

**Effective 5/10/2016**

**Superseded 7/17/2016**

**59-7-612 Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.**

- (1)
  - (a) A taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:
    - (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4);
    - (ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection (4); and
    - (iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the current taxable year.
  - (b) Subject to Subsection (5), a taxpayer may claim a tax credit under:
    - (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs the qualified research expenses; or
    - (ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment to the qualified organization.
  - (c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.
- (2) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.
- (3) Except as specifically provided for in this section:
  - (a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and
  - (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).
- (4) For purposes of this section:
  - (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:
    - (i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;
    - (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; and
    - (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:
      - (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and
      - (B) may not revoke an election to be treated as a start-up company under Subsection (4)(a)(iii)(A);
  - (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;
  - (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

- (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:
    - (i) in-house research expenses incurred in this state; and
    - (ii) contract research expenses incurred in this state; and
  - (e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.
- (5)
- (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:
    - (i) may be carried forward for a period that does not exceed the next 14 taxable years; and
    - (ii) may not be carried back to a taxable year preceding the current taxable year.
  - (b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.
- (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall provide an electronic report of the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.
- (8)
- (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.
  - (b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.
  - (c) The Revenue and Taxation Interim Committee shall address in a review under this section:
    - (i) the cost of the tax credits provided for in this section;
    - (ii) the purpose and effectiveness of the tax credits provided for in this section;
    - (iii) whether the tax credits provided for in this section benefit the state; and
    - (iv) whether the tax credits provided for in this section should be:
      - (A) continued;
      - (B) modified; or
      - (C) repealed.
  - (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.