
SENATE BILL 5735

State of Washington

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By Senators Chase, Kastama, Kilmer, and McAuliffe

Read first time 02/09/11. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to encouraging economic development by removing the
2 expiration date from the research and development spending business and
3 occupation tax credit; and amending RCW 82.04.4452.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to
6 read as follows:

7 (1) In computing the tax imposed under this chapter, a credit is
8 allowed for each person whose research and development spending during
9 the year in which the credit is claimed exceeds 0.92 percent of the
10 person's taxable amount during the same calendar year.

11 (2) The credit is calculated as follows:

12 (a) Determine the greater of the amount of qualified research and
13 development expenditures of a person or eighty percent of amounts
14 received by a person other than a public educational or research
15 institution in compensation for the conduct of qualified research and
16 development;

17 (b) Subtract 0.92 percent of the person's taxable amount from the
18 amount determined under (a) of this subsection;

1 (c) Multiply the amount determined under (b) of this subsection by
2 the following:

3 (i) For the period June 10, 2004, through December 31, 2006, the
4 person's average tax rate for the calendar year for which the credit is
5 claimed;

6 (ii) For the calendar year ending December 31, 2007, the greater of
7 the person's average tax rate for that calendar year or 0.75 percent;

8 (iii) For the calendar year ending December 31, 2008, the greater
9 of the person's average tax rate for that calendar year or 1.0 percent;

10 (iv) For the calendar year ending December 31, 2009, the greater of
11 the person's average tax rate for that calendar year or 1.25 percent;

12 (v) For the calendar year ending December 31, 2010, and thereafter,
13 1.50 percent.

14 For purposes of calculating the credit, if a person's reporting
15 period is less than annual, the person may use an estimated average tax
16 rate for the calendar year for which the credit is claimed by using the
17 person's average tax rate for each reporting period. A person who uses
18 an estimated average tax rate must make an adjustment to the total
19 credit claimed for the calendar year using the person's actual average
20 tax rate for the calendar year when the person files its last return
21 for the calendar year for which the credit is claimed.

22 (3) Any person entitled to the credit provided in subsection (2) of
23 this section as a result of qualified research and development
24 conducted under contract may assign all or any portion of the credit to
25 the person contracting for the performance of the qualified research
26 and development.

27 (4) The credit, including any credit assigned to a person under
28 subsection (3) of this section, must be claimed against taxes due for
29 the same calendar year in which the qualified research and development
30 expenditures are incurred. The credit, including any credit assigned
31 to a person under subsection (3) of this section, for each calendar
32 year may not exceed the lesser of two million dollars or the amount of
33 tax otherwise due under this chapter for the calendar year.

34 (5) For any person claiming the credit, including any credit
35 assigned to a person under subsection (3) of this section, whose
36 research and development spending during the calendar year in which the
37 credit is claimed fails to exceed 0.92 percent of the person's taxable
38 amount during the same calendar year or who is otherwise ineligible,

1 the department must declare the taxes against which the credit was
2 claimed to be immediately due and payable. The department must assess
3 interest, but not penalties, on the taxes against which the credit was
4 claimed. Interest must be assessed at the rate provided for delinquent
5 excise taxes under chapter 82.32 RCW, retroactively to the date the
6 credit was claimed, and accrues until the taxes against which the
7 credit was claimed are repaid. Any credit assigned to a person under
8 subsection (3) of this section that is disallowed as a result of this
9 section may be claimed by the person who performed the qualified
10 research and development subject to the limitations set forth in
11 subsection (4) of this section.

12 (6) A person claiming the credit provided in this section must file
13 a complete annual survey with the department under RCW 82.32.585.

14 (7) For the purpose of this section:

15 (a) "Average tax rate" means a person's total tax liability under
16 this chapter for the calendar year for which the credit is claimed
17 divided by the taxpayer's total taxable amount under this chapter for
18 the calendar year for which the credit is claimed.

19 (b) "Qualified research and development expenditures" means
20 operating expenses, including wages, compensation of a proprietor or a
21 partner in a partnership as determined under rules adopted by the
22 department, benefits, supplies, and computer expenses, directly
23 incurred in qualified research and development by a person claiming the
24 credit provided in this section. The term does not include amounts
25 paid to a person other than a public educational or research
26 institution to conduct qualified research and development. Nor does
27 the term include capital costs and overhead, such as expenses for land,
28 structures, or depreciable property.

29 (c) "Qualified research and development" shall have the same
30 meaning as in RCW 82.63.010.

31 (d) "Research and development spending" means qualified research
32 and development expenditures plus eighty percent of amounts paid to a
33 person other than a public educational or research institution to
34 conduct qualified research and development.

35 (e) "Taxable amount" means the taxable amount subject to the tax
36 imposed in this chapter required to be reported on the person's
37 combined excise tax returns for the calendar year for which the credit

1 is claimed, less any taxable amount for which a credit is allowed under
2 RCW 82.04.440.

3 (~~(8) This section expires January 1, 2015.~~)

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