

**RESEARCH TAX CREDIT FOR MACHINERY
AND EQUIPMENT**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Craig A. Peterson

AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING INDIVIDUAL INCOME TAX AND CORPORATE FRANCHISE AND INCOME TAX CREDITS FOR EITHER MACHINERY, EQUIPMENT, OR BOTH § **PRIMARILY** § USED FOR CONDUCTING QUALIFIED RESEARCH OR BASIC RESEARCH IN THIS STATE; PROVIDING PROCEDURES FOR THE TAX REVIEW COMMISSION TO STUDY THE CREDITS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

59-7-612, Utah Code Annotated 1953

59-10-131, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-7-612** is enacted to read:

59-7-612. Credits for either machinery, equipment, or both used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of federal credits -- Tax Review Commission study.

(1) As used in this section:

(a) "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.

(b) "Equipment" includes:

(i) computers;

(ii) computer equipment; and

(iii) computer software.

1 (c) "Purchase price":

2 (i) includes the cost of installing an item of machinery or equipment; and

3 (ii) does not include sales or use taxes imposed on an item of machinery or equipment.

4 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

5 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that
6 the term includes only qualified research conducted in this state.

7 (2) For taxable years beginning on or after January 1, 1999, a taxpayer may claim as
8 provided in this section the following nonrefundable credits:

9 (a) a credit of 6% of the purchase price of either machinery, equipment, or both:

10 (i) purchased by the taxpayer during the taxable year;

11 (ii) that is ~~§ [subject to a] NOT EXEMPT FROM~~ § sales or use ~~§ [tax] TAXES~~ § ; and

12 (iii) that is ~~§ PRIMARILY~~ § used to conduct qualified research in this state; and

13 (b) a credit of 6% of the purchase price of either machinery, equipment, or both:

14 (i) purchased by the taxpayer during the taxable year;

15 (ii) that is ~~§ [subject to] NOT EXEMPT FROM~~ § sales or use ~~§ [tax] TAXES~~ § ; and

16 (iii) that is ~~§ [provided] DONATED~~ § to a qualified organization to ~~§ BE PRIMARILY USED~~
16a ~~TO~~ § conduct basic research in this state.

17 (3) For purposes of claiming a credit under this section, a unitary group as defined in
18 Section 59-7-101 is considered to be one taxpayer.

19 (4) Notwithstanding the provisions of Section 41(h), Internal Revenue Code, the credits
20 provided for in this section shall not terminate if the credits terminate under Section 41, Internal
21 Revenue Code.

22 (5) Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,
23 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit
24 under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the
25 amount of the credit exceeding the liability:

26 (a) may be carried forward for a period that does not exceed the next 15 taxable years; and

27 (b) may not be carried back to a taxable year preceding the current taxable year.

28 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
29 commission may make rules for purposes of this section prescribing a certification process for
30 qualified organizations to ensure that either machinery, equipment, or both provided to the
31 qualified organization is ~~§ [for] TO BE PRIMARILY USED TO CONDUCT~~ § basic research
31a ~~§ [conducted]~~ § in this state.

1 (7) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed,
2 the commission shall report the modification or repeal to the Tax Review Commission within 60
3 days after the day on which the modification or repeal becomes effective.

4 (8) (a) Except as provided in Subsection (8)(b), the Tax Review Commission shall review
5 the credits provided for in this section on or before the earlier of:

6 (i) October 1 of the year after the year in which the commission reports under Subsection
7 (7) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; or

8 (ii) October 1, 2002.

9 (b) Notwithstanding Subsection (8)(a), the Tax Review Commission is not required to
10 review the credits provided for in this section if the only modification to a federal tax credit under
11 Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section
12 41(h), Internal Revenue Code.

13 (c) The Tax Review Commission shall address in a review under this section the:

14 (i) cost of the credit;

15 (ii) purpose and effectiveness of the credit;

16 (iii) whether the credit benefits the state; and

17 (iv) whether the credit should be:

18 (A) continued;

19 (B) modified; or

20 (C) repealed.

21 (d) If the Tax Review Commission reviews the credits provided for in this section, the Tax
22 Review Commission shall report its findings to the Revenue and Taxation Interim Committee on
23 or before the November interim meeting of the year in which the Tax Review Commission reviews
24 the credits.

25 Section 2. Section **59-10-131** is enacted to read:

26 **59-10-131. Credits for either machinery, equipment, or both used for conducting**
27 **qualified research or basic research -- Carry forward -- Commission to report modification**
28 **or repeal of federal credits -- Tax Review Commission study.**

29 (1) As used in this section:

30 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that
31 the term includes only basic research conducted in this state.

(b) "Equipment" includes:

(i) computers;

(ii) computer equipment; and

(iii) computer software.

(c) "Purchase price":

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include sales or use taxes imposed on an item of machinery or equipment.

(d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) For taxable years beginning on or after January 1, 1999, a taxpayer may claim as provided in this section the following nonrefundable credits:

(a) a credit of 6% of the purchase price of either machinery, equipment, or both:

(i) purchased by the taxpayer during the taxable year;

(ii) that is § [subject to a] NOT EXEMPT FROM § sales or use § [tax] TAXES § ; and

(iii) that is § PRIMARILY § used to conduct qualified research in this state; and

(b) a credit of 6% of the purchase price paid by the taxpayer for either machinery, equipment, or both:

(i) purchased by the taxpayer during the taxable year;

(ii) that is § [subject to a] NOT EXEMPT FROM § sales or use § [tax] TAXES § ; and

(iii) that is § [provided] DONATED § to a qualified organization to § BE PRIMARILY USED TO § conduct basic research in this state.

(3) For purposes of claiming a credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(4) Notwithstanding the provisions of Section 41(h), Internal Revenue Code, the credits provided for in this section shall not terminate if the credits terminate under Section 41, Internal Revenue Code.

(5) Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code, governing the carry forward and carry back of federal tax credits, if the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability:

(a) may be carried forward for a period that does not exceed the next 15 taxable years; and

1 (b) may not be carried back to a taxable year preceding the current taxable year.

2 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3 commission may make rules for purposes of this section prescribing a certification process for
4 qualified organizations to ensure that either machinery, equipment, or both provided to the
5 qualified organization is § [for] TO BE PRIMARILY USED TO CONDUCT § basic research
5a § [conducted] § in this state.

6 (7) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed,
7 the commission shall report the modification or repeal to the Tax Review Commission within 60
8 days after the day on which the modification or repeal becomes effective.

9 (8) (a) Except as provided in Subsection (8)(b), the Tax Review Commission shall review
10 the credits provided for in this section on or before the earlier of:

11 (i) October 1 of the year after the year in which the commission reports under Subsection
12 (7) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; or
13 (ii) October 1, 2002.

14 (b) Notwithstanding Subsection (8)(a), the Tax Review Commission is not required to
15 review the credits provided for in this section if the only modification to a federal tax credit under
16 Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section
17 41(h), Internal Revenue Code.

18 (c) The Tax Review Commission shall address in a review under this section the:

19 (i) cost of the credit;

20 (ii) purpose and effectiveness of the credit;

21 (iii) whether the credit benefits the state; and

22 (iv) whether the credit should be:

23 (A) continued;

24 (B) modified; or

25 (C) repealed.

26 (d) If the Tax Review Commission reviews the credits provided for in this section, the Tax
27 Review Commission shall report its findings to the Revenue and Taxation Interim Committee on
28 or before the November interim meeting of the year in which the Tax Review Commission reviews
29 the credits.

30 **Section 3. Effective date.**

31 This act takes effect for taxable years beginning on or after January 1, 1999.

Legislative Review Note
as of 2-17-98 5:05 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

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