



SOLUTIONS FOR TAX PROFESSIONALS AND BUSINESSES
TAX CREDITS • INCENTIVES • COST RECOVERY

Our Team is Your Resource

Established in 1999 with offices across the US, KBKG provides turn-key tax solutions to CPAs and businesses. By focusing exclusively on value-added tax services that complement your traditional tax and accounting team, we always deliver quantifiable benefits to clients.

Our firm provides access to our knowledge base and experienced industry leaders. We help determine which tax programs benefit clients and stay committed to handling each relationship with care and diligence. Our ability to work seamlessly with your team is the reason so many tax professionals and businesses across the nation trust KBKG.

Value Added Services



Research & Development Tax Credits

Federal credit worth approximately 6.5% of wages related to designing, developing and improving products, processes, formulae and software.



45L Credits for Energy Efficient Residential Developments

Newly constructed or renovated apartments, condos, and tract home developments that meet certain criteria are eligible for a \$2,000 credit per unit.



179D Incentive for Energy Efficient Commercial Buildings

Federal deduction worth \$1.80 per square foot of energy efficient buildings. Available to architects, engineers, design/build contractors and building owners.



Employment Tax Credits for Businesses

Employers with 10 or more employees can benefit from a wide range of federal and state business tax incentives designed to spur economic growth.



Cost Segregation for Buildings and Improvements

Any building improvement over \$750,000 should be reviewed for proper classification of the individual components for tax depreciation, and retirement purposes.



Repair vs. Capitalization Review & Compliance

Taxpayers often capitalize major building expenditures that should be expensed as repairs and maintenance such as HVAC units, roofs, plumbing, lighting and more. Retirement loss deductions for demolished building structural components are also identified.



Fixed Asset Tax Review

While a cost segregation focuses on buildings, a comprehensive Fixed Asset Tax Review encompasses all fixed assets a company owns including real property, machinery, furniture, fixtures, and equipment.



IC-DISC

The Interest Charge Domestic International Sales Corporation (IC-DISC) offers significant Federal income tax savings for making or distributing US products for export.



Property Tax Review (Real and Personal)

Overstated property values and failure to fully leverage available exemptions and abatements often result in substantial overpayment of property taxes.



Sales and Use Tax Review

Complex transaction tax laws vary from state to state and create opportunities to recover overpaid taxes, reduce future liabilities, and implement best practices.



INDUSTRY MATRIX FOR TAX SAVING OPPORTUNITIES (updated 09-22-2015)

Industry	R&D Tax Credits	Repair /Asset Retirement	45L Tax Credits	179D Tax Deductions	Employment Tax Credits	Cost Segregation	IC-DISC	199 DPAD Deduction
Affordable Housing		X	X	X	X	X		
Agriculture, Forestry & Fishing	X				X	X	X	
Architecture & Engineering	X			X	X	X	X	X
Auto Dealerships		X		X	X	X		
Communications & Utilities	X	X		X	X	X		
Construction	X				X	X		X
Film & Music	X	X		X	X	X	X	X
Financial Services		X			X	X		
Government Contractors	X	X		X	X	X	X	
Healthcare		X		X	X	X		
Hotels		X		X	X	X		
Logistics & Distribution		X		X	X	X	X	X
Manufacturing	X	X		X	X	X	X	X
Mining	X				X	X	X	
Multifamily Developers		X	X	X	X	X		
Oil & Gas	X	X			X	X		
Pharmaceutical	X	X		X	X	X	X	X
Professional Services		X			X	X		
Real Estate		X			X	X		
Restaurants		X			X	X		
Retail		X		X	X	X		
Technology/Software	X	X		X	X	X	X	X
Transportation					X	X		
Wholesale Trade		X		X	X	X	X	

Call us today at **877-525-4462** to see how we can help you and your clients better understand these opportunities and secure these specialty tax incentives.

NATIONWIDE SERVICE



Identifying Value-Added Tax Opportunities (updated 01-07-16)

KBKG Service	Description & Highlights	Applicable Clients/Industries	How much is it worth?	Years	Tax considerations
Research & Development Tax Credits (Federal & State)	Federal and State tax credit - designed to promote technological innovation in US companies. Research must be conducted in the US, not abroad. Most Qualified Expenses are wages paid to employees conducting certain activities. Payments to contractors doing R&D for Client may also qualify.	<ul style="list-style-type: none"> • Manufacturing • Architects • Food Processing • Software Development • High Tech • Equipment or tools <ul style="list-style-type: none"> • Clients developing prototypes, testing, applying for patents, upgrading systems/software • Clients improving products or • Improving their manufacturing processes 	Federal Benefit - Roughly 6.5% of their total Qualified R&D Expenses Ex. Client has \$1M/year of wages related to R&D. Benefit = \$65k/year. Many states also allow an R&D credit. For example, CA R&D Credit is worth an additional 6% of Qualified R&D expenses.	Any open tax year. 3 year Federal Statute and 4 years for some states.	General Business Tax Credit • Dollar-for-dollar reduction in income tax liabilities. • 1 year Carryback / 20 year carryforward of unused credits. • Qualified small businesses can reduce alternative minimum tax liabilities. • Qualified start-up companies can offset up to \$250,000 in payroll taxes.
Repair v. Capitalization Review "Asset Retirement Study" (Federal)	New rules allow you to assign value to "structural" components removed from a building and write off the remaining basis! Regs also clarify repair expense treatment of many types of building costs such as HVAC or roof replacements. KBKG also provides compliance consulting for repair and disposition regulations.	Any building renovation costs > \$400k Retirement Study- Building is renovated AFTER owning it at least 1 year. Building should have >\$500K of remaining depreciable basis left. Repair Study- renovations that include roof, HVAC, windows, lighting, plumbing, ceilings, drywall, flooring, etc.	Additional Year 1 deductions of 15%-40% of renovation costs (on top of benefits from 1245 reclassification) Ex. Client spends \$3M on structural renovations. Additional Year 1 deductions of \$450K-\$1.2M.	Any building renovated or improved in the last 15 Years. Use Form 3115 to claim missed deductions anytime.	• Depending on specific issue, may require a separate 3115 if doing concurrently with a depreciation change.
Fixed Asset Tax Review (Federal)	Comprehensive review of company's entire Fixed Asset listing & supporting documents to assign appropriate tax lives, identify retirements, and correct items that should be expensed. Includes Cost Segregation & Repair analysis.	Operations with > \$40M in real property or > 1,000 lines of fixed assets. <ul style="list-style-type: none"> • Retail, Restaurant, Bank and Hotel Chains of 10 or more • Manufacturing • Utility Companies 	Net Present Value of 5-8% of total building related costs. Ex. Manufacturing client has \$60M of 39 year fixed assets. NPV Cash value = \$3M - \$4.8M	Use Form 3115 to claim missed deductions anytime.	• Reduces AMT • Generally, 2 year NOL carryback and unused deductions carryforward. • Must recapture personal property upon sale of building.
Residential Energy Credits (Section 45L) (Federal / States can have similar programs)	Federal credit for developers of Apartments, Condos, or Spec Homes that meet certain energy efficiency standards. Units must be certified by a qualified professional to be eligible.	Anyone that built Apartments, Condos, or Track Home Developments in the last 4 years. Generally more than 20 units.	Federal Credit = \$2,000 per apartment/home unit. Many states have similar credits. Ex. 100 unit apartment/condo can get \$200,000 of Federal Tax Credits.	Any open tax year. 3 year Federal Statute	General Business Tax Credit • Credit is realized when unit is first leased or sold, not placed in service. • 1 year Carryback • 20 year carryforward. • Does not reduce AMT except for 2010. • 2010: ESB allows carry back 5 years.
Commercial Energy Deductions (Section 179D) (Federal/ States can have similar programs)	Federal deduction for Architects, Engineers, and Design/Build Contractors that work on Public or Government Buildings such as Schools, Libraries, Courthouses, Military Housing etc. Also available to any commercial building owner.	<ul style="list-style-type: none"> • 179D for Designers: Architects, General Contractors, Engineers, Electrical & HVAC Subcontractors. • Any Building Owner or Lessee: That has constructed a commercial improvement greater than 40,000 SF since 1/1/2006. 	\$.30 up to \$1.80 per square foot in Federal Tax Deductions. Ex. 100,000SF building is eligible for \$180,000 in deductions.	Designers: Open tax years. 3 year Federal Statute Owners: Can go back to 2006 with Form 3115 to claim missed deductions.	• Reduces AMT • Generally, 2 year NOL carryback and 20 year carryforward. • Deduction reduces basis in real property.
Employment Related Tax Credits (Federal)	Federal Work Opportunity Tax Credit (WOTC) Federal Empowerment Zone Credits - Location Based Federal Health Insurance Premium Credits (FHIPC)	<ul style="list-style-type: none"> • WOTC - 500 or more employees. Location doesn't matter. • Empowerment Zones - 10 or more employees located in the designated area. • FHIPC (Section 45R) - clients w/ under 50 employees and paying health insurance. 	WOTC - up to \$9,000 per eligible employee. Empowerment Zone - \$3,000 per eligible employee. FHIPC - 35% to 50% of health insurance premiums.	Any open tax year. 3 year Federal Statute	General Business Tax Credit • Various tax considerations can be discussed with KBKG.
CA Competes Credit (State)	California income tax credits designed to stimulate growth throughout the state.	CA Competes Credit: Growing business clients who anticipate hiring additional employees, constructing new buildings, or investing in new equipment.	Must apply for credits. Up to \$37,000 per eligible employee, over a 5 year period. Generally 15-35% of employees qualify. Equipment- Credit is equal to Sales Tax paid.	Any open tax year. 4 year CA State Statute	• Credits will reduce taxes on owners W2 wages and personal return. • Credits flow through to owners. • Credits will offset tax at the S-Corp level.



Identifying Value-Added Tax Opportunities (updated 01-07-16)

<p>Cost Segregation (Federal & State)</p>	<p>Allows taxpayers who have constructed, purchased, expanded, or remodeled any kind of real estate to accelerate depreciation deductions by reclassifying building components into shorter tax lives.</p>	<p>Any building with over \$750k of depreciable tax basis. Any leasehold improvement with over \$500k of depreciable tax basis.</p>	<p>Net Present Value = 3-6% of the total building cost. Ex. \$2M office can yield an NPV of \$60k-\$120k.</p>	<p>Assets acquired in the last 20 Years. Use Form 3115 to claim missed deductions anytime.</p>	<ul style="list-style-type: none"> Reduces AMT Generally, 2 year NOL carryback and unused deductions carryforward. Must recapture personal property upon sale of building.
<p>IC-DISC Federal Income Tax Incentive (Federal)</p>	<p>The IC-DISC provides significant and permanent tax savings for producers and distributors of U.S.-made products and certain services used abroad.</p>	<p>Any closely held, privately owned business with over \$250,000 in profits from exports.</p> <ul style="list-style-type: none"> Manufacturers Distributors Architects & Engineers Agriculture and Food Producers Software Developers Other Producers 	<p>Minimum permanent 19.6% decrease in tax rate on half of export profits. Benefits can be dramatically higher by performing a transaction-by-transaction analysis.</p>	<p>Benefits begin when entity is formed. Transaction-by-transaction analysis for existing IC-DISC calculations can be amended for any open tax year (3 year Federal Statute).</p>	<ul style="list-style-type: none"> Requires annual filing 1120 IC-DISC. No changes to business operations.
<p>Property Tax Consulting: Appeal and Compliance Services • Personal Property • Real Estate</p>	<p>Ensure that companies pay the minimal real estate and personal property tax amount, meet all compliance requirements and leverage available exemptions and abatements.</p>	<p>Real Property: All states. \$100k+ tax bill</p> <ul style="list-style-type: none"> Commercial real estate owners Multi-Family, Hospitality Manufacturing, Distribution, Oil & Gas 	<p>Immediate reduction in current property tax liability. Client pays a % of savings. Per return fee arrangements are typical for compliance engagements.</p>	<p>Year by Year</p>	<ul style="list-style-type: none"> Appraisal district must rely on mass appraisals techniques. Assessed Value is an opinion of value and may not equate to market value. Unique characteristics of building may not be accounted for.
<p>Sales & Use Tax Review (State)</p>	<p>State tax codes are very specific regarding products & services which can be exempt from taxation. Ensure that clients did not overpay Sales and Use Taxes. Over/ Under payments are identified, quantified and submitted to the respective State for a refund.</p>	<p>Non-taxable states: NM, NH, OR, MT, AZ, DE.</p> <ul style="list-style-type: none"> \$30 million+ in sales, greater than \$100k in audit liabilities Multistate operations Multiple vendor relationships Poor accounting/tax software Manufacturing, Oil & Gas, Hotels, Telecom, etc 	<p>Refund of overpaid sales and use tax on expenditures. Can be significant when refund covers multiple years. Voluntary disclosures of unpaid tax can minimize penalties.</p>	<p>Any open periods allowed by statute of limitations. (SOL= 4 years in most states)</p>	<ul style="list-style-type: none"> Sales & Use tax state law is complex and varies by State. Over and Under payments are reviewed for a net assessment. Sampling is used for large transaction data sets.

For an electronic copy of our service matrix, contact us at 877.525.4462 or email info@kbkg.com



Qualified Improvements - Depreciation Quick Reference (last updated 3-22-2016)

	Applicable PIS Dates (inclusive)	MACRS GDS Recovery Period	Bonus Dep Eligible	3 Year Rule	Unrelated Parties Rule	179 Expense Eligible	Important Notes	Code Section
Qualified Leasehold Improvements (QLI): 2001 - 2004 Partial	09/11/01 - 10/22/04	39 Year / SL	Y	Y	Y	N/A	39 year QLI qualifies for Bonus. Landlord or lessee can make the interior improvement. See exclusions in definition.	168(e)(6)
Qualified Leasehold Improvements (QLI): 2004 Partial and onward	10/23/04 onward	15 Year / SL	Y ¹	Y	Y	2010 onward ⁶	Landlord or lessee can make the interior improvement. See exclusions in definition.	168(e)(6)
Qualified Retail Improvement Property: 2009-2015	01/01/09 - 12/31/15	15 Year / SL	N ²	Y	N	2010 onward ⁶	Building can be owner occupied. See exclusions in definition.	168(e)(8)
Qualified Retail Improvement Property: 2016 onward	01/01/16 onward	15 Year / SL	Y	Y	N	2010 onward ⁶	Building can be owner occupied. See exclusions in definition.	168(e)(8)
Qualified Restaurant Property: 2004-2007	10/23/04 - 12/31/07	15 Year / SL	N ³	Y	N	N/A	Applicable to all improvements attached to building.	168(e)(7)
Qualified Restaurant Property: 2008	01/01/08 - 12/31/08	15 Year / SL	Y	Y	N	N/A	Applicable to all improvements attached to building.	168(e)(7)
Qualified Restaurant Property: 2009 onward	01/01/09 onward	15 Year / SL	N ⁴	N	N	2010 onward ⁶	Encompasses the entire building structure as well as interior costs. Can be an acquired building.	168(e)(7)
Qualified Improvement Property (QIP): 2016 onward	01/01/16 onward	39 ⁵ Year / SL	Y	N	N	N ⁷	Applies to interior common areas. Building can be owner occupied. No 3-year rule. See exclusions in definition.	168(k)(3)

Bonus Depreciation Rates (inclusive dates)	
09/11/01 - 05/05/03 ⁸	30%
05/06/03 - 12/31/04 ⁸	50%
01/01/08 - 09/08/10 ⁸	50%
09/09/10 - 12/31/11 ⁸	100%
01/01/12 - 12/31/17 ⁸	50%
01/01/18 - 12/31/18 ⁸	40%
01/01/19 - 12/31/19 ⁸	30%

Footnotes:

- 1) NOT eligible for bonus if placed in service 1/1/2005 - 12/31/2007.
- 2) Retail Improvements are not eligible for bonus depreciation unless it meets the criteria for QLI.
- 3) Qualified Restaurant Property is eligible for bonus depreciation if placed in service 10/23/2004 - 12/31/2004.
- 4) Improvements that also meet the criteria for QLI are eligible for bonus depreciation. After 2015, improvements that also meet the criteria for QIP are eligible for bonus depreciation.
- 5) Improvements that meet the definition of Qualified Improvement Property and meet the definition of QLI, Qualified Retail Improvements, or Qualified Restaurant Property can be depreciated over a 15-year straight line period.
- 6) Eligible up to \$250k from 2010 - 2015, 2016 and onward are subject to normal 179 expense cap.
- 7) Improvements that meet the definition of Qualified Improvement Property and meet the definition of QLI, Qualified Retail Improvements, or Qualified Restaurant Property qualify for the 179 Expense.
- 8) Long Production Period (QLIs over \$1M and construction period exceeds 1 year) - can be placed in service one year after bonus normally expires. QLI (that is also LPP) started before 1/1/2012 can be entirely eligible for 100% bonus if completed during 2012. Bonus is applicable if LPP is started before 1/1/2020. Only pre-1/1/2020 basis is bonus eligible on any LPP.

See Next Page For Definitions & Depreciation Rules

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- » Research & Development Tax Credits
- » Repair v. Capitalization 263(a) Review
- » Employment Tax Credits
- » Green / Energy Tax Incentives
- » Cost Segregation
- » Federal
- » 179D for Designers
- » Fixed Asset Depreciation Review
- » 45L for Multifamily
- » IC-DISC

Definitions:

3 Year Rule: The improvements must have been placed in service by any taxpayer more than three years after the date the building was first placed into service.

Leased Between Unrelated Party Qualification: Improvements must be made subject to a lease between unrelated parties (see code section 1504). Can be made by lessees, sub-lessees or lessors to an interior portion of a nonresidential building. Parties are related when there is more than 80% ownership shared between them.

Long Production Period Property: 168(k)(2)(B) - Must have a recovery period of at least 10 years, is subject to section 263A, has an estimated production period exceeding 2 years, or an estimated production period exceeding 1 year and a cost exceeding \$1,000,000.

Qualified leasehold improvement property (QLI)^A 2001-onward: (A) Any improvement to an interior portion of a building which is nonresidential real property if— (i) such improvement is made under or pursuant to a lease (I) by the lessee (or any sublessee) of such portion, or (II) by the lessor of such portion, (ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and (iii) such improvement is placed in service more than 3 years after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) any structural component benefiting a common area, and (iv) the internal structural framework of the building.

Qualified retail improvement property^A 2009-2015: Any improvement to an interior portion of a building which is nonresidential real property if— (i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and (ii) such improvement is placed in service more than 3 years after the date the building was first placed in service. QRIP shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) any structural component benefitting a common area, or (iv) the internal structural framework of the building.

Qualified restaurant property^B 2004-2008: an improvement to a building if— (A) Such improvement is placed in service more than 3 years after the date such building was first placed in service, and (B) more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

Qualified restaurant property^B 2009-onward: Any section 1250 property which is (i) a building or improvement to a building — if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals, and (ii) if such building is placed in service after December 31, 2008

Qualified improvement property^A (QIP) 2016-onward: (A) Any improvement to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) the internal structural framework of the building.

Other notes:

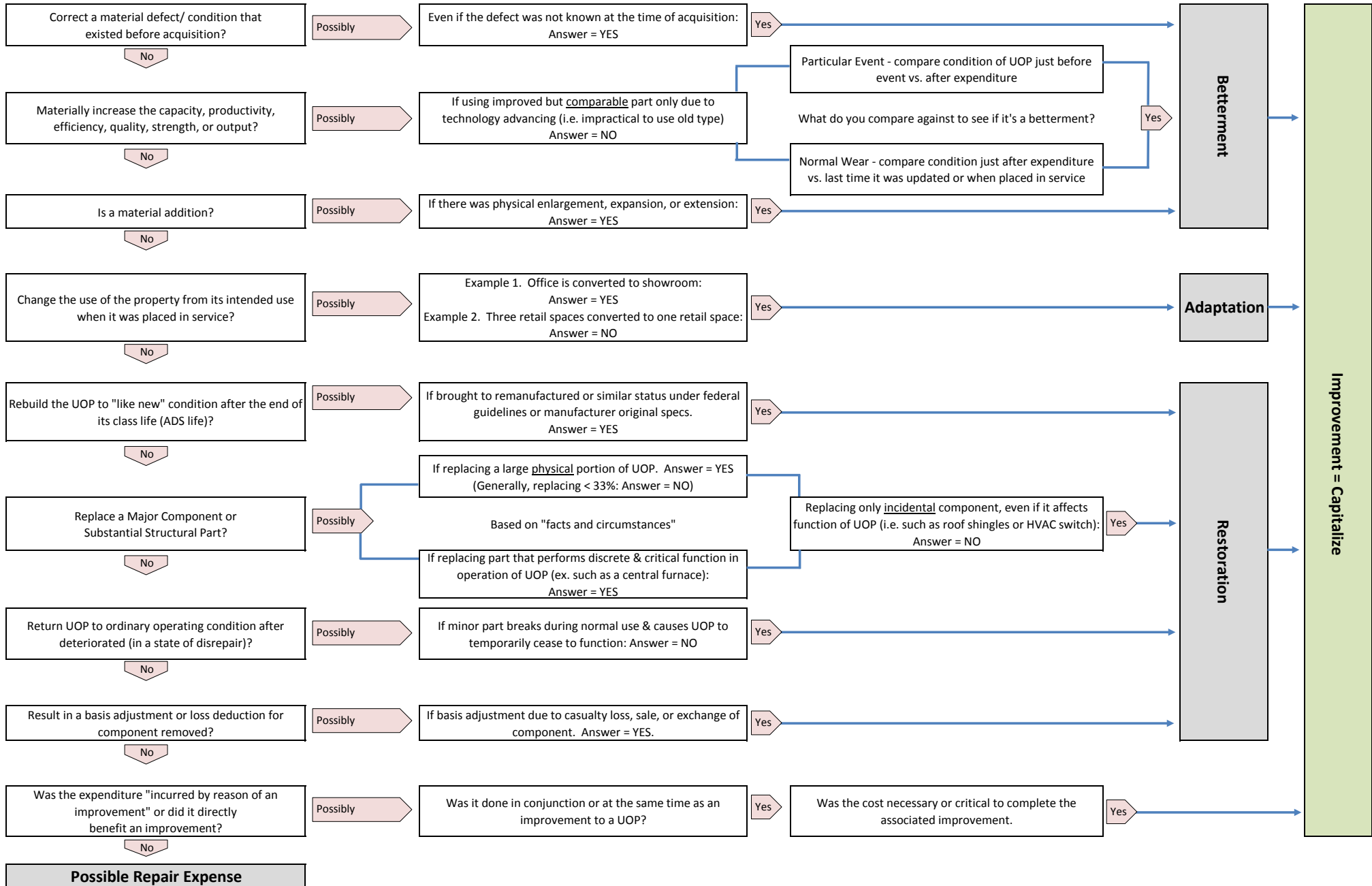
A) Tenant improvements that include costs for HVAC rooftop units are excluded from the definition of Qualified Leasehold Improvements (QLI), Qualified Retail Improvements, and Qualified Improvement Property (CCA 201310028)

B) Restaurant tenant improvements located within a multi-tenant building where 50 percent of the building's total square footage is not leased to restaurants, do not meet the definition of Qualified Restaurant Property.



KBKG Repair vs. Capitalization: Improvement Decision Tree - Final Regulations

Considering the appropriate Unit of Property (UOP), does the expenditure:
(Last Updated 3-20-2015)





KBKG Building Unit of Property & Major Components Chart (updated 3-20-2015)

This chart was created to help users identify building systems & typical "major components" in real estate assets. Replacing a major component is a capital expenditure, while replacing an incidental component can be expensed.

Real Estate Major Component (examples)	Building Structure	Land Improvements	HVAC System	Electrical System	Plumbing Systems	Fire Protection System	Security System	Gas Distribution System	Escalators	Elevators
	<ul style="list-style-type: none"> •Roof System (membrane, insulation & structural supports) •Foundation •Other structural Load Bearing Elements, incl: stairs •Exterior Wall System •Ceilings •Floors •Doors •Windows •Partitions •Loading Docks 	<ul style="list-style-type: none"> •Landscaping incl: shrubs, trees, ground cover, lawn, irrigation •Storm drainage incl: inlets, catch basins, piping, lift stations •Site lighting (pole lights, bollard lights, up lights, wiring) •Hardscape (retaining walls, pools, water features) •Site Structures (gazebo, carport, monument sign) •Paving (roads, driveway, parking areas, sidewalks, curbing) 	<ul style="list-style-type: none"> •Heating System (boilers, furnace, radiators) •Cooling System (compressors, chillers, cooling towers) •Rooftop Packaged Units •Air Distribution (Ducts, fans, etc) •Piping (heated, chilled, condensate water) 	<ul style="list-style-type: none"> •Service & Distribution (panel boards, transformers, switch gear, metering) •Lighting (interior & exterior building mounted) •Site Electrical Utilities •Branch Wiring (outlets, conduit, wire, devices etc.) •Emergency Power Systems 	<ul style="list-style-type: none"> •Plumbing Fixtures (sinks, toilets, tubs etc.) •Wastewater System (drains, waste & vent piping) •Domestic Water (supply piping and fittings) •Water Heater •Site Piping Utilities 	<ul style="list-style-type: none"> •Sprinkler System (piping, heads, pumps) •Fire Alarms (detection & warning devices, controls) •Exit lighting & signage •Fire Escapes •Extinguishers & hoses 	<ul style="list-style-type: none"> •Building security alarms (detectors, sirens, wiring) •Building access & control System 	<ul style="list-style-type: none"> •Gas piping incl: to/from property line & other bldgs. 	<ul style="list-style-type: none"> •Stair and Handrail •Drive System (motors, truss, tracks) •Exit lighting & signage 	<ul style="list-style-type: none"> •Elevator Car •Drive System (motors, lifts, controls) •Suspension system (counterweights, framing, guide rails)

* Building unit of property (UOP) rules apply to each building structure located on a single property.

** Building system components with a different tax life are separate units of property. For example, a cost segregation study separating HVAC into 5 year & 39 year categories for a restaurant creates two separate HVAC units of property.

- Lessee of Building** Must apply the same units of property above but only to the portion of the building being leased.
- Personal Property** UOP are parts that are "functionally interdependent" i.e. placing one part in service is dependent on placing the other part in service.
- Plant Property** UOP is each component that performs a discrete and critical function. Generally each piece of machinery or equipment purchased separately.
- Network Assets** UOP is determined by taxpayers particular facts

Definitions

- Plant Property** Machinery & Equipment used to perform an industrial process such as manufacturing, generation, warehousing, distribution, automated materials handling, or other similar activities
- Network Assets** Railroad track, oil & gas pipelines, water & sewage pipelines, power transmission & distribution lines, telephone & cable lines; -- owned or leased by taxpayers in each of those respective industries.
- Major Component** Part or combination of parts that performs a discrete and critical function in the operation of the unit of property
- Incidental Component** Relatively small, inexpensive, or minor part that performs a discrete and critical function for the UOP. Generally, not capitalized because of its size, cost, or significance.
 Examples: Asphalt sealer, HVAC thermostats, HVAC fan coils, HVAC registers, Plumbing valves and fittings, lighting or power control devices, hardware, escalator handrail, paint, roof shingles.

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RD 101: Research & Development Tax Credits

All attendees are muted. The webinar will begin on time
Download power point slides from KBKG.com/resources

Administrative 

- Audio
 - For the best sound, you should dial in and use the provided telephone # for audio.
- Handout materials
 - Download power point slides from KBKG.com/resources
- CPE (Continuing Professional Education – for CPAs only)
 - Answer all polling questions during the webinar
 - Fill out evaluation form
- Question & Answers
 - Please submit your questions and we will answer as many as time permits.



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About KBKG



- Established in 1999, KBKG is a specialty tax and consulting firm providing nationwide service:
 - Research & Development Tax Credits
 - Cost Segregation
 - Green Building Tax Incentives
 - Repair & Maintenance Review
 - Fixed Asset Depreciation Review
 - IC-DISC
 - Employment Tax Credits
 - Domestic Production Activities Deductions
 - Property Tax Review
 - Sales & Use Tax
 - Expense Recovery

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Agenda

- Legislative Update
- Opportunity
 - R&D Tax Credit Benefits, Tax Treatment, and Components
- What Activities and Who Qualifies
 - 4-Part Test
 - Qualified & Non-Qualified Activities
- Calculation Methods & Examples
- Wrap-up
 - Tax Planning
 - Audit Considerations
- Questions


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Legislative Update – Permanent Credit

- First Enacted in 1981
- Temporary until the Protecting Americans from Tax Hikes Act (“PATH”) of 2015
- Both a federal and state initiative
- Billions of dollars claimed federally each year
- Helps stimulate Economic Development in the United States

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Expansion of the R&D Credit



The PATH Act made THREE major changes to the R&D Tax Credit

- First Change:
R&D Tax Credit has been Permanently extended
- Second Change:
R&D Credit can offset a portion of payroll tax
- Third Change: **R&D Tax Credit can offset Alternative Minimum Tax (AMT)**

Legislative Update: Payroll Tax Reduction



- Allows qualified startup businesses to claim up to \$250,000 of the R&D tax credit against their payroll taxes
 - A qualified startup is defined as a company with less than \$5 million in gross receipts and no gross receipts for any tax year preceding the five tax year period ending with the tax year
 - If first year of election is 2016, must have had no gross receipts in a tax year preceding 2012
 - 2012-2016 – must have less than \$5 million in gross receipts
 - 2011 prior- must have zero gross receipts
 - Can not make election for more than 5 years
 - Gross receipts are not required (companies with no gross receipts can make the election and use the credit).

Legislative Update: Payroll Tax Reduction



- For companies that are not a partnership or S corporation, only the amount of the R&D credit that would be carried forward can be applied against the payroll tax
- Election starts the first quarter after the return is filed
 - If return is filed March 2017, would be able to use the credit against payroll taxes generated the 2nd quarter of 2017
- *Good Candidates for the payroll election:*
 - Software and biotech company startups will be a rich target
 - Loss position companies generally have not wanted to take the credit, because they did not know when it could be used
 - Companies that have little or no tax liability

R&D Credit & Payroll Taxes Example



A software developer began operation in 2015. The Company is comprised of 15 individuals and is not expecting gross receipts until 2017. Summary of 2016:

- Gross Receipts - \$0
- Qualified Wages - \$2,000,000
- R&D Credits - \$200,000
- Qualified Payroll Taxes - \$125,000

The Company will file their 2016 tax return in March 2017 and apply the credits to their payroll taxes in the second quarter of 2017. Unused credits will be carried forward.

Before law change R&D Credit Utilization = \$0
After law change R&D Credit Utilization = \$ 125,000*

Legislative Update – AMT Reduction



- Prior to PATH Act, Taxpayers in AMT could not use the research credit to offset AMT.
- Eligible small businesses can use credit to offset AMT for tax years beginning after December 31, 2015
 - An **eligible small business** is defined as having an average of \$50 million or less in gross receipts the prior three tax years
 - Provision is similar to the AMT relief in 2010
 - Unused credits can be carried back or forward.

Cannot be a publically-traded company



How to Determine if a Pass Through Shareholder is in AMT



- AMT is found on 1040, Page 2, Line 45 (2014 Form)

Tax and Credits		39a Check <input type="checkbox"/> You were born before January 2, 1950. <input type="checkbox"/> Blind. <input type="checkbox"/> Total boxes checked <input type="checkbox"/> 39a	
Standard Deduction for -		b If your spouse itemizes on a separate return or you were a dual-status alien, check here <input type="checkbox"/> 39b	
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin).....	40	81,978.
41	Subtract line 40 from line 38.....	41	144,591.
42	Exemptions. If line 38 is \$152,525 or less, multiply \$3,950 by the number on line 6d. Otherwise, see instrs.....	42	7,900.
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	136,691.
44	Tax (see instrs). Check if any from: a <input type="checkbox"/> Form(s) 8814 c <input type="checkbox"/> b <input type="checkbox"/> Form 4972.....	44	24,104.
45	Alternative minimum tax (see instructions). Attach Form 6251.....	45	3,771.
46	Excess advance premium tax credit repayment. Attach Form 8962.....	46	
47	Add lines 44, 45 and 46.....	47	27,875.
48	Foreign tax credit. Attach Form 1116 if required.....	48	623.
49	Credit for child and dependent care expenses. Attach Form 2441.....	49	
50	Education credits from Form 8863, line 19.....	50	
51	Retirement savings contributions credit. Attach Form 8880.....	51	
52	Child tax credit. Attach Schedule 8812, if required.....	52	
53	Residential energy credits. Attach Form 5695.....	53	
54	Other crs from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	54	
55	Add lines 48 through 54. These are your total credits.....	55	623.



R&D Credit & AMT Example



R&D Tax Credit Utilization *before* 12/31/2015

2015 R&D Tax Credit Generated	=	\$ 300,000
2015 Total Tax Liability	=	\$ 181,000*
* 2015 Regular Tax Liability		\$ 158,000
* 2015 AMT Liability		<u>\$ 23,000</u>
Total		\$ 181,000
2015 R&D Credit Utilization	=	\$ 0**
2015 R&D Credit Carryforward	=	\$ 300,000

**** Prior to law change R&D tax credits cannot be utilized against AMT**



R&D Credit & AMT Tax Example



R&D Tax Credit Utilization *for tax years beginning 1/1/2016*

2016 R&D Tax Credit Generated	=	\$ 331,000
2016 Total Tax Liability	=	\$ 219,000*
* 2016 Regular Tax Liability		\$ 188,000
* 2016 AMT Liability		<u>\$ 31,000</u>
Total		\$ 219,000
2016 R&D Credit Utilization	=	\$ 178,250
2016 Total Tax Liability after Credit	=	\$ 40,750

Total Tax Savings = \$178,250

Prior to PATH ACT Changes Total Tax Savings Would = 0





SOLUTIONS FOR TAX PROFESSIONALS AND BUSINESSES
TAX CREDITS • INCENTIVES • COST RECOVERY

POLLING QUESTION 1

OPPORTUNITY



Tax Credit Treatment

- General business credit under IRC § 38
- Dollar for dollar reduction in tax, subject to limitations
- General Rule: 1 Year Carryback; 20 Year Carryforward
- S Corps – Credit flows through to the owners

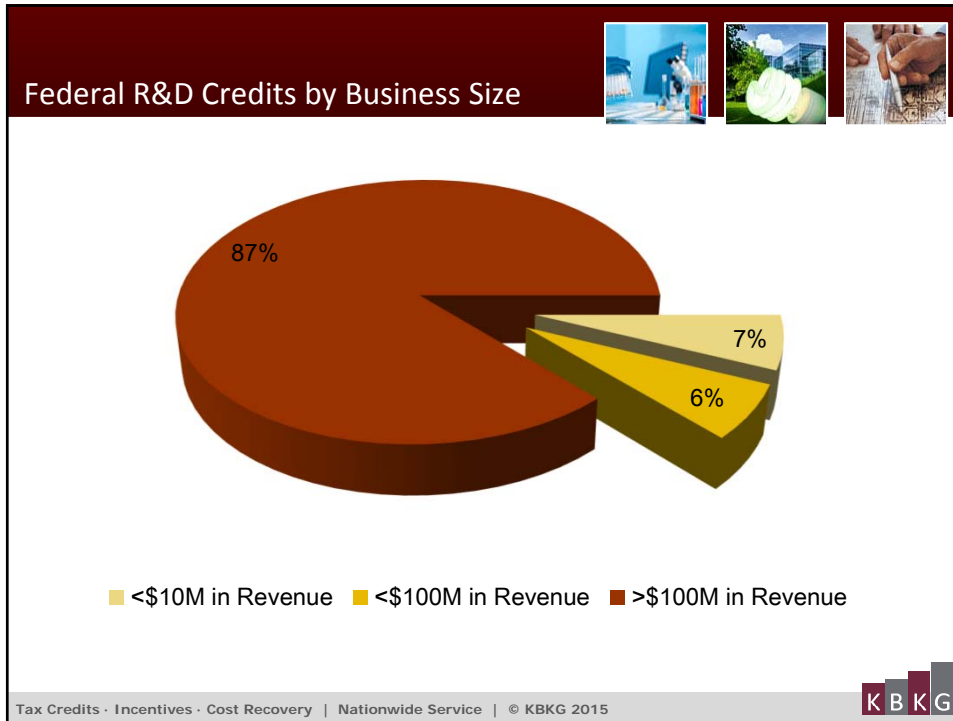
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Federal R&D Credits by Year

Research Credits by Year (in thousands)


Year	Research Credits (in thousands)
2005	6,500,000
2006	7,200,000
2007	8,200,000
2008	8,200,000
2009	7,800,000
2010	8,500,000
2011	9,500,000
2012	10,800,000
2013	11,800,000
2014	12,800,000
2015	13,800,000
*2016	14,800,000

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- ### R&D Credit Benefits
- Federal Tax Benefit : 6.5% of Qualified Research Expense (QRE)
 - Lowers effective tax rate
 - Improves earnings per share
 - Many states have an R&D credit
 - Nonrefundable credits
 - California: 15%, nonrefundable, unlimited carryforward
 - Refundable credits
 - Virginia: 15%, 20% (if done with Virginia Universities), refundable
 - Arizona: 24%, partially refundable, eligible small businesses, 15 year carryforward
 - Connecticut: 6.5%, \$.65 cents per dollar for small business C Corporations
 - Iowa: 6.5%, 4.55% fully refundable after tax liability is paid
 - Maryland: 3%, 10%, for credits generated after December, 15, 2012
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State R&D Credits



36 states offer an R&D credit, many in addition to the federal credit:

Arizona	Indiana	New Hampshire	South Carolina
Arkansas	Iowa	New Jersey	Texas
California	Kansas	New Mexico	Utah
Colorado	Louisiana	New York	Vermont
Connecticut	Maine	North Carolina	Virginia
Delaware	Maryland	North Dakota	Wisconsin
Florida	Massachusetts	Ohio	
Georgia	Michigan	Oregon	
Hawaii	Minnesota	Pennsylvania	
Idaho	Nebraska	Rhode Island	

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Applicable Industries



- Aerospace
- Apparel
- Architectural & Engineering
- Automotive
- Chemical
- Computer Software
- Cosmetics
- Electronics
- Engineering
- Equipment
- Food & Beverage
- Hardware Development
- Manufacturing
- Medical
- Pharmaceuticals
- Telecommunications
- Tooling, jigs, molds
- Numerous others

Applies Across ALL Industries!!!

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Federal R&D Credits by Industry - Estimated 2016 Allocation



Industry	Credit Amount 2016*	Percentage
Manufacturing	\$ 9 billion	61%
Information	\$ 2.4 billion	16%
Professional, scientific, technical services	\$ 1.5 billion	10%
Wholesale and retail trade	\$ 1 billion	7%
Finance and insurance	\$ 294 million	2%
Holding Companies	\$ 147 million	1%
Mining	\$ 147 million	1%
Utilities	\$ 73.5 million	<1%
Other	\$ 221 million	1.5%
Total	\$ 14.7 billion	

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Study Examples



- **Formulations** – Development of cosmetics and natural foods (in order to attain organic, vegan or kosher certification), spices, beer formulations
- **Manufacturing** – Design, manufacture and testing of telecommunications equipment, engineering services, prototype design, medical instruments, furniture, chilling systems, fiber optic components, as well as foundry and machine shop activities.
- **Software Development** – Designing accounting, inventory and workflow systems, online mapping applications, web development, cloud-based risk mitigation technologies, investment software, licensing system software, messaging apps, computer animation.
- **Defense contractors** – Design, manufacture and testing of military camera systems, mobile radar and power generation systems.
- **Pharmaceuticals** – Drug formulation/testing for humans and animals.
- **Mining** – Develop innovative extraction techniques.

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WHAT ACTIVITIES & WHO QUALIFIES?

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Qualified Activities: R&D 4-Part Test



<p>1. Permitted Purpose</p> <p>New or Improved Business Component</p> <ul style="list-style-type: none"> ◆ Function ◆ Performance ◆ Reliability ◆ Quality 	<p>3. Process of Experimentation</p> <ul style="list-style-type: none"> ■ Evaluate one or more alternatives in an attempt to resolve uncertainty <ul style="list-style-type: none"> ◆ Evaluate alternatives ◆ Develop hypothesis ◆ Test hypothesis ◆ Evaluate results ◆ Refine hypothesis ◆ Success or failure ■ Substantially all activities (≥ 80%) must constitute elements of a process of experimentation
<p>2. Elimination of Uncertainty</p> <ul style="list-style-type: none"> ■ Uncertainty related to business component <ul style="list-style-type: none"> ◆ Capability or method of developing or improving ◆ Appropriate design 	<p>4. Technological in Nature</p> <ul style="list-style-type: none"> ■ Activities must rely on: <ul style="list-style-type: none"> ◆ Physical sciences ◆ Biological sciences ◆ Engineering ◆ Computer science

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Qualified Research Expenses




- **Wages**
 - (1) W-2, Box 1; (2) Partnership Earnings subject to SE tax; & (3) Schedule C
 - Excludes 401k & pre-tax benefits, and wages used calculating Work Opportunity Credit under § 51
- **Supplies**
 - Tangible property used or consumed in qualified research activities (i.e., prototypes), excludes:
 - (i) Land – acquisition & improvements; & (ii) Depreciable property
- **Contract Research**
 - 65% of amounts paid to non-employees for qualified activities
 - 75% of amounts paid to certain qualified research consortia
 - 100% of amounts paid for energy research to eligible small businesses, universities, and Federal laboratories

Who Qualifies?



- **Any Employee who:**
 - Performs qualified activities
 - Direct Supervision of other employees who perform qualified activities
 - Direct Support of other employees who perform qualified activities
 - Direct Supervision & Direct Support need not meet 4-Part Test
- **Outside Contract Service Providers:**
 - 65% of amounts paid or incurred for qualified research
 - Paid to any person other than an employee of the taxpayer

Qualified Activities - Examples




Direct Supervision:

- First line supervision of direct research activity
- Reviewing technical designs
- Communicating requirements


Direct Support:

- Documenting results
- Maintaining & cleaning research equipment
- Compiling research data
- Creating experimental models

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Qualified Activities



Qualified Activities:

- Applied at the Business Component Level
 - Shrink-back rule
- Development of a new or improved
 - Product
 - Process
 - Formula
 - Software
- Design - Technical design work, CAD design, modeling & analysis
- Prototype development – design and build
- Testing - Computer modeling & simulation, prototypes, field tests
- Activities from concept through release to commercial production
- Success is not required

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Non-Qualified Activities



- Activities outside the United States, Commonwealth of Puerto Rico, or any US possession
- Adaptation of an existing business component
- Duplication of an existing business component
- Social Sciences – “soft” sciences, arts, or humanities
- Studies related to efficiencies, management operations or profitability, style, taste, cosmetic or seasonal design factors
- Routine data collection
- Routine or ordinary QA testing
- Funded Research – taxpayer must bear both the Economic Risk & Retain Rights in the results

Non-Qualified Activities cont.



- Research after commercial production
- The following are deemed to occur after commercial production:**
- Preproduction planning for a finished business component
 - Tooling-up for production
 - Trial production runs
 - Trouble shooting detecting faults in production equipment of processes
 - Accumulating data relating to production processes
 - Debugging flaws in a business component



SOLUTIONS FOR TAX PROFESSIONALS AND BUSINESSES
TAX CREDITS • INCENTIVES • COST RECOVERY

POLLING QUESTION 2

CALCULATION METHODS & EXAMPLES



R&D Credit Components



- **Credit is the sum of:**
 - 20% of the current year Qualified Research Expenses (QREs) over a Base Amount;
 - 20% of Basic Research Payments; and
 - 20% of amounts paid or incurred to an Energy Research Consortium

- **Activity Based Credit**
 - Determine Qualified Activities under 4 Part Test
 - Identify related Qualified Research Expenses (QREs)
 - Primarily a wage based credit

- **Incremental Credit**
 - QREs must exceed a Base Amount (Threshold Amount)
 - Base Amount is recalculated each year

Current Methods & Examples



- 2 Credit Calculation Methods Available:**
- 1. Regular Credit - § 41(a)(1) – “Old & Cold” Method**
Base Period (1984 – 1988) or Start-up (1994 – forward)

 - 2. Alternative Simplified Credit (ASC) - § 41(c)(5)**
Effective for tax years ending after Dec. 31, 2006

Regular Credit Method



4 items needed to determine Regular Credit:

1. Qualified Research Expenses (QREs)
2. Prior 4 Years Average Annual Gross Receipts (AAGR)
3. Fixed-Base % (FB%)
 - Fixed-Base % is the ratio of aggregate QREs over aggregate gross receipts for a specific period of time
 - Maximum Fixed-Base % = 16%
4. Base Amount
 - GREATER of AAGR x FB% or 50% of current year QREs
 - Credit rate is applied to the increment of current R&D spend over the base amount

Fixed-Base % – Example



Fixed-Base %

(assumes 84-88 Base Period applies)

Year	QREs	Gross Receipts
1984	\$ 100,000	\$ 6,000,000
1985	\$ 200,000	\$ 8,000,000
1986	\$ 250,000	\$10,000,000
1987	\$ 200,000	\$12,000,000
1988	\$ 400,000	\$14,000,000
Total	\$1,150,000	\$50,000,000

$$F-B\% = \$1,150,000 \div \$50,000,000 = 2.30\%$$

Regular Credit - Example



	EXAMPLE
1. Current Year QREs	\$ 3,000,000
2. Prior 4 Yr. Avg. Gross Receipts	\$75,000,000
3. Fixed-Base %	2.30%
(A) Tentative Base Amount (2 x 3)	\$ 1,725,000
(B) Minimum Base Amount (50% of CY QREs) (#1 x 50%)	\$ 1,500,000
4. Base Amount (Greater of (A) or (B))	\$ 1,725,000
Incremental QREs (1 – 4)	\$ 1,275,000
Credit %	20%
5. Regular Credit Amount	\$ 255,000
§ 280C - Reduced Credit Election	65%
Net Credit Benefit	\$ 165,750



SOLUTIONS FOR TAX PROFESSIONALS AND BUSINESSES
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POLLING QUESTION 3

Alternative Simplified Credit (ASC)



- **IRC § 41(c)(5)**
 - Applicable for tax years ending after December 31, 2006

- **ASC Credit = 14% x QREs over Base Amount**
 - You can now amend into the ASC
 - If no QREs in any 1 of 3 prior years, ASC Credit = 6% x Current Year QREs

- Companies that may benefit from the ASC, include:
 - Trouble establishing fixed-base percentage
 - Large gross receipts
 - Several subsidiaries

ASC




2 items needed to calculate the ASC Credit:


1. QREs - same as defined under the Regular Credit:
 - Wages
 - Supplies
 - Contract Research

2. Base Amount = 50% x (Average QREs for the Prior 3 Years)


ASC – Example



Current Year QREs	=	\$ 3,000,000
Less: Base Amount	=	<u>(\$ 1,125,000)</u>
CY QREs Available	=	\$ 1,875,000
ASC Credit %	=	14%
ASC Credit	=	<u>\$ 262,500</u>
§ 280C Reduced Credit		65%
(Annual Election)		
ASC Reduced Credit	=	<u>\$ 170,625</u>
Effective Reduced Credit Rate	=	5.69%


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Industry Example - Software



A software development company creates a new software or game that can be sold or licensed to third parties.

- Gross Receipts - \$3,000,000
- Wage Expense - \$1,000,000
- Qualified Wages - \$500,000
- Qualifying Activities: Concept development, specification design, coding, beta testing, etc...
- Potential Federal Credits: \$50,000

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Industry Example - Manufacturing



A foundry and machine shop designs, manufactures and tests first article prototype parts for a variety of industries and applications.

- Gross Receipts - \$7,000,000
- Wage Expense - \$3,000,000
- Qualified Wages - \$800,000
- Qualifying Activities: Concept development, specification design, evaluating alternatives, prototype testing, prototype refinement etc...
- Potential Federal Credits: \$80,000

Industry Example – Food Manufacturing



A food manufacturer formulates and packages a variety of All Natural and Organic trail mixes, salad toppings, etc.

- Gross Receipts - \$6,000,000
- Wage Expense - \$2,000,000
- Qualified Wages - \$600,000
- Qualifying Activities: Concept development, specification design, evaluating alternatives, prototype testing, prototype refinement etc...
- Potential Federal Credits: \$60,000



SOLUTIONS FOR TAX PROFESSIONALS AND BUSINESSES
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POLLING QUESTION 4

Wrap-up



Tax Planning




- Electing 280 C on a timely-filed return
 - Do not have to reduce R&D expenses by amount of the R&D credit
- If a client is a flow-through entity, and not in the highest tax bracket, may not want to elect 280 C
- In losses, can amend more than three years of returns (Rev. Rul. 1982-49)
 - If Qualified Start-up will be able to apply towards payroll taxes starting in 2016
- AMT
 - Starting in 2016 eligible small businesses can apply the R&D credit against AMT
 - Those expecting a sharp increase in income, should consider claiming credit and carrying forward to offset future tax liability.
 - Companies that take bonus depreciation may want to scale back deductions in order to take advantage of the R&D credit

IRS Audit Considerations




- Audit Technique Guide (ATG) outlines the areas agents will focus on when conducting their audits of R&D credit claims.
- IRS specifically targets the use of estimates, IRS wants clear nexus
 - Taxpayers use of the Cohan rule is generally dismissed by the IRS
 - Cohan rule accepted by the courts
 - Implies that project accounting is required to establish nexus
- Key IRS focus is on substantiation documentation
- Law under Treas. Reg. § 1.6001-1(a) provides:
 - Taxpayer shall keep permanent books and records sufficient to establish the amount of the credit

Contemporaneous Documentation




- Concept Generation & Design**
 - Functional Requirements
 - Project Authorization Requests
 - Business Cases / Studies
 - Project Schedules
 - Budgets
 - Design Documents & Revisions
 - Architecture Documents
 - PowerPoint Presentations
 - Release Plans
- Testing**
 - Test Data / Experimental Runs
 - Lab Notebooks
 - Progress Reports
 - Issue Logs
- Record / Documenting Results**
 - Meeting minutes / Notes / Agendas
 - Predictive Modeling / CAD Analysis
 - Emails relating to R&D
 - R&D Projects List
 - Product Evaluations / Reviews
 - Data Sheets
 - Reports to Management / Customer
 - Lessons Learned
 - Whitepapers
 - Patents / Patent Applications
 - Records of Invention
 - Marketing Brochures

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QUESTIONS


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