cally to recipients if the furnisher satisfies the consent, format, posting, and notification requirements described in part H of the 2003 General Instructions for Forms 1099, 1098, 5498, and W–2G and furnishes such payee statements by their respective due dates.

This notice hereby modifies part H of the 2003 General Instructions for Forms 1099, 1098, 5498, and W–2G by permitting the electronic delivery of the Form 1099–R, Form 1099–MSA, Form 1099–Q, Form 5498, Form 5498–ESA, and Form 5498–MSA payee statements by their respective due dates.

IV. Effective Date

This notice is applicable with respect to Form 1099–R, Form 1099–MSA, Form 1099–Q, Form 5498, Form 5498–ESA, and Form 5498–MSA payee statements required to be furnished to recipients for 2003 and subsequent years.

V. Effect on Other Documents

The document entitled 2003 General Instructions for Forms 1099, 1098, 5498, and W–2G is hereby modified.

Drafting Information

The principal author of this notice is Pamela R. Kinard of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in its development. For further information regarding this notice, contact Pamela R. Kinard at (202) 622–6060 (not a toll-free number).

Recordkeeping Agreement Pilot Program Involving Credit for Increasing Research Activities

Notice 2004–11

SECTION 1. PURPOSE

This notice announces a pilot program that will permit the Internal Revenue Service (Service) and large and mid-size business taxpayers to enter into research credit recordkeeping agreements (RCRAs). If a taxpayer complies with the terms of a RCRA, then the Service will deem the taxpayer to have satisfied the recordkeeping requirements of section 6001 of the Internal Revenue Code (Code) for purposes of the credit for increasing research activities under section 41 (research credit). A RCRA does not relieve the taxpayer of its section 6001 recordkeeping obligations for purposes of any other provision of the Code.

The purposes of the pilot program are to develop and evaluate a procedure:

1. To resolve issues concerning the type and amount of documents that a taxpayer must maintain, retain, and produce to satisfy the recordkeeping requirements of section 6001 for the research credit; and

2. To reduce the costs, burdens, and delays frequently encountered by taxpayers and the Service in examinations involving the research credit.

SECTION 2. DESCRIPTION OF THE PILOT PROGRAM

The Large and Mid-Size Business Operating Division (LMSB) will administer the pilot program. The pilot program is available to LMSB taxpayers who have claimed the research credit on a timely filed original Form 1120, *"U.S. Corporation Income Tax Return,"* series return if the return is currently under examination. LMSB anticipates that it may select five to ten applicants for participation in the pilot program.

LMSB intends to establish a team to work with selected applicants to resolve the type and amount of documents that each of these taxpayers must maintain, retain, and produce with respect to the taxable years covered by the RCRA to satisfy the recordkeeping requirements of section 6001 for the research credit. Pilot program participants may be asked to evaluate the pilot program. The Service will evaluate the program and it may be extended, with modifications, on a permanent basis.

SECTION 3. DESCRIPTION OF A RCRA

The Service and a taxpayer will enter into a RCRA through a letter of understanding signed by the Industry Director. The letter of understanding will specify the type and amount of documents that the taxpayer must maintain, retain, and produce to be deemed to satisfy the recordkeeping requirements of section 6001 for the research credit.

A RCRA may cover up to three consecutive taxable years ending after the date of the RCRA's issuance. A RCRA will not cover the following businesses or taxpayers:

1. Any trade or business (or major portion of any trade or business) acquired by the taxpayer after the RCRA was issued;

2. Any corporation that joined the taxpayer's controlled group of corporations after the RCRA was issued, see I.R.C. § 41(f)(1)(A); and

3. Any trade or business (whether or not incorporated) that was not under common control with the taxpayer on the date the RCRA was issued, see I.R.C. § 41(f)(1)(B).

SECTION 4. REQUEST TO PARTICIPATE IN THE RCRA PILOT PROGRAM

.01 *Content of request.*

A taxpayer must submit a written request to participate in the pilot program to the Team Manager assigned to the examination. Taxpayers should submit the request on or before May 10, 2004. The request to participate in the RCRA pilot program must contain the following information:

1. The names, addresses, telephone numbers, and taxpayer identification numbers of all members of the taxpayer's controlled group of corporations and trades or businesses under common control with the taxpayer;

2. The name, title, address, and telephone number of a contact person and a properly executed Form 2848, *"Power of Attorney and Declaration of Representative,"* if the information contact is an authorized representative of the taxpayer;

3. The location of the person responsible for the taxpayer's tax matters;

4. The location of the taxpayer's research credit records;

5. A discussion of the taxpayer's suitability for the pilot program and any unique benefits that may result from a RCRA with the taxpayer;

6. A statement that the taxpayer agrees that interviews and the inspection of the taxpayer's books and records under the RCRA procedures (*see* Section 6): (1) do

not constitute an examination or an inspection of books of account for purposes of section 7605(b) or any administrative provisions adopted by the Service, and (2) will not preclude or impede a later examination of a return or inspection of records under section 7602 or any administrative provisions adopted by the Service for any taxable year.

7. A statement that the Service need not comply with any applicable procedural restrictions (including providing notice under section 7605(b)) before beginning an examination or inspection under RCRA procedures (*see* Section 6); and

8. A statement that the taxpayer is willing to participate in the pilot program and to evaluate the pilot program.

.02 *Signature.*

The taxpayer or the taxpayer's authorized representative must sign the request to participate in the RCRA pilot program. The request must include a copy of Form 2848 if the request is signed by an authorized representative.

.03 *No user fee.*

The Service will not charge a user fee for a RCRA request during the pilot program.

SECTION 5. RECOMMENDATION AND SELECTION PROCESS FOR PARTICIPATION IN THE RCRA PILOT PROGRAM

.01 *Team Manager's role.*

Team Managers will forward a copy of the taxpayer's written request to participate in the pilot program to:

1. The Industry Director for the LMSB industry group with jurisdiction over the taxpayer;

2. The Director, Pre-filing and Technical Guidance, for LMSB; and

3. The Director, Field Specialists, for LMSB.

.02 *Recommendation process.*

The Team Manager will recommend whether LMSB should accept the taxpayer to participate in the pilot program. The Team Manager will consider the following factors:

1. The taxpayer's cooperation with the Service in the past;

2. The resources needed for the Service to evaluate the taxpayer's records and recordkeeping systems; and

3. The potential benefits of a RCRA.

.03 *Selection process.*

The selection of a taxpayer for the pilot program is subject to the approval of the Industry Director and the concurrence of the Director, Pre-filing and Technical Guidance. In addition to the factors set forth in Section 5.02, the following factors will be considered in selecting taxpayers to participate in the pilot program:

1. The potential to provide a cross-section of industries; and

2. The probability of the parties completing a RCRA within a reasonable period of time.

.04 *Communication with the taxpayer.*

The Industry Director or Director, Field Operations, will contact the taxpayer within 14 days after receipt of the request to discuss the taxpayer's suitability for the pilot program. LMSB will notify the taxpayer in writing whether the taxpayer has been selected to participate in the pilot program. If LMSB does not select the taxpayer, the taxpayer has no right to appeal the decision.

SECTION 6. TERMS OF A RCRA

The LMSB team and the taxpayer will negotiate the terms of the RCRA. The LMSB team and the taxpayer will take into account the taxpayer's current recordkeeping systems, records created during research activities, and records used to track costs associated with research activities. A RCRA may require a taxpayer to create and retain records that it does not currently create and retain. The Service will enter into a RCRA only if it determines that the records to be maintained, retained, and produced under the RCRA satisfy the requirements of section 6001 for the research credit.

SECTION 7. APPROVAL OF A RCRA

The terms of the RCRA negotiated by the LMSB team and the taxpayer are subject to the approval of the Industry Director and the concurrence of the Director, Pre-filing and Technical Guidance, and the Director, Field Specialists. If the Industry Director approves the negotiated RCRA, the Industry Director will sign a letter of understanding evidencing the terms of the RCRA.

SECTION 8. EFFECT OF A RCRA

The taxpayer must maintain, retain, and produce records in accordance with the terms and conditions in the RCRA. The taxpayer's compliance with the RCRA establishes only that the taxpayer has satisfied the recordkeeping requirements of section 6001 for the research credit and does not establish that any amounts will be treated as qualified research expenses for purposes of section 41(b).

With respect to the taxable years covered by the RCRA, a RCRA does not limit the Service's ability to request non-recorded information during examinations through interviews and other information gathering methods. In addition, the Service during examinations may request non-recorded information, through interviews and other information gathering methods, as well as recorded information not identified in the RCRA, to verify the information contained in documents required under the RCRA if the Service has reason to question the information's accuracy or reliability.

A taxpayer may terminate the RCRA at any time. The Industry Director may terminate the RCRA if the Service determines that the taxpayer has not complied with the terms of the RCRA. The taxpayer may not appeal an Industry Director's decision to terminate a RCRA.

SECTION 9. EFFECTIVE DATE

The pilot program is effective on February 9, 2004.

SECTION 10. COMMENTS

The Service invites interested persons to comment on the pilot program. Interested persons should send comments to:

Internal Revenue Service
Attn: Large and Mid-Size Business Division LM:Q
Mint Building, 3rd Floor, M–3–148
1111 Constitution Avenue, NW
Washington, D.C. 20224

SECTION 11. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork

Reduction Act (44 U.S.C. 3507) under control number 1545–1859.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this notice is in Section 4. This information is required to submit a request to participate in the RCRA Pilot Program. This information will be used to enable the Service to determine whether the applicant is suitable for participation in the RCRA Pilot Program. The collection of information is voluntary to obtain a benefit. The likely respondents are businesses or other for profit institutions.

The estimated total annual reporting burden is 1,170 hours.

The estimated annual burden per respondent varies from 5 hours to 126 hours, depending on individual circumstances, with an estimated average of 18 hours. The estimated number of respondents is 65.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 12. CONTACT INFORMATION

The principal author of this notice is Michael Hara of the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. Mr. Hara may be contacted at (202) 622–4910 (not a toll-free number).

For information regarding the RCRA Pilot Program, contact Hugh Whitledge, Engineer Technical Advisor, of the LMSB Pre-filing and Technical Guidance Office at (972) 308–7115 (not a toll-free number). Taxpayers interested in participating in the pilot program, or with questions about the pilot program, may also contact the Team Manager assigned to the examination of the taxpayer before submitting a request to participate in the pilot program.

(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan

P.L. 97-448, § 103(g)(1):

Amended Code Sec. 44G(b)(3) by striking out "No credit" and inserting in lieu thereof "No credit attributable to compensation taken into account for the ratemaking purposes involved", and by adding the sentence at the end thereof. Effective as if such amendment had been included in the provision of P.L. 97-34 to which it relates.

P.L. 97-34, § 331(a):

Added Code Sec. 44G to read as above, applicable to aggregate compensation (within the meaning of Code Sec. 415(c)(3)), paid or accrued after December 31, 1982, in taxable years ending after such date

[Sec. 41]

SEC. 41. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

[Sec. 41(a)]

(a) GENERAL RULE.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

(1) 20 percent of the excess (if any) of—

(A) the qualified research expenses for the taxable year, over

(B) the base amount, and

(2) 20 percent of the basic research payments determined under subsection (e)(1)(A).

Amendments

P.L. 101-239, § 7110(b)(2)(A):

Act Sec. 7110(b)(2)(A) amended Code Sec. 41(a)(1)(B) to read as above. Prior to amendment, Code Sec. 41(a)(1)(B) read as follows:

(B) the base period research expenses, and

The above amendment applies to tax years beginning after December 31, 1989.

[Sec. 41(b)]

(b) QUALIFIED RESEARCH EXPENSES.—For purposes of this section—

(1) QUALIFIED RESEARCH EXPENSES.—The term "qualified research expenses" means the sum of the following amounts which are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer—

(A) in-house research expenses, and

(B) contract research expenses.

(2) IN-HOUSE RESEARCH EXPENSES.—

(A) IN GENERAL.—The term "in-house research expenses" means—

(i) any wages paid or incurred to an employee for qualified services performed by such employee,

(ii) any amount paid or incurred for supplies used in the conduct of qualified research, and

(iii) under regulations prescribed by the Secretary, any amount paid or incurred to another person for the right to use computers in the conduct of qualified research.

Clause (iii) shall not apply to any amount to the extent that the taxpayer (or any person with whom the taxpayer must aggregate expenditures under subsection (f)(1)) receives or accrues any amount from any other person for the right to use substantially identical personal property.

(B) QUALIFIED SERVICES.—The term "qualified services" means services consisting of—

(i) engaging in qualified research, or

(ii) engaging in the direct supervision or direct support of research activities which constitute qualified research.

If substantially all of the services performed by an individual for the taxpayer during the taxable year consists of services meeting the requirements of clause (i) or (ii), the term "qualified services" means all of the services performed by such individual for the taxpayer during the taxable year.

(C) SUPPLIES.—The term "supplies" means any tangible property other than—

(i) land or improvements to land, and

(ii) property of a character subject to the allowance for depreciation.

(D) WAGES.—

(i) IN GENERAL.—The term "wages" has the meaning given such term by section 3401(a).

(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—In the case of an employee (within the meaning of section 401(c)(1)), the term "wages" includes the earned income (as defined in section 401(c)(2)) of such employee.

(iii) EXCLUSION FOR WAGES TO WHICH WORK OPPORTUNITY CREDIT APPLIES.—The term "wages" shall not include any amount taken into account in determining the work opportunity credit under section 51(a).

(3) CONTRACT RESEARCH EXPENSES.—

(A) IN GENERAL.—The term "contract research expenses" means 65 percent of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research.

(B) PREPAID AMOUNTS.—If any contract research expenses paid or incurred during any taxable year are attributable to qualified research to be conducted after the close of such taxable year, such amount shall be treated as paid or incurred during the period during which the qualified research is conducted.

(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—

(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting "75 percent" for "65 percent" with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research on behalf of the taxpayer and 1 or more unrelated taxpayers. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.

(ii) QUALIFIED RESEARCH CONSORTIUM.—The term "qualified research consortium" means any organization which—

(I) is described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a),

(II) is organized and operated primarily to conduct scientific research, and

(III) is not a private foundation.

(4) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN STARTUP VENTURES.—In the case of in-house research expenses, a taxpayer shall be treated as meeting the trade or business requirement of paragraph (1) if, at the time such in-house research expenses are paid or incurred, the principal purpose of the taxpayer in making such expenditures is to use the results of the research in the active conduct of a future trade or business—

(A) of the taxpayer, or

(B) of 1 or more other persons who with the taxpayer are treated as a single taxpayer under subsection (f)(1).

Amendments

P.L. 104-188, § 1201(e)(1):

Act Sec. 1201(e)(1) amended Code Sec. 41(b)(2)(D)(iii) by striking "targeted jobs credit" each place it appears and inserting "work opportunity credit".

P.L. 104-188, § 1201(e)(4):

Act Sec. 1201(e)(4) amended Code Sec. 41(b)(2)(D)(iii) by striking "TARGETED JOBS CREDIT" in the heading and inserting "WORK OPPORTUNITY CREDIT".

The above amendments apply to individuals who begin work for the employer after September 30, 1996.

P.L. 104-188, § 1204(d):

Act Sec. 1204(d) amended Code Sec. 41(b)(3) by adding at the end a new subparagraph (C) to read as above.

The above amendment applies to tax years beginning after June 30, 1996. For a special rule, see Act Sec. 1204(f)(3), below.

P.L. 104-188, § 1204(f)(3):

Act Sec. 1204(f)(3) provides:

(3) ESTIMATED TAX.—The amendments made by this section shall not be taken into account under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) in determining the amount of any installment required to be paid for a taxable year beginning in 1997.

P.L. 101-239, § 7110(b)[c]:

Act Sec. 7110(b)[c] amended Code Sec. 41(b) by adding at the end thereof a new paragraph (4) to read as above.

The above amendment applies to tax years beginning after December 31, 1989.

[Sec. 41(c)]

(c) BASE AMOUNT.—

(1) IN GENERAL.—The term "base amount" means the product of—

(A) the fixed-base percentage, and

(B) the average annual gross receipts of the taxpayer for the 4 taxable years preceding the taxable year for which the credit is being determined (hereinafter in this subsection referred to as the "credit year").

(2) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than 50 percent of the qualified research expenses for the credit year.

(3) FIXED-BASE PERCENTAGE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage which the aggregate qualified research expenses of the taxpayer for taxable years beginning after December 31, 1983, and before January 1, 1989, is of the aggregate gross receipts of the taxpayer for such taxable years.

(B) START-UP COMPANIES.—

(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.

(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

(II) in the case of the taxpayer's 6th such taxable year, 1/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

(III) in the case of the taxpayer's 7th such taxable year, 1/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

(IV) in the case of the taxpayer's 8th such taxable year, 1/2 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

(V) in the case of the taxpayer's 9th such taxable year, 2/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

(VI) in the case of the taxpayer's 10th such taxable year, 5/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years s of the aggregate gross receipts of the taxpayer for such years, and

(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.

(iii) TREATMENT OF DE MINIMIS AMOUNTS OF GROSS RECEIPTS AND QUALIFIED RESEARCH EXPENSES.—The Secretary may prescribe regulations providing that de minimis amounts of gross receipts and qualified research expenses shall be disregarded under clauses (i) and (ii).

(C) MAXIMUM FIXED-BASE PERCENTAGE.—In no event shall the fixed-base percentage exceed 16 percent.

(D) ROUNDING.—The percentages determined under subparagraphs (A) and (B)(ii) shall be rounded to the nearest 1/100th of 1 percent.

(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

(i) 2.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

(ii) 3.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

(iii) 3.75 percent of so much of such expenses as exceeds 2 percent of such average.

(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

(5) CONSISTENT TREATMENT OF EXPENSES REQUIRED.—

(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the fixed-base percentage, the qualified research expenses taken into account in computing such percentage shall be determined on a basis consistent with the determination of qualified research expenses for the credit year.

(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses or gross receipts caused by a change in accounting methods used by such taxpayer between the current year and a year taken into account in computing such taxpayer's fixed-base percentage.

(6) GROSS RECEIPTS.—For purposes of this subsection, gross receipts for any taxable year shall be reduced by returns and allowances made during the taxable year. In the case of a foreign corporation, there shall be taken into account only gross receipts which are effectively connected with the conduct of a trade or business within the United States, the Commonwealth of Puerto Rico, or any possession of the United States.

Amendments

P.L. 106-170, § 502(b)(1)(A)-(C):

Act Sec. 502(b)(1)(A)-(C) amended Code Sec. 41(c)(4)(A) by striking "1.65 percent" and inserting "2.65 percent", by striking "2.2 percent" and inserting "3.2 percent", and by striking "2.75 percent" and inserting "3.75 percent".

The above amendment applies to tax years beginning after June 30, 1999. For a special rule, see Act Sec. 502(d), below.

P.L. 106-170, § 502(c)(1):

Act Sec. 502(c)(1) amended Code Sec. 41(c)(6) by inserting ", the Commonwealth of Puerto Rico, or any possession of the United States" after "United States".

The above amendment applies to amounts paid or incurred after June 30, 1999. For a special rule, see Act Sec. 502(d), below.

P.L. 106-170, § 502(d), provides:

(d) SPECIAL RULE.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, the credit determined under section 41 of such Code which is otherwise allowable under such Code—

(A) shall not be taken into account prior to October 1, 2000, to the extent such credit is attributable to the first suspension period; and

(B) shall not be taken into account prior to October 1, 2001, to the extent such credit is attributable to the second suspension period.

On or after the earliest date that an amount of credit may be taken into account, such amount may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means allowed by such Code.

(2) SUSPENSION PERIODS.—For purposes of this subsection—

(A) the first suspension period is the period beginning on July 1, 1999, and ending on September 30, 2000; and

(B) the second suspension period is the period beginning on October 1, 2000, and ending on September 30, 2001.

(3) EXPEDITED REFUNDS.—

(A) IN GENERAL.—If there is an overpayment of tax with respect to a taxable year by reason of paragraph (1), the taxpayer may file an application for a tentative refund of such overpayment. Such application shall be in such manner and form, and contain such information, as the Secretary may prescribe.

(B) DEADLINE FOR APPLICATIONS.—Subparagraph (A) shall apply only to an application filed before the date which is 1 year after the close of the suspension period to which the application relates.

(C) ALLOWANCE OF ADJUSTMENTS.—Not later than 90 days after the date on which an application is filed under this paragraph, the Secretary shall—

(i) review the application;

(ii) determine the amount of the overpayment, and

(iii) apply, credit, or refund such overpayment.

in a manner similar to the manner provided in section 6411(b) of such Code.

(D) CONSOLIDATED RETURNS.—The provisions of section 6411(c) of such Code shall apply to an adjustment under this paragraph in such manner as the Secretary may provide.

(4) CREDIT ATTRIBUTABLE TO SUSPENSION PERIOD.—

(A) IN GENERAL.—For purposes of this subsection, in the case of a taxable year which includes a portion of the suspension period, the amount of credit determined under section 41 of such Code for such taxable year which is attributable to such period is the amount which bears the same ratio to the amount of credit determined under such section 41 for such taxable year as the number of months in the suspension period which are during such taxable year bears to the number of months in such taxable year.

(B) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of such Code for any period before July 1, 1999, with respect to any underpayment of tax imposed by such Code to the extent such underpayment was created or increased by reason of subparagraph (A).

(5) SECRETARY.—For purposes of this subsection, the term "Secretary" means the Secretary of the Treasury (or such Secretary's delegate).

P.L. 105-34, § 601(b)(1):

Act Sec. 601(b)(1) amended Code Sec. 41(c)(4)(B) to read as above. Prior to amendment, Code Sec. 41(c)(4)(B) read as follows:

(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1996. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

The above amendment applies to amounts paid or incurred after May 31, 1997.

P.L. 104-188, § 1204(b):

Act Sec. 1204(b) amended Code Sec. 41(c)(3)(B)(i) to read as above. Prior to amendment, Code Sec. 41(c)(3)(B)(i) read as follows:

(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if there are fewer than 3 taxable years beginning after December 31, 198[illegible], and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.

The above amendment applies to tax years ending after June 30, 1996.

P.L. 104-188, § 1204(c):

Act Sec. 1204(c) amended Code Sec. 41(c) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and inserting after paragraph (3) a new paragraph (4) to read as above.

The above amendment applies to tax years beginning after June 30, 1996. For a special rule, see Act Sec. 1204(f)(3), below.

P.L. 104-188, § 1204(f)(3), provides:

(3) ESTIMATED TAX.—The amendments made by this section shall not be taken into account under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) in determining the amount of any installment required to be paid for a taxable year beginning in 1997.

P.L. 103-66, § 13112(a):

Act Sec. 13112(a) amended Code Sec. 41(c)(3)(B)(ii) to read as above. Prior to amendment, Code Sec. 41(c)(3)(B)(ii) read as follows:

(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed base percentage is 3 percent.

P.L. 103-66, § 13112(b)(1):

Act Sec. 13112(b)(1) amended Code Sec. 41(c)(3)(B)(iii) by striking "clause (i)" and inserting "clauses (i) and (ii)".

P.L. 103-66, § 13112(b)(2):

Act Sec. 13112(b)(2) amended Code Sec. 41(c)(3)(D) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)(ii)".

The above amendments apply to tax years beginning after December 31, 1993.

P.L. 101-239, § 7110(b)(1):

Act Sec. 7110(b)(1) amended Code Sec. 41(c) to read as above. Prior to amendment, Code Sec. 41(c) read as follows:

(c) BASE PERIOD RESEARCH EXPENSES.—For purposes of this section—

(1) IN GENERAL.—The term "base period research expenses" means the average of the qualified research expenses for each year in the base period.

(2) BASE PERIOD.—

(A) IN GENERAL.—For purposes of this subsection, the term "base period" means the 3 taxable years immediately preceding the taxable year for which the determination is being made (hereinafter in this subsection referred to as the "determination year").

(B) TRANSITIONAL RULES.—Subparagraph (A) shall be applied—

(i) by substituting "first taxable year" for "3 taxable years" in the case of the first determination year ending after June 30, 1981, and

(ii) by substituting "2" for "3" in the case of the second determination year ending after June 30, 1981.

(3) MINIMUM BASE PERIOD RESEARCH EXPENSES.—In no event shall the base period research expenses be less than 50 percent of the qualified research expenses for the determination year.

The above amendment applies to tax years beginning after December 31, 1989.

[Sec. 41(d)]

(d) QUALIFIED RESEARCH DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "qualified research" means research—

(A) with respect to which expenditures may be treated as expenses under section 174,

(B) which is undertaken for the purpose of discovering information—

(i) which is technological in nature, and

(ii) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and

(C) substantially all of the activities of which constitute elements of a process of experimentation for a purpose described in paragraph (3).

Such term does not include any activity described in paragraph (4).

(2) TESTS TO BE APPLIED SEPARATELY TO EACH BUSINESS COMPONENT.—For purposes of this subsection—

(A) IN GENERAL.—Paragraph (1) shall be applied separately with respect to each business component of the taxpayer.

(B) BUSINESS COMPONENT DEFINED.—The term "business component" means any product, process, computer software, technique, formula, or invention which is to be—

(i) held for sale, lease, or license, or

(ii) used by the taxpayer in a trade or business of the taxpayer.

(C) SPECIAL RULE FOR PRODUCTION PROCESSES.—Any plant process, machinery, or technique for commercial production of a business component shall be treated as a separate business component (and not as part of the business component being produced).

(3) PURPOSES FOR WHICH RESEARCH MAY QUALIFY FOR CREDIT.—For purposes of paragraph (1)(C)—

(A) IN GENERAL.—Research shall be treated as conducted for a purpose described in this paragraph if it relates to—

(i) a new or improved function,

(ii) performance, or

(iii) reliability or quality.

(B) CERTAIN PURPOSES NOT QUALIFIED.—Research shall in no event be treated as conducted for a purpose described in this paragraph if it relates to style, taste, cosmetic, or seasonal design factors.

(4) ACTIVITIES FOR WHICH CREDIT NOT ALLOWED.—The term "qualified research" shall not include any of the following:

(A) RESEARCH AFTER COMMERCIAL PRODUCTION.—Any research conducted after the beginning of commercial production of the business component.

(B) ADAPTATION OF EXISTING BUSINESS COMPONENTS.—Any research related to the adaptation of an existing business component to a particular customer's requirement or need.

(C) DUPLICATION OF EXISTING BUSINESS COMPONENT.—Any research related to the reproduction of an existing business component (in whole or in part) from a physical examination of the business component itself or from plans, blueprints, detailed specifications, or publicly available information with respect to such business component.

(D) SURVEYS, STUDIES, ETC.—Any—

(i) efficiency survey,

(ii) activity relating to management function or technique,

(iii) market research, testing, or development (including advertising or promotions),

(iv) routine data collection, or

(v) routine or ordinary testing or inspection for quality control.

(E) COMPUTER SOFTWARE.—Except to the extent provided in regulations, any research with respect to computer software which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer, other than for use in—

(i) an activity which constitutes qualified research (determined with regard to this subparagraph), or

(ii) a production process with respect to which the requirements of paragraph (1) are met.

(F) FOREIGN RESEARCH.—Any research conducted outside the United States, the Commonwealth of Puerto Rico, or any possession of the United States.

(G) SOCIAL SCIENCES, ETC.—Any research in the social sciences, arts, or humanities.

(H) FUNDED RESEARCH.—Any research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

Amendments

P.L. 106-170, § 502(c)(1):

Act Sec. 502(c)(1) amended Code Sec. 41(d)(4)(F) by inserting ", the Commonwealth of Puerto Rico, or any possession of the United States" after "United States".

The above amendment applies to amounts paid or incurred after June 30, 1999. For a special rule, see Act Sec. 502(d) under the amendment notes following Code Sec. 41(c).

[Sec. 41(e)]

(e) CREDIT ALLOWABLE WITH RESPECT TO CERTAIN PAYMENTS TO QUALIFIED ORGANIZATIONS FOR BASIC RESEARCH.—For purposes of this section—

(1) IN GENERAL.—In the case of any taxpayer who makes basic research payments for any taxable year—

(A) the amount of basic research payments taken into account under subsection (a)(2) shall be equal to the excess of—

(i) such basic research payments, over

(ii) the qualified organization base period amount, and

(B) that portion of such basic research payments which does not exceed the qualified organization base period amount shall be treated as contract research expenses for purposes of subsection (a)(1).

(2) BASIC RESEARCH PAYMENTS DEFINED.—For purposes of this subsection—

(A) IN GENERAL.—The term "basic research payment" means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if—

(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

(ii) such basic research is to be performed by such qualified organization.

(B) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (6), clause (ii) of subparagraph (A) shall not apply.

(3) QUALIFIED ORGANIZATION BASE PERIOD AMOUNT.—For purposes of this subsection, the term "qualified organization base period amount" means an amount equal to the sum of—

(A) the minimum basic research amount, plus

(B) the maintenance-of-effort amount.

(4) MINIMUM BASIC RESEARCH AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The term "minimum basic research amount" means an amount equal to the greater of—

(i) 1 percent of the average of the sum of amounts paid or incurred during the base period for—

(I) any in-house research expenses, and

(II) any contract research expenses, or

(ii) the amounts treated as contract research expenses during the base period by reason of this subsection (as in effect during the base period).

(B) FLOOR AMOUNT.—Except in the case of a taxpayer which was in existence during a taxable year (other than a short taxable year) in the base period, the minimum basic research amount for any base period shall not be less than 50 percent of the basic research payments for the taxable year for which a determination is being made under this subsection.

(5) MAINTENANCE-OF-EFFORT AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The term "maintenance-of-effort amount" means, with respect to any taxable year, an amount equal to the excess (if any) of—

(i) an amount equal to—

(I) the average of the nondesignated university contributions paid by the taxpayer during the base period, multiplied by

(II) the cost-of-living adjustment for the calendar year in which such taxable year begins, over

(ii) the amount of nondesignated university contributions paid by the taxpayer during such taxable year.

(B) NONDESIGNATED UNIVERSITY CONTRIBUTIONS.—For purposes of this paragraph, the term "nondesignated university contribution" means any amount paid by a taxpayer to any qualified organization described in paragraph (6)(A)—

(i) for which a deduction was allowable under section 170, and

(ii) which was not taken into account—

(I) in computing the amount of the credit under this section (as in effect during the base period) during any taxable year in the base period, or

(II) as a basic research payment for purposes of this section.

(C) COST-OF-LIVING ADJUSTMENT DEFINED.—

(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the cost-of-living adjustment for such calendar year determined under section 1(f)(3), by substituting "calendar year 1987" for "calendar year 1992" in subparagraph (B) thereof [of Code Sec. 1(f)(3)].

(ii) SPECIAL RULE WHERE BASE PERIOD ENDS IN A CALENDAR YEAR OTHER THAN 1983 OR 1984.—If the base period of any taxpayer does not end in 1983 or 1984, section 1(f)(3)(B) shall, for purposes of this paragraph, be applied by substituting the calendar year in which such base period ends for 1992. Such substitution shall be in lieu of the substitution under clause (i).

(6) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term "qualified organization" means any of the following organizations:

(A) EDUCATIONAL INSTITUTIONS.—Any educational organization which—

(i) is an institution of higher education (within the meaning of section 3304(f)), and

(ii) is described in section 170(b)(1)(A)(ii).

(B) CERTAIN SCIENTIFIC RESEARCH ORGANIZATIONS.—Any organization not described in subparagraph (A) which—

(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

(ii) is organized and operated primarily to conduct scientific research, and

(iii) is not a private foundation.

(C) SCIENTIFIC TAX-EXEMPT ORGANIZATIONS.—Any organization which—

(i) is described in—

(I) section 501(c)(3) (other than a private foundation), or

(II) section 501(c)(6),

(ii) is exempt from tax under section 501(a),

(iii) is organized and operated primarily to promote scientific research by qualified organizations described in subparagraph (A) pursuant to written research agreements, and

(iv) currently expends—

(I) substantially all of its funds, or

(II) substantially all of the basic research payments received by it,

for grants to, or contracts for basic research with, an organization described in subparagraph (A).

(D) CERTAIN GRANT ORGANIZATIONS.—Any organization not described in subparagraph (B) or (C) which—

(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) (other than a private foundation),

(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

(iii) is organized and operated exclusively for the purpose of making grants to organizations described in subparagraph (A) pursuant to written research agreements for purposes of basic research, and

(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

(7) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) BASIC RESEARCH.—The term "basic research" means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

(i) basic research conducted outside of the United States, and

(ii) basic research in the social sciences, arts, or humanities.

(B) BASE PERIOD.—The term "base period" means the 3-taxable-year period ending with the taxable year immediately preceding the 1st taxable year of the taxpayer beginning after December 31, 1983.

(C) EXCLUSION FROM INCREMENTAL CREDIT CALCULATION.—For purposes of determining the amount of credit allowable under subsection (a)(1) for any taxable year, the amount of the basic research payments taken into account under subsection (a)(2)—

(i) shall not be treated as qualified research expenses under subsection (a)(1)(A), and

(ii) shall not be included in the computation of base amount under subsection (a)(1)(B).

(D) TRADE OR BUSINESS QUALIFICATION.—For purposes of applying subsection (b)(1) to this subsection, any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of subsection (b)(3)(B)).

(E) CERTAIN CORPORATIONS NOT ELIGIBLE.—The term "corporation" shall not include—

(i) an S corporation,

(ii) a personal holding company (as defined in section 542), or

(iii) a service organization (as defined in section 414(m)(3)).

Amendments

P.L. 103-66, § 13201(b)(3)(C):

Act Sec. 13201(b)(3)(C) amended Code Sec. 41(e)(5)(C) by striking "1989" each place it appears and inserting "1992".

The above amendment applies to tax years beginning after December 31, 1992.

P.L. 101-508, § 11101(d)(1)(C)(i)-(iii):

Act Sec. 11101(d)(1)(C)(i)-(iii) amended Code Sec. 41(e)(5)(C) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i), by striking "1987" in clause (ii) and inserting "1989", and by adding at the end of clause (ii) a new sentence to read as above.

The above amendment applies to tax years beginning after December 31, 1990.

P.L. 101-239, § 7110(b)(2)(B):

Act Sec. 7110(b)(2)(B) amended Code Sec. 41(e)(7)(C)(ii) by striking "base period research expenses" and inserting "base amount".

The above amendment applies to tax years beginning after December 31, 1989.

[Sec. 41(f)]

(f) SPECIAL RULES.—For purposes of this section—

(1) AGGREGATION OF EXPENDITURES.—

(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

(ii) the credit (if any) allowable by this section to each such member shall be its proportionate shares of the qualified research expenses and basic research payments giving rise to the credit.

(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

(ii) the credit (if any) allowable by this section to each such person shall be its proportionate shares of the qualified research expenses and basic research payments giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

(2) ALLOCATIONS.—

(A) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC.—Under regulations prescribed by the Secretary—

(A) ACQUISITIONS.—If, after December 31, 1983, a taxpayer acquires the major portion of a trade or business of another person (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section for any taxable year ending after such acquisition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such acquisition shall be increased by so much of such expenses paid or incurred by the predecessor with respect to the acquired trade or business as is attributable to the portion of such trade or business or separate unit acquired by the taxpayer, and the gross receipts of the taxpayer for such periods shall be increased by so much of the gross receipts of such predecessor with respect to the acquired trade or business as is attributable to such portion.

(B) DISPOSITIONS.—If, after December 31, 1983—

(i) a taxpayer disposes of the major portion of any trade or business or the major portion of a separate unit of a trade or business in a transaction to which subparagraph (A) applies, and

(ii) the taxpayer furnished the acquiring person such information as is necessary for the application of subparagraph (A),

then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by the taxpayer during periods before such disposition shall be decreased by so much of such expenses as is attributable to the portion of such trade or business or separate unit disposed of by the taxpayer, and the gross receipts of the taxpayer for such periods shall be decreased by so much of the gross receipts as is attributable to such portion.

(C) CERTAIN REIMBURSEMENTS TAKEN INTO ACCOUNT IN DETERMINING FIXED-BASE PERCENTAGE.—If during any of the 3 taxable years following the taxable year in which a disposition to which subparagraph (B) applies occurs, the disposing taxpayer (or a person with whom the taxpayer is required to aggregate expenditures under paragraph (1)) reimburses the acquiring person (or a person required to so aggregate expenditures with such person) for research on behalf of the taxpayer, then the amount of qualified research expenses of the taxpayer for the taxable years taken into account in computing the fixed-base percentage shall be increased by the lesser of—

(i) the amount of the decrease under subparagraph (B) which is allocable to taxable years so taken into account, or

(ii) the product of the number of taxable years so taken into account, multiplied by the amount of the reimbursement described in this subparagraph.

(4) SHORT TAXABLE YEARS.—In the case of any short taxable year, qualified research expenses and gross receipts shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

(5) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the same meaning given to such term by section 1563(a), except that—

(A) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

Amendments

P.L. 101-239, § 7110(b)(2)(C):

Act Sec. 7110(b)(2)(C) amended Code Sec. 41(f)(1) by striking "proportionate share of the increase in qualified research expenses" each place it appears and inserting "proportionate shares of the qualified research expenses and basic research payments".

P.L. 101-239, § 7110(b)(2)(D)(i)-(ii):

Act Sec. 7110(b)(2)(D)(i)-(ii) amended Code Sec. 41(f)(3)(A) by striking "June 30, 1980" and inserting "December 31, 1983", and by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be increased by so much of the gross receipts of such predecessor with respect to the acquired trade or business as is attributable to such portion".

P.L. 101-239, § 7110(b)(2)(E)(i)-(ii):

Act Sec. 7110(b)(2)(E)(i)-(ii) amended Code Sec. 41(f)(3)(B) by striking "June 30, 1980" and inserting "December 31, 1983", and by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be decreased by so much of the gross receipts as is attributable to such portion".

P.L. 101-239, § 7110(b)(2)(F)(i):

Act Sec. 7110(b)(2)(F)(i) amended Code Sec. 41(f)(3)(C) by striking "for the base period" and all that follows through "described in this subparagraph" and inserting "for the taxable years" through "described in this subparagraph" to read as above. Prior to amendment, Code Sec. 41(f)(3)(C) read as follows:

(C) INCREASE IN BASE PERIOD.—If during any of the 3 taxable years following the taxable year in which a disposition to which subparagraph (B) applies occurs, the disposing

taxpayer (or a person with whom the taxpayer is required to aggregate expenditures under paragraph (1)) reimburses the acquiring person (or a person required to so aggregate expenditures with such person) for research on behalf of the taxpayer, then the amount of qualified research expenses of the taxpayer for the base period for such taxable year shall be increased by the lesser of—

(i) the amount of the decrease under subparagraph (B) which is allocable to such base period, or

(ii) the product of the number of years in the base period, multiplied by the amount of the reimbursement described in this subparagraph.

P.L. 101-239, § 7110(b)(2)(F)(ii):

Act Sec. 7110(b)(2)(F)(ii) amended the heading of Code Sec. 41(f)(3)(C) to read as above. Prior to amendment, the heading for Code Sec. 41(f)(3)(C) read as follows:

(C) INCREASE IN BASE PERIOD.—

P.L. 101-239, § 7110(b)(2)(G):

Act Sec. 7110(b)(2)(G) amended Code Sec. 41(f)(4) by inserting "and gross receipts" after "qualified research expenses".

The above amendments apply to tax years beginning after December 31, 1989.

[Sec. 41(g)]

(g) SPECIAL RULE FOR PASS-THRU OF CREDIT.—In the case of an individual who—

(1) owns an interest in an unincorporated trade or business,

(2) is a partner in a partnership,

(3) is a beneficiary of an estate or trust, or

(4) is a shareholder in an S corporation,

the amount determined under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity. If the amount determined under subsection (a) for any taxable year exceeds the limitation of the preceding sentence, such amount may be carried to other taxable years under the rules of section 39; except that the limitation of the preceding sentence shall be taken into account in lieu of the limitation of section 38(c) in applying section 39.

Amendments

P.L. 100-647, § 1002(h)(1):

Act Sec. 1002(h)(1) amended Code Sec. 41(g) by adding at the end thereof a new sentence to read as above.

The above amendment is effective as if included in the provision of the Tax Reform Act of 1986 (P.L. 99-514) to which it relates.

[Sec. 41(h)]

(h) TERMINATION.—

(1) IN GENERAL.—This section shall not apply to any amount paid or incurred—

(A) after June 30, 1995, and before July 1, 1996, or

(B) after June 30, 2004.

(2) COMPUTATION OF BASE AMOUNT.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year, the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.

Amendments

P.L. 106-170, § 502(a)(1)(A)-(B):

Act Sec. 502(a)(1)(A)-(B) amended Code Sec. 41(h)(1) by striking "June 30, 1999" and inserting "June 30, 2004", and by striking the material following subparagraph (B). Prior to amendment, the material following subparagraph (B) read as follows:

Notwithstanding the preceding sentence, in the case of a taxpayer making an election under subsection (c)(4) for its first taxable year beginning after June 30, 1996, and before July 1, 1997, this section shall apply to amounts paid or incurred during the 36-month period beginning with the first month of such year. The 36 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section.

The above amendment applies to amounts paid or incurred after June 30, 1999. For a special rule, see Act Sec. 502(d) under the amendment notes following Code Sec. 41(c).

P.L. 105-277, § 1001(a)(1)-(3):

Act Sec. 1001(a)(1)-(3) amended Code Sec. 41(h)(1) by striking "June 30, 1998" and inserting "June 30, 1999", by striking "24-month" and inserting "36-month", and by striking "24 months" and inserting "36 months".

The above amendment applies to amounts paid or incurred after June 30, 1998.

P.L. 105-34, § 601(a)(1)-(2):

Act Sec. 601(a)(1)-(2) amended Code Sec. 41(h)(1) by striking "May 31, 1997" and inserting "June 30, 1998", and by striking in the last sentence "during the first 11 months of such taxable year." and inserting "during the 24-month period beginning with the first month of such year. The 24 months referred to in the preceding sentence shall be reduced by the number of full months after June 1996 (and before the first month of such first taxable year) during which the taxpayer paid or incurred any amount which is taken into account in determining the credit under this section.".

Subtitle F—Procedure and Administration

Chapter 61. Information and returns.
Chapter 62. Time and place for paying tax.
Chapter 63. Assessment.
Chapter 64. Collection.
Chapter 65. Abatements, credits, and refunds
Chapter 66. Limitations.
Chapter 67. Interest.
Chapter 68. Additions to the tax, additional amounts, and assessable penalties.
Chapter 69. General provisions relating to stamps.
Chapter 70. Jeopardy, receiverships, etc.
Chapter 71. Transferees and fiduciaries
Chapter 72. Licensing and registration.
Chapter 73. Bonds.
Chapter 74. Closing agreements and compromises.
Chapter 75. Crimes, other offenses, and forfeitures.
Chapter 76. Judicial proceedings.
Chapter 77. Miscellaneous provisions.
Chapter 78. Discovery of liability and enforcement of title.
Chapter 79. Definitions.
Chapter 80. General rules.

CHAPTER 61—INFORMATION AND RETURNS

SUBCHAPTER A. Returns and records.
SUBCHAPTER B. Miscellaneous provisions.

Subchapter A—Returns and Records

Part I. Records, statements, and special returns.
Part II. Tax returns or statements.
Part III. Information returns.
Part IV. Signing and verifying of returns and other documents.
Part V. Time for filing returns and other documents.
Part VI. Extension of time for filing returns.
Part VII. Place for filing returns or other documents.
Part VIII. Designation of income tax payments to Presidential Election Campaign Fund.

PART I—RECORDS, STATEMENTS, AND SPECIAL RETURNS

SEC. 6001. Notice or regulations requiring records, statements, and special returns.

[Sec. 6001]

SEC. 6001. NOTICE OR REGULATIONS REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

Amendments

P.L. 97-248, § 314(d):

Amended Code Sec. 6001 by adding ", records necessary to comply with section 6053(c)," after "charge receipts", applicable to taxable years beginning after December 31, 1982. For a special rule for 1983, see the amendment note for P.L. 97-248, following Code Sec. 6053(c).

P.L. 95-600, § 501(a):

Amended Code Sec. 6001 by adding the last sentence, applicable to payments made after December 31, 1978.

P.L. 94-455, § 1906(b)(13)(A):

Amended 1954 Code by substituting "Secretary" for "Secretary or his delegate" each place it appeared. Effective 2-1-77.