

## I.R.C. Sec. 41, Credit for Increasing Research Activities

### Definition of Qualified Research:

1. The purpose is discovering information technological in nature; **AND**
2. The application of which is intended to be useful in the development of a new or improved component of the taxpayer; **AND**
3. Substantially all of the activities constitute a process of experimentation; **AND**
4. The experimentation is for a qualifying activity or purpose.

### Activities that Qualify:

- Developing new or improved products, processes, or formulas
- Developing prototypes or models
- Developing or applying for patents
- Certification testing
- Developing new technology
- Environmental testing
- Developing or improving software technologies
- Building or improving manufacturing facilities
- Streamlining internal processes

### Activities that Do NOT Qualify:

- Exploration activity to ascertain the existence, location, extent, or quality of any ore or mineral deposit
- Research AFTER commercial production
- Adapting an existing business component for a particular customer
- Duplicating an existing business component
- Surveys & studies such as market research, advertising, and routine data collection
- Computer software for internal use (unless its development supports an otherwise qualifying activity)
- Non-U.S. research
- Research intended to be transferred to another
- Research conducted for the benefit of and prior to commencing a new business
- Research in the social sciences, arts, or humanities
- Funded research
- Anything for style, taste, cosmetic, or seasonal reasons

## Allowed Expenses for Qualified Research:

- Research expenses incurred in connection with carrying on a trade or business including:
  - In-house wages and supplies
  - Time-sharing costs for computer use
  - 65% of amounts paid to contractors in the U.S. who work on the taxpayer's behalf
  - Extraordinary utility charges
  - Depreciation and depletion on property used in connection with qualified research activities

Dept. of Revenue, February 2, 2011

RESEARCH AND DEVELOPMENT CREDIT BY STATE

FEDERAL	Two Types: Regular Research Credit (RRC) Method; 20% of qualified expenses Alternative Simplified Credit (ASC) Method; 14% of qualified expenses over 50% of average expenses in the preceding three years (See Exhibit 1 attached)
Arizona	24% of the first \$2.5 million in qualifying expenses. Qualifying expenses in excess of \$2.5 million, credit is \$600,000 plus 15% of the amount over \$2.5M. Ariz. Rev. Stat. Ann. § 43-1074.01 [Extended through 2019]
Arkansas	1. University based R&D. 33% tax credit for qualified research expenditure on contracts with AR colleges or Universities 2. In-House R&D. 20% of qualified expenditures exceeding the base year for a 3 year period. Incremental increase for next 2 years. Credit may offset 100% of state tax liability. Unused credit may be carryforward up to 9 years. 3. Strategic Value R&D. For research in an area of strategic value or projects offered by AR Science & Technology Authority. Credit is 33% of qualified expenditures. Max credit is \$50,000 per year. Unused credit may be carryforward 9 years. Ark. Code Ann. § 15-4-2708
California	15% for qualified research and 24% of research payments Cal. Rev. & Tax. Cd. § 23609
Colorado	3% of increased R&D expenditures. Colo. Code Regs. 39-30-105.5
Connecticut	Three types: 25% grants to institutes of higher education. Conn. Gen. Stat. § 12-217l 20% of incremental expenditures. Unused credit carryforward up 15 years. Conn. Gen. Stat. § 12-217j 1- 6% of non-incremental expenditures. Conn. Gen. Stat. § 12-217n
Delaware	Up to \$5m for qualified R&D expenses equal to 10% of R&D base amount or 50% of DE apportioned share not to exceed 50% of tax liability. Unused credit may be carried forward up 15 years. Del. Code Ann. § 2070 [Extended to tax years ending after 12/31/12]
Florida	Effective 1-1-2012. Credit to a max of \$9M not to exceed 50% of tax liability. Unused credit may be carried forward up 5 years. Fla. Stat. § 220.196
Georgia	Up to 10% of base amount not to exceed 50% of tax liability. Unused credit may be carried forward up to 10 years. Ga. Code Ann. § 48-7-40.12
Hawaii	Impose a refundable credit up to 20% on qualified expenses. Haw. Rev. Stat. § 235-110.91
Idaho	Sum of: 5% of excess payments over base amount and 5% of payments allowed under IRS code, not to exceed tax. Idaho Code § 63-3029G
Illinois	[Extended through 2015]
Indiana	Up to 10% minus 50% of qualified expenses for 3 preceding years. Ind. Code § 6-3.1-4-2.5
Iowa	6.5% of qualified expenditures. Iowa Admin. Code 701--42.11

RESEARCH AND DEVELOPMENT CREDIT BY STATE

Kansas	6.5% of expenditures exceeding amounts used in the current plus past two yrs. Only 25% of credit is used in the current year Kan. Stat. Ann. § 79-32,182
Louisiana	up 8% of state's apportioned amount, 40% if employs up to 50, 25% if alternative incremental tax credit is claimed 20% for taxpayers with 50 to 99 employees. La. Rev. Stat. Ann. § 47:6015 [Applicable to tax years beginning on or after 1-1-2011 and extended through 2019]
Maine	5% of the amount that exceed the average expense of the previous 3 yrs plus 7.5% of basic research payments Me. Rev. Stat. Ann. § 5219-K
Maryland	[Extended through 6/30/21]
Massachusetts	10% not to exceed 50% of tax liability. Limit \$25,000,000. Mass. Gen. L. § 38N
Michigan	1.9% of qualified expenses. Mich. Comp. Laws Ann. § 208.1405
Minnesota	10 %, up to the first \$2 million in eligible expenses. The credit is 2.5 percent for eligible expenses above \$2 millior Minn. Stat. § 290.068 [Extended through tax years beginning before 1/1/15]
Mississippi	\$1,000 per employee for a job requiring R&D skills. Miss. Administrative Code 35.X.03
Missouri	6.5% of qualified expenses. Mo. Rev. Stat. § 620.1039
Montana	Tax exempt for first 5 years of R&D activities. Mont. Code Ann. § 15-31-103
Nebraska	15% of federal tax credit. 35% of federal credit if conducted in colleges or universities. Neb. Rev. Stat § 77-5803
New Hampshire	Lesser of 10% of qualified expenses or \$50, 000. N.H. Admin. Rules, Rev 2406.05 .
New Jersey	50% of qualified expenses against tax liability. N.J. Admin. Code 18:7-3.23 [As of 1/1/12 limitation of 50% of tax liability was removed]
New Mexico	has a small business technology tax credit, governor is proposing a high-tech R & D credit
New York	10% of cost or other federal basis. ¶11,314
North Carolina	\$0 to \$50M - 1.25%. \$50M to \$200M - 2.25%. Over \$200M 3.5%. N.C. Gen. Stat. § 105-129.55 .
North Dakota	25% of first \$100,000. 8% of amount over \$100,000. N.D. Cent. Code § 57-38-30.5
Oklahoma	\$500 per employee engaged in R&D, computer services or data processing. Max 50 employees. Okla. Admin. Code 710:50-15-105
Ohio	Requires taxpayers to obtain a certificate before claiming the credit. Max credit \$150,000. Ohio Rev. Code Ann. § 5733.352

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Oregon	5% of increase in qualified expenses . Max \$2M. Unused credit may be carried up to 5 years. Or. Rev. Stat. § 317.152 [Program extended to 1/1/16]
Pennsylvania	10% of qualified expenses. Pa. Stat. Ann. § 8703-B
Rhode Island	22.5% up to \$111,111, 16% of amounts over \$111,111. R.I. Reg. CR 03-07
South Carolina	5% of qualified expenses not to exceed 50% of tax liability. S.C. Code Ann. § 12-6-3415 .
Texas	5% of qualified expenses. Tex. Admin. Code 3.578
Utah	6.3% for basic research that exceeds base amount. Utah Code Ann. § 59-10-1012
Virginia	15% of first \$167,000 or 20% of first \$175,000 if conducted in college or universities. Va. Code Ann. § 58.1-439.12:06.
West Virginia	Credit on Depreciable property from 33 1/3 to 100%. W. Va. Code § 11-13R-4
Wisconsin	10% of qualified expenses. Wis. Stat. § 71.28 (5). [Created a "Super R&D Credit" as of 1/1/11]