

IC 6-3.1-4

Chapter 4. Research Expense Credits

IC 6-3.1-4-1

Definitions

Sec. 1. As used in this chapter:

"Base amount" means base amount (as defined in Section 41(c) of the Internal Revenue Code) modified by considering only Indiana qualified research expenses and gross receipts attributable to Indiana in the calculation of the taxpayer's:

- (1) fixed base percentage; and
- (2) average annual gross receipts.

"Indiana qualified research expense" means qualified research expense that is incurred for research conducted in Indiana.

"Qualified research expense" means qualified research expense (as defined in Section 41(b) of the Internal Revenue Code).

"Pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

"Research expense tax credit" means a credit provided under this chapter against any tax otherwise due and payable under IC 6-3.

"Taxpayer" means an individual, a corporation, a limited liability company, a limited liability partnership, a trust, or a partnership that has any tax liability under IC 6-3 (adjusted gross income tax).

As added by P.L. 51-1984, SEC.1. Amended by P.L. 57-1990, SEC.1; P.L. 8-1993, SEC.85; P.L. 8-1996, SEC.7; P.L. 192-2002(ss), SEC.86; P.L. 193-2005, SEC.12; P.L. 242-2015, SEC.21.

IC 6-3.1-4-2

Amount of credit; computation

Sec. 2. (a) A taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year.

(b) For Indiana qualified research expense incurred before January 1, 2008, the amount of the research expense tax credit is equal to the product of ten percent (10%) multiplied by the remainder of:

- (1) the taxpayer's Indiana qualified research expenses for the taxable year; minus
- (2) the taxpayer's base amount.

(c) Except as provided in subsection (d), for Indiana qualified research expense incurred after December 31, 2007, the amount of the research expense tax credit is determined under STEP FOUR of the following formula:

STEP ONE: Subtract the taxpayer's base amount from the

taxpayer's Indiana qualified research expense for the taxable year.

STEP TWO: Multiply the lesser of:

(A) one million dollars (\$1,000,000); or

(B) the STEP ONE remainder;

by fifteen percent (15%).

STEP THREE: If the STEP ONE remainder exceeds one million dollars (\$1,000,000), multiply the amount of that excess by ten percent (10%).

STEP FOUR: Add the STEP TWO and STEP THREE products.

(d) For Indiana qualified research expense incurred after December 31, 2009, a taxpayer may choose to have the amount of the research expense tax credit determined under this subsection rather than under subsection (c). At the election of the taxpayer, the amount of the taxpayer's research expense tax credit is equal to ten percent (10%) of the part of the taxpayer's Indiana qualified research expense for the taxable year that exceeds fifty percent (50%) of the taxpayer's average Indiana qualified research expense for the three (3) taxable years preceding the taxable year for which the credit is being determined. However, if the taxpayer did not have Indiana qualified research expense in any one (1) of the three (3) taxable years preceding the taxable year for which the credit is being determined, the amount of the research expense tax credit is equal to five percent (5%) of the taxpayer's Indiana qualified research expense for the taxable year.

As added by P.L.51-1984, SEC.1. Amended by P.L.53-1984, SEC.1; P.L.57-1990, SEC.2; P.L.192-2002(ss), SEC.87; P.L.193-2005, SEC.13; P.L.182-2009(ss), SEC.201.

IC 6-3.1-4-2.5

Amount of credit; alternative computation

Sec 2.5. (a) The general assembly makes the following findings pertaining to this section:

(1) The aerospace industry is adversely affected by the calculation of qualified research expense credits under this chapter, based on the Internal Revenue Code's treatment of federal defense spending trends in the 1980s.

(2) This adverse impact creates a disincentive for making qualified research expenditures in Indiana.

(3) Manufacturers of aerospace and jet propulsion equipment have been a major in-state employer of science and engineering graduates from Indiana universities.

(4) The presence of a strong aerospace manufacturing base furthers the state's interest in maintaining the viability of a United States government military installation that is used for the design, construction, maintenance, and testing of electronic devices and ordnance.

(5) The creation of an alternative qualified research expense

credit promotes vital state interests.

(b) This section applies only to a taxpayer that:

- (1) is primarily engaged in the production of civil and military jet propulsion systems;
- (2) is certified by the Indiana economic development corporation as an aerospace advanced manufacturer;
- (3) is a United States Department of Defense contractor; and
- (4) maintains one (1) or more manufacturing facilities in Indiana employing at least three thousand (3,000) employees in full-time employment positions that pay on average more than four hundred percent (400%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(c) A taxpayer that incurs Indiana qualified research expense in a particular taxable year may elect to calculate the research expense tax credit under this section instead of under section 2 of this chapter.

(d) An election under this section applies to the taxable year for which the election is made and all succeeding taxable years unless the election is revoked with the consent of the department. An election must be made in the manner and on the form prescribed by the department.

(e) A credit may be authorized by the Indiana economic development corporation and, if authorized, shall be equal to a percentage determined by the Indiana economic development corporation, not to exceed ten percent (10%), multiplied by:

- (1) the taxpayer's Indiana qualified research expenses for the taxable year; minus
- (2) fifty percent (50%) of the taxpayer's average Indiana qualified research expenses for the three (3) taxable years preceding the taxable year for which the credit is being determined.

(f) The credit amount determined in subsection (e) applies to the taxable year for which the determination is made and all succeeding taxable years unless the determination is changed by the Indiana economic development corporation. The duration of a determination made by the Indiana economic development corporation under subsection (e) shall be specified by the Indiana economic development corporation at the time of the determination.

As added by P.L.197-2005, SEC.1.

IC 6-3.1-4-3

Unused credits carried forward

Sec. 3. (a) The amount of the credit provided by this chapter that a taxpayer uses during a particular taxable year may not exceed the sum of the taxes imposed by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter. If the credit provided by this chapter exceeds that sum for the taxable year for which the credit

is first claimed, then the excess may be carried over to succeeding taxable years and used as a credit against the tax otherwise due and payable by the taxpayer under IC 6-3 during those taxable years. Each time that the credit is carried over to a succeeding taxable year, it is to be reduced by the amount which was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for ten (10) taxable years following the unused credit year.

(b) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's tax liability for that taxable year before any credit carryover is applied against that liability under subsection (a).

(c) A taxpayer is not entitled to any carryback or refund of any unused credit.

As added by P.L.51-1984, SEC.1. Amended by P.L.57-1990, SEC.3; P.L.192-2002(ss), SEC.88; P.L.193-2005, SEC.14.

IC 6-3.1-4-4

Application of Internal Revenue Code provisions

Sec. 4. The provisions of Section 41 of the Internal Revenue Code and the regulations promulgated in respect to those provisions are applicable to the interpretation and administration by the department of the credit provided by this chapter, including the allocation and pass through of the credit to various taxpayers and the transitional rules for determination of the base period.

As added by P.L.51-1984, SEC.1. Amended by P.L.57-1990, SEC.4; P.L.192-2002(ss), SEC.89; P.L.242-2015, SEC.22.

IC 6-3.1-4-5

Qualified research expenses; determination

Sec. 5. In prescribing standards for determining which qualified research expenses are considered Indiana qualified research expenses for purposes of computing the credit provided by this chapter, the department may consider:

- (1) the place where the services are performed;
- (2) the residence or business location of the person or persons performing the services;
- (3) the place where qualified research supplies are consumed; and
- (4) other factors that the department determines are relevant for the determination.

As added by P.L.51-1984, SEC.1.

IC 6-3.1-4-6

Federal credit expiration date inapplicable

Sec. 6. Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this

chapter for the taxable year in which the Indiana qualified research expense is incurred.

As added by P.L.51-1984, SEC.1. Amended by P.L.53-1984, SEC.2; P.L.57-1990, SEC.5; P.L.43-1992, SEC.10; P.L.76-1993, SEC.1; P.L.19-1994, SEC.9; P.L.8-1996, SEC.8; P.L.4-2000, SEC.13; P.L.192-2002(ss), SEC.90; P.L.224-2003, SEC.191; P.L.81-2004, SEC.12.

IC 6-3.1-4-7

Pass through entity; shareholder, partner, or member

Sec. 7. (a) If a pass through entity does not have state income tax liability against which the research expense tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a research expense tax credit equal to:

- (1) the research expense tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) The credit provided under subsection (a) is in addition to a research expense tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim a credit under this chapter for the same qualified research expenses.

As added by P.L.57-1990, SEC.6. Amended by P.L.193-2005, SEC.15.