

**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; AND PROVIDING FOR REVENUE AND TAXATION INTERIM COMMITTEE AND TAX REVIEW COMMISSION STUDIES.

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

This act enacts uncodified material.

*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 primarily 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.

(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) (a) For taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements of this section shall qualify for the following nonrefundable credits:

(i) a credit of 6% of the purchase price of either machinery, equipment, or both:  
(A) purchased by the taxpayer during the taxable year;  
(B) that is not exempt from sales or use taxes; and  
(C) that is primarily used to conduct qualified research in this state; and  
(ii) a credit of 6% of the purchase price of either machinery, equipment, or both:  
(A) purchased by the taxpayer during the taxable year;  
(B) that is not exempt from sales or use taxes; and  
(C) that is donated to a qualified organization to be primarily used to conduct basic research in this state.

(b) If a taxpayer qualifying for a credit under Subsection (2)(a) seeks to claim the credit, the taxpayer shall:

(i) claim the credit or a portion of the credit for the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit;  
(ii) carry the credit or a portion of the credit forward as provided in Subsection (5); or  
(iii) claim a portion of the credit and carry forward a portion of the credit as provided in Subsections (2)(b)(i) and (ii).

(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 claimed by a taxpayer under this section exceeds the 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 14 taxable years; and

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

(6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that either machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(7) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Tax Review Commission within 60 days after the day on which the modification or repeal becomes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

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

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

(ii) October 1, 2004.

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

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

(i) cost of the credit;

(ii) purpose and effectiveness of the credit;

(iii) whether the credit benefits the state; and

(iv) whether the credit should be:

(A) continued;

(B) modified; or

(C) repealed.

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

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

**59-10-131.** Credits for either machinery, equipment, or both primarily 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.

(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) (a) For taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements of this section shall qualify for the following nonrefundable credits:

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

- (A) purchased by the taxpayer during the taxable year;
  - (B) that is not exempt from sales or use taxes; and
  - (C) that is primarily used to conduct qualified research in this state; and
- (ii) a credit of 6% of the purchase price paid by the taxpayer for either machinery, equipment, or both:
  - (A) purchased by the taxpayer during the taxable year;
  - (B) that is not exempt from sales or use taxes; and
  - (C) that is donated to a qualified organization to be primarily used to conduct basic research in this state.
- (b) If a taxpayer qualifying for a credit under Subsection (2)(a) seeks to claim the credit, the taxpayer shall:
  - (i) claim the credit or a portion of the credit for the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit;
  - (ii) carry the credit or a portion of the credit forward as provided in Subsection (5);
  - (iii) claim a portion of the credit and carry forward a portion of the credit as provided in Subsections (2)(b)(i) and (ii).
- (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 claimed by a taxpayer 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 14 taxable years; and
  - (b) may not be carried back to a taxable year preceding the current taxable year.
- (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that either machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

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

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

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

(ii) October 1, 2004.

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

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

(i) cost of the credit;

(ii) purpose and effectiveness of the credit;

(iii) whether the credit benefits the state; and

(iv) whether the credit should be:

(A) continued;

(B) modified; or

(C) repealed.

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

**Section 3. Revenue and Taxation Interim Committee study.**

(1) The Revenue and Taxation Interim Committee shall, beginning on the May 1998 interim meeting and ending on or before the November 1998 interim meeting, study the credits provided for in Sections 59-7-612 and 59-10-131.

(2) The Revenue and Taxation Interim Committee shall include in its study an analysis of:

(a) the cost of the credits;

(b) the purpose and effectiveness of the credits;

(c) whether the credits will benefit the state;

(d) whether to impose a limitation on the amount of credit a taxpayer may claim; and

(e) whether the credits should be:

(i) modified; or

(ii) repealed.

(3) The Revenue and Taxation Interim Committee may request assistance from the Tax Review Commission in conducting the study under this section.