

Effective 5/10/2016

59-7-613 Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee 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) a computer;
 - (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 a tax imposed under Chapter 12, Sales and Use Tax Act, 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)
 - (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:
 - (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:
 - (A) purchased by the taxpayer during the taxable year;
 - (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and
 - (C) that is primarily used to conduct qualified research in this state; and
 - (ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:
 - (A) purchased by the taxpayer during the taxable year;
 - (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;
 - (C) that is donated to a qualified organization; and
 - (D) that is primarily used to conduct basic research in this state.
 - (b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for the taxable year for which the taxpayer purchases the machinery, equipment, or both.
 - (c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.
- (3) 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.
- (4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.
- (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:
 - (a) may be carried forward for a period that does not exceed the next 14 taxable years; and
 - (b) may not be carried back to a taxable year preceding the current taxable year.
- (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 machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research 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 the:
- (i) cost of the tax credits provided for in this section;
 - (ii) 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.

Amended by Chapter 135, 2016 General Session