

**RESEARCH ACTIVITIES TAX CREDIT  
AMENDMENTS  
2007 GENERAL SESSION  
STATE OF UTAH**

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**LONG TITLE**

**General Description:**

This bill amends the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to modify tax credits for research activities in the state.

**Highlighted Provisions:**

This bill:

- ▶ repeals a repeal date for tax credits for research activities in the state;
- ▶ modifies tax credits for research activities in the state by allowing a taxpayer to claim a nonrefundable tax credit equal to 5% of a taxpayer's qualified research expenses for the current taxable year;
- ▶ requires a review of the tax credits by the Utah Tax Review Commission; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**



29 This bill has retrospective operation for taxable years beginning on or after January 1,  
30 2007.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **59-7-612**, as last amended by Chapter 9, Laws of Utah 2001

34 **59-10-1012**, as renumbered and amended by Chapter 223, Laws of Utah 2006



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

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

38 **59-7-612. Tax credits for research activities conducted in the state -- Carry**  
39 **forward -- Commission to report modification of certain federal provisions -- Utah Tax**  
40 **Review Commission review.**

41 (1) (a) [~~For taxable years beginning on or after January 1, 1999, but beginning before~~  
42 ~~December 31, 2010, a~~] A taxpayer meeting the requirements of this section [shall qualify for  
43 the following] may claim a nonrefundable [credits for increasing research activities in this  
44 state:] tax credit equal to 5% of the taxpayer's qualified research expenses for the current  
45 taxable year.

46 [~~i) a research credit of 6% of the taxpayer's qualified research expenses for the current~~  
47 ~~taxable year that exceed the base amount provided for under Subsection (4); and]~~

48 [~~ii) a credit for payments to qualified organizations for basic research as provided in~~  
49 ~~Section 41(e), Internal Revenue Code, of 6% for the current taxable year that exceed the base~~  
50 ~~amount provided for under Subsection (4).]~~

51 (b) If a taxpayer qualifying for a tax credit under Subsection (1)(a) seeks to claim the  
52 tax credit, the taxpayer shall:

53 (i) claim the tax credit or a portion of the tax credit for the taxable year immediately  
54 following the taxable year for which the taxpayer qualifies for the tax credit;

55 (ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection  
56 [~~(4)(f)~~] (5); or

57 (iii) claim a portion of the tax credit and carry forward a portion of the tax credit as  
58 provided in Subsections (1)(b)(i) and (ii).

59 [~~c) The credits provided for in this section do not include the alternative incremental~~

60 credit provided for in Section 41(c)(4), Internal Revenue Code;]

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

63 (3) Except as specifically provided for in this section[: (a) ~~the credits authorized under~~  
64 ~~Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and (b)],~~  
65 the relevant definitions provided in Section 41, Internal Revenue Code, apply in calculating the  
66 tax credits authorized under Subsection (1).

67 (4) For purposes of this section:

68 [~~(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h);~~  
69 ~~Internal Revenue Code, except that:]~~

70 [~~(i) the base amount does not include the calculation of the alternative incremental~~  
71 ~~credit provided for in Section 41(c)(4), Internal Revenue Code;]~~

72 [~~(ii) a taxpayer's gross receipts include only those gross receipts attributable to sources~~  
73 ~~within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah~~  
74 ~~UDITPA Provisions; and]~~

75 [~~(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating~~  
76 ~~the base amount, a taxpayer:]~~

77 [~~(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)~~  
78 ~~regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);~~  
79 ~~and]~~

80 [~~(B) may not revoke an election to be treated as a start-up company under Subsection~~  
81 ~~(4)(a)(iii)(A);]~~

82 [~~(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except~~  
83 ~~that the term includes only basic research conducted in this state;]~~

84 [~~(c) (a) "Qualified research" is as defined in Section 41(d), Internal Revenue Code,~~  
85 ~~except that the term includes only qualified research conducted in this state[;].~~

86 [~~(d) (b) "Qualified research expenses" is as defined and calculated in Section 41(b),~~  
87 ~~Internal Revenue Code, except that the term includes only [those expenses incurred in~~  
88 ~~conducting qualified research in this state;].~~

89 [~~(e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the~~  
90 ~~credits]~~

91 (i) in-house research expenses incurred in this state; and

92 (ii) contract research expenses incurred in this state.

93 (c) The tax credit provided for in this section ~~[shall]~~ is not [terminate] terminated if

94 ~~[the credits terminate]~~ a credit terminates under Section 41, Internal Revenue Code~~[-and]~~.

95 ~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~  
96 ~~governing the carry forward and carry back of federal tax credits, if]~~

97 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the  
98 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit  
99 exceeding the tax liability:

100 ~~[(i)]~~ (a) may be carried forward for a period that does not exceed the next 14 taxable  
101 years; and

102 ~~[(ii)]~~ (b) may not be carried back to a taxable year preceding the current taxable year.

103 ~~[(5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
104 ~~the commission may make rules for purposes of this section prescribing a certification process~~  
105 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~  
106 ~~basic research conducted in this state.]~~

107 (6) If a [federal tax credit under] provision of Section 41, Internal Revenue Code, is  
108 modified or repealed, the commission shall report the modification or repeal to the Utah Tax  
109 Review Commission within 60 days after the day on which the modification or repeal becomes  
110 effective.

111 (7) (a) [Except as provided in Subsection (7)(b), the] The Utah Tax Review  
112 Commission shall review the ~~[credits]~~ tax credit provided for in this section on or before ~~[the~~  
113 ~~earlier of: (i)]~~ October 1 of the year after the year in which the commission reports under  
114 Subsection (6) a modification or repeal of a ~~[federal tax credit under]~~ provision of Section 41,  
115 Internal Revenue Code~~[-or]~~.

116 ~~[(ii) October 1, 2004.]~~

117 (b) Notwithstanding Subsection (7)(a), the Utah Tax Review Commission is not  
118 required to review the ~~[credits]~~ tax credit provided for in this section if the only modification to  
119 a ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue Code, is the extension of  
120 the termination date provided for in Section 41(h), Internal Revenue Code.

121 (c) The Utah Tax Review Commission shall address in a review under this section

122 [the]:

- 123 (i) the cost of the tax credit provided for in this section;  
 124 (ii) the purpose and effectiveness of the tax credit provided for in this section;  
 125 (iii) whether the tax credit provided for in this section benefits the state; and  
 126 (iv) whether the tax credit provided for in this section should be:  
 127 (A) continued;  
 128 (B) modified; or  
 129 (C) repealed.  
 130 (d) If the Utah Tax Review Commission reviews the [~~credits~~] tax credit provided for in  
 131 this section, the Utah Tax Review Commission shall report its findings to the Revenue and  
 132 Taxation Interim Committee on or before the November interim meeting of the year in which  
 133 the Utah Tax Review Commission reviews the [~~credits~~] tax credit.

134 Section 2. Section **59-10-1012** is amended to read:

135 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**  
 136 **forward -- Commission to report modification of certain federal provisions -- Utah Tax**  
 137 **Review Commission review.**

138 (1) (a) [~~For taxable years beginning on or after January 1, 1999, but beginning before~~  
 139 ~~December 31, 2010, a~~] A claimant, estate, or trust meeting the requirements of this section  
 140 [~~shall qualify for the following~~] may claim a nonrefundable tax [~~credits for increasing research~~  
 141 activities in this state:] credit equal to 5% of the taxpayer's qualified research expenses for the  
 142 current taxable year.

143 [~~(i) a research tax credit of 6% of the claimant's, estate's, or trust's qualified research~~  
 144 ~~expenses for the current taxable year that exceed the base amount provided for under~~  
 145 ~~Subsection (4); and]~~

146 [~~(ii) a tax credit for payments to qualified organizations for basic research as provided~~  
 147 ~~in Section 41(e), Internal Revenue Code of 6% for the current taxable year that exceed the base~~  
 148 ~~amount provided for under Subsection (4).]~~

149 (b) If a claimant, estate, or trust qualifying for a tax credit under Subsection (1)(a)  
 150 seeks to claim the tax credit, the claimant, estate, or trust shall:

151 (i) claim the tax credit or a portion of the tax credit for the taxable year immediately  
 152 following the taxable year for which the claimant, estate, or trust qualifies for the tax credit;

153 (ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection  
154 (4)~~(f)~~; or

155 (iii) claim a portion of the tax credit and carry forward a portion of the tax credit as  
156 provided in Subsections (1)(b)(i) and (ii).

157 ~~[(c) The tax credits provided for in this section do not include the alternative  
158 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.]~~

159 ~~[(2) For purposes of claiming a tax credit under this section, a unitary group as defined  
160 in Section 59-7-101 is considered to be one claimant.]~~

161 ~~[(3) (2) Except as specifically provided for in this section~~~~[(a) the tax credits  
162 authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue  
163 Code; and (b)],~~ the relevant definitions provided in Section 41, Internal Revenue Code, apply  
164 in calculating the tax ~~[credits]~~ credit authorized under Subsection (1).

165 ~~[(4) (3) For purposes of this section:~~

166 ~~[(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),  
167 Internal Revenue Code, except that:]~~

168 ~~[(i) the base amount does not include the calculation of the alternative incremental  
169 credit provided for in Section 41(c)(4), Internal Revenue Code;]~~

170 ~~[(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts  
171 attributable to sources within this state as provided in Section 59-10-118; and]~~

172 ~~[(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating  
173 the base amount, a claimant, estate, or trust:]~~

174 ~~[(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)  
175 regardless of whether the claimant, estate, or trust meets the requirements of Section  
176 41(c)(3)(B)(i)(I) or (H); and]~~

177 ~~[(B) may not revoke an election to be treated as a start-up company under Subsection  
178 (4)(a)(iii)(A);]~~

179 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except  
180 that the term includes only basic research conducted in this state;]~~

181 ~~[(c) (a) "Qualified research" is as defined in Section 41(d), Internal Revenue Code,  
182 except that the term includes only qualified research conducted in this state~~~~].~~

183 ~~[(d) (b) "Qualified research expenses" is as defined and calculated in Section 41(b),~~

184 Internal Revenue Code, except that the term includes only ~~[those expenses incurred in~~  
 185 ~~conducting qualified research in this state;];~~

186 ~~[(e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax~~  
 187 ~~credits]~~

188 (i) in-house research expenses incurred in this state; and

189 (ii) contract research expenses incurred in this state.

190 (c) The tax credit provided for in this section ~~[shall]~~ is not ~~[terminate]~~ terminated if  
 191 ~~[the credits terminate]~~ a tax credit terminates under Section 41, Internal Revenue Code~~[-and]~~.

192 ~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~  
 193 ~~governing the carry forward and carry back of federal tax credits, if]~~

194 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under this  
 195 section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable  
 196 year, the amount of the tax credit exceeding the tax liability:

197 ~~[(i)]~~ (a) may be carried forward for a period that does not exceed the next 14 taxable  
 198 years; and

199 ~~[(ii)]~~ (b) may not be carried back to a taxable year preceding the current taxable year.

200 ~~[(5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~  
 201 ~~the commission may make rules for purposes of this section prescribing a certification process~~  
 202 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~  
 203 ~~basic research conducted in this state.]~~

204 ~~[(6)]~~ (5) If a ~~[federal credit under]~~ provision of Section 41, Internal Revenue Code, is  
 205 modified or repealed, the commission shall report the modification or repeal to the Utah Tax  
 206 Review Commission within 60 days after the day on which the modification or repeal becomes  
 207 effective.

208 (6) (a) The Utah Tax Review Commission shall review the tax credit provided for in  
 209 this section on or before October 1 of the year after the year in which the commission reports  
 210 under Subsection (5) a modification or repeal of a provision of Section 41, Internal Revenue  
 211 Code.

212 (b) Notwithstanding Subsection (6)(a), the Utah Tax Review Commission is not  
 213 required to review the tax credit provided for in this section if the only modification to a  
 214 provision of Section 41, Internal Revenue Code, is the extension of the termination date

215 provided for in Section 41(h), Internal Revenue Code.

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

217 (i) the cost of the tax credit provided for in this section;

218 (ii) the purpose and effectiveness of the tax credit provided for in this section;

219 (iii) whether the tax credit provided for in this section benefits the state; and

220 (iv) whether the tax credit provided for in this section should be:

221 (A) continued;

222 (B) modified; or

223 (C) repealed.

224 (d) If the Utah Tax Review Commission reviews the tax credit provided for in this

225 section, the Utah Tax Review Commission shall report its findings to the Revenue and

226 Taxation Interim Committee on or before the November interim meeting of the year in which

227 the Utah Tax Review Commission reviews the tax credit.

228 **Section 3. Retrospective operation.**

229 This bill has retrospective operation for taxable years beginning on or after January 1,

230 2007.

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**Legislative Review Note**  
as of 1-24-07 8:52 AM

**Office of Legislative Research and General Counsel**