome/forms/2014/schedule-nd-1-tc.pdf?20151027133557.

   ISSN 0092-6884

return, subject to audit by the Department of Taxation.[35]

Oregon

Businesses that have QREs for activities conducted in Oregon may qualify for the Qualified Research Activities Credit, which is authorized within Oregon Revised Statutes Sections 317.152 to 317.154. The Qualified Research Activities Credit offers two different calculation methods. The first is based on the federal computation, as defined in I.R.C. Section 41, and the second method is based on Oregon sales.

The tax credit amount allowed using the federal computation method equals 5 percent of the excess of Oregon QREs over the Oregon base amount. The tax credit amount allowed using the Oregon sales computation method equals the lesser of:

- 5 percent of Oregon QREs over 10 percent of Oregon sales;
- $10,000 multiplied by the percentage points that Oregon QREs exceed 10 percent of Oregon sales; or
- the taxpayer's liability after all other credits.

The Oregon Qualified Research Activities Credit is available for tax years beginning on or after Jan. 1, 1989, and before Jan. 1, 2018. Any excess credit not used for the taxable year in which it is earned beginning on or after Jan. 1, 1995, may be carried forward for up to five years. The maximum allowable credit for tax years beginning on or after Jan. 1, 2012, is $1 million.[36]

Pennsylvania

The Pennsylvania R&D tax credit is unique in what it offers to small and unprofitable businesses. Many small businesses in the early stages of development aren't yet profitable and don't have significant tax liability. In the past, these businesses have often not bothered to apply for the available R&D tax credits for which they were eligible.

With the Pennsylvania R&D tax credit assignment program, technology companies can sell unused R&D tax credits on the open market to help advance and grow their businesses. Companies that haven't used all or part of their issued R&D tax credits within one year after they were approved by the Department of Revenue may apply to the Pennsylvania Department of Community and Economic Development for approval to assign their eligible R&D tax credits to a "buyer"—another taxpayer that can then use the purchased credits to offset up to 75 percent of its own tax liability with the purchased credit.

To receive a Pennsylvania R&D tax credit, the business must have received a research credit for the taxable year against federal income tax for qualified research expenses under I.R.C. Section 41. Pennsylvania's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms.

The Pennsylvania R&D tax credit is available to individuals, limited liability companies, limited liability partnerships, S corporations, C corporations and sole proprietorships.

The credit amount equals 10 percent of the amount of Pennsylvania QREs in excess of the taxpayer's Pennsylvania base amount (average investment in Pennsylvania QREs over the three preceding taxable years). The maximum allowable credit amount is $15 million, which is prorated for all businesses. Up to 20 percent of the total $15 million pool is set aside for small businesses.

Pennsylvania R&D tax credits not used by the business to which the credits were initially issued, and not assigned to a buyer taxpayer, may be carried forward for a maximum of 15 taxable years.[37]

Rhode Island

To receive a Rhode Island Research and Development Expenses Credit, participating businesses must have received a research credit for the taxable year against federal income tax for QREs under I.R.C. Section 41. Rhode Island's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms.

The Rhode Island Research and Development Expenses Credit is available to C corporations, sole proprietors, partnerships, joint ventures or S corporations. The credit amount is calculated as 22.5 percent of the first $111,111 of excess Rhode Island current tax year QREs over the Rhode Island base amount (average investment in Rhode Island QREs over the three preceding taxable years), and then 16.9 percent of any remaining QREs over the Rhode Island base amount.

The credit amount taken in any one taxable year may not exceed 50 percent of the company's remaining tax liability after all other credits have been applied. Any excess credit not used for the taxable year in which it is earned may be carried forward for up to seven years.[38]

South Carolina

The South Carolina Research and Development Investment Tax Credit is based upon QREs in South Carolina as defined in I.R.C. Section 41. In order to receive a South Carolina R&D tax credit, the business must be allowed a research credit for the taxable year against federal income tax for QREs under Section 41. South Carolina's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 per-

---

[35] Ohio Development Services Agency. Retrieved from http://development.ohio.gov/bs/bs_rditcredit.htm.

[36] Oregon Business. Retrieved from http://www.oregon4biz.com/Oregon-Business/Tax-Incentives/.

[37] Pennsylvania Department of Revenue Research and Development Tax Credit 2015 Application. Retrieved from http://www.revenue.pa.gov/FormsandPublications/FormsforBusinesses/Documents/Corporation%20Taxes/2015/2015_rev-545.pdf.

[38] R.I. Gen. Laws Section 44-32-3. Department of Revenue Division of Taxation Form RI-7695E, Research & Development Expense Credit (2014). Retrieved from http://www.tax.ri.gov/forms/2014/Credits/2014%20RI%207695E.pdf.

cent of contract expenses paid to outside research firms.

The tax credit amount equals 5 percent of the amount of South Carolina QREs within the state in the current tax year. The credit amount taken in any one taxable year may not exceed 50 percent of the company's remaining tax liability after all other credits have been applied. Any unused portion of the credit can be carried forward for 10 years from the date of the qualified expenditure.[39]

Texas

Texas recently approved tax incentives, detailed in H.B. 800, for certain research and development activities conducted within the state. The legislation offers taxpayers the choice of a franchise tax credit for R&D expenditures or a sales and use tax exemption on the purchase or lease of depreciable tangible personal property used in qualified research conducted in Texas.

The law also provides an incentive for taxpayers to contract with institutions of higher education to perform qualified research in Texas.

The Texas franchise credit is a nonrefundable credit against the Texas franchise tax and is available annually for reports due on or after Jan. 1, 2014, through Dec. 31, 2026. It is based upon QREs in Texas as defined in I.R.C. Section 41.

Texas's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms.

The Texas franchise tax credit is available to C corporations, S corporations, limited liability companies, financial institutions, partnerships and joint ventures. Taxpayers are ineligible for the franchise tax credit during a tax period if they receive the sales and use tax exemption.

The Texas franchise tax credit amount is calculated in a similar way as the federal alternative simplified credit (ASC). The credit amount equals 5 percent of the difference between Texas current tax year QREs and 50 percent of the Texas base amount (average investment in Texas QREs over the three preceding taxable years). If the taxpayer contracts with a public or private institution of higher education for performance of qualified research in the state of Texas, the tax credit increases to 6.25 percent of the difference between the current period QREs and the base amount.

If a taxpayer has no QREs in one or more of its base years, the credit will be equal to 2.5 percent (3.125 percent if contracted with an institution of higher education) of the current period QREs.

The allowable franchise tax credit taken in any one taxable year, including any carryforward amount, may not exceed 50 percent of the taxpayer's franchise tax due for the period. Any excess credit not used for the taxable year in which it is earned may be carried forward for up to 20 consecutive tax periods.[40]

[39] South Carolina Department of Commerce. Retrieved from http://sccommerce.com/node/2315.

[40] Texas Comptroller of Public Accounts. Retrieved from http://comptroller.texas.gov/taxinfo/qualified_research/franchise_qr_credit.html.

Utah

Utah offers a tax credit for research activities conducted in Utah, detailed within Utah Code Section 59-10-1012. It is a nonrefundable credit allowed for certain Utah research expenses as defined and calculated in I.R.C. Section 41. Utah's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms.

The credit amount equals the sum of the following three expenses:

- 5 percent of the amount of Utah QREs in excess of the taxpayer's base amount;
- 5 percent of payments made to a qualified organization for basic research in Utah for the current taxable year that exceed the base amount; and
- 7.5 percent of QREs for the taxable year.

For the first two amounts above, any excess credit not used for the taxable year in which it is earned may be carried forward as a credit for the next 14 taxable years. Any unused credit under the third amount above may not be carried forward.

The credit amount should be entered on Utah Form TC-40A, Income Tax Supplemental Schedule, Part 4, using code 12.[41]

Vermont

Vermont offers an R&D tax credit, detailed in Vermont Statutes Annotated Title 32, Section 5930ii, for certain Vermont research expenses as defined and calculated in I.R.C. Section 41. In order to receive a Vermont R&D tax credit, the taxpayer must have received a research credit for the taxable year against federal income tax for qualified research expenses under Section 41.

Vermont's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms. The credit amount is calculated as 27 percent of the federal tax credit allowed in the taxable year for qualified Vermont expenses.

Any excess credit not used for the taxable year in which it is earned may be carried forward for up to 10 years.[42]

Virginia

Virginia has an R&D tax credit, detailed in Virginia Code Section 58.1-439.12:08, which allows a refundable credit for certain Virginia research expenses as defined in I.R.C. Section 41. The credit is available for taxable years beginning on or after Jan. 1, 2011, through Dec. 31, 2018.

[41] Utah Code Section 59-10-1012. Retrieved from http://incometax.utah.gov/credits/research-activities.

[42] Vt. Stat. Ann. Title 32, Section 5930ii. Vermont Department of Taxes. Retrieved from http://tax.vermont.gov/business-and-corp/corp-and-business-income-taxes/tax-credits/research-and-development.

   ISSN 0092-6884

Virginia's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms. For taxable years beginning on or after Jan. 1, 2014, the credit amounts are either:

- 15 percent of the first $234,000 of Virginia QREs; or
- 20 percent of the first $234,000 of Virginia QREs if the research was conducted in conjunction with a Virginia public or private college or university to the extent the expenses exceed a base amount.

There is a $6 million cap on the total amount of credits allowed in any fiscal year.[43]

Wisconsin

Wisconsin's definition of research and development expense is the same as the federal and generally includes in-house expenses paid for wages, supplies and 65 percent of contract expenses paid to outside research firms. Wisconsin's R&D credit is available to individuals, estates and trusts, partnerships, C corporations and S corporations.

The research expense credit provides an incentive to businesses for increasing qualified research activities in Wisconsin. The credit equals 5 percent of the difference between the taxpayer's qualified research expenses for research conducted in Wisconsin and its Wisconsin base amount.

The credit amount is 10 percent for qualified research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles. The credit amount is also 10 percent for qualified research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles that reduce the demands for natural gas or electricity or improve the efficiency of its use.[44]

The following table summarizes our findings on the availability and nature of currently available state R&D tax credits.

[43] Virginia Code Section 58.1-439.12:08. Virginia Department of Taxation. Retrieved from http://www.tax.virginia.gov/content/tax-credits.

[44] Wisconsin Department of Revenue. Retrieved from https://www.revenue.wi.gov/businesses/incentives/research.html.

Availability of State R&D Credits as of September 2015

STATE	R&D CREDIT	REFUNDABLE	NOTES
ALABAMA	NO	NO	
ALASKA	NO	NO	
ARIZONA	YES	PARTIAL	Arizona state research credits include the Research & Development with Universities Tax Credit, In-House Research Income Tax Credit, In-House Research by Targeted Business Income Tax Credit and In-House Research in Area of Strategic Value Income Tax Credit.
ARKANSAS	YES	NO	
CALIFORNIA	YES	NO	Two available methodologies, the regular research credit or alternative incremental credit.
COLORADO	YES	NO	Offers credits for R&D done in enterprise zones within Colorado.
CONNECTICUT	YES	PARTIAL	Connecticut R&E expenditures are those that may be deducted under § 174 of the I.R.C.of 1986 and related regulations.
DELAWARE	YES	NO	R&D tax credit for all eligible companies is capped at $5 million.
FLORIDA	YES	NO	Only qualified target industry businesses in the manufacturing, life sciences, information technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials science and nanotechnology industries may qualify for the credit, which is capped at $9 million.
GEORGIA	YES	NO	Excess Georgia R&D tax credits can be used against state payroll withholding.
HAWAII	YES	YES	
IDAHO	YES	NO	
ILLINOIS	YES	NO	
INDIANA	YES	NO	A taxpayer isn't entitled to any carryback or refund of any unused credit. However, the credit isn't limited, unlike the federal credit, to just the taxes imposed on income attributed to a particular business that generated the expense credit.
IOWA	YES	YES	
KANSAS	YES	NO	New credits aren't available to individuals, partnerships, S corporations, limited liability companies and other passthrough entities.

Availability of State R&D Credits as of September 2015 – Continued

STATE	R&D CREDIT	REFUNDABLE	NOTES
KENTUCKY	NO	NO	
LOUISIANA	YES	NO	The tax credit was refundable from 2009 through June 30, 2015.
MAINE	YES	NO	
MARYLAND	YES	PARTIAL	Refundable for small businesses to the extent that the tax credits exceed the income tax liability for that taxable year. A small business is defined as one having net book value assets totaling less than $5 million at the beginning or end of the taxable year.
MASSACHUSETTS	YES	NO	
MICHIGAN	YES	NO	
MINNESOTA	YES	NO	Beginning with tax year 2013, the credit is nonrefundable.
MISSISSIPPI	NO	NO	
MISSOURI	NO	NO	
MONTANA	NO	NO	
NEBRASKA	YES	YES	The tax credit may be used to obtain a refund of sales and use taxes paid, or as a refundable income tax credit.
NEVADA	NO	NO	
NEW HAMPSHIRE	YES	NO	
NEW JERSEY	YES	NO	The R&D tax credit is only available to C and S corporations. A New Jersey S corporation's credits are limited to its New Jersey corporation tax liability and passthrough of the credit to the individual shareholders isn't permitted. The R&D credit isn't available to partnerships and other passthrough entities.
NEW MEXICO	YES	NO	
NEW YORK	NO	NO	
NORTH CAROLINA	YES	NO	
NORTH DAKOTA	YES	NO	Subject to certain conditions, unused research credits may be sold, assigned or transferred to another taxpayer.
OHIO	YES	NO	Must be allowed a federal credit under I.R.C. Section 41 to claim an Ohio credit.
OKLAHOMA	NO	NO	
OREGON	YES	NO	Two available methodologies, based on either the federal calculation or based on Oregon sales.
PENNSYLVANIA	YES	NO	Must be allowed a federal credit under I.R.C. Section 41 to claim the state credit. With the Pennsylvania R&D Tax Credit Assignment program, unused R&D credits may be sold on the open market.
RHODE ISLAND	YES	NO	Must be allowed a federal credit under I.R.C. § 41 to claim a state credit. Credit is available to C corporations, sole proprietors, partnerships, joint ventures or S corporations.
SOUTH CAROLINA	YES	NO	Must be allowed a federal credit under I.R.C. § 41 to claim a state credit. Credit amount in a taxable year may not exceed 50% of company's remaining tax liability after all other credits.
SOUTH DAKOTA	NO	NO	
TENNESSEE	NO	NO	
TEXAS	YES	NO	Credit is available to C corporations, S corporations, limited liability companies, financial institutions, partnerships and joint ventures.
UTAH	YES	NO	
VERMONT	YES	NO	Must be allowed a federal credit under I.R.C. § 41 to claim state credit.
VIRGINIA	YES	YES	Refundable credit available for tax years on or after Jan. 1, 2011, through Dec. 31, 2018; $6 million cap on total credits allowed in any fiscal year.
WASHINGTON	NO	NO	
WEST VIRGINIA	NO	NO	
WISCONSIN	YES	NO	Credit is available to individuals, estates and trusts, partnerships, C corporations and S corporations.
WYOMING	NO	NO	

   ISSN 0092-6884