

# Washington's High-Tech R&D Credit

It's gone for now, but there's still time to take advantage of it.

BY BOB HELLER

**EVEN THOUGH WASHINGTON'S** business and occupation (B&O) tax credit for high-tech businesses engaged in research and development (R&D) ended in 2014, businesses can still benefit.

The high-tech R&D tax credit, which was modeled after a similar, but in some ways more restricted, federal R&D credit, was a way for companies to offset the state's B&O tax. The credit was designed to help companies — especially startups — lower the cost of innovation by reducing their taxes. An eligible company could claim up to \$2 million in credit per year. Companies reporting to the state Department of Revenue in 2012 and 2013 took \$44 million in state credit.

It's possible the state Legislature this year will reinstate some form of the credit going forward. But even if lawmakers don't, businesses involved in R&D activities related to advanced computing, environmental technology, life sciences, electronic device technology or advanced materials should take another look at what credit they took in the past to make sure they received as much credit as possible. At the very least, they should file the annual survey required by the Department of Revenue by April 30 to stay eligible for claiming their 2014 credit.

Some companies mistakenly believe the state credit is the same as the federal credit. Both credits are based on similar concepts of what constitutes qualified R&D, and both use R&D expenditures in computing the credit. The state credit, however, is more generous in the types of expenditures included in the computation.

One of the biggest differences between the federal and state credits is in the types of personnel costs includable in the credit base. For example, the federal credit is much more restric-

tive in what is allowable for personnel costs. For state purposes, both wages and benefits are includable. Also, the state credit is less restrictive by including amounts paid to employees who supervise the R&D function within a company. It is not uncommon in many R&D-driven companies for senior executives to be scientists who play a significant role in the R&D process. Because these executives are typically more highly compensated, including a portion of their total compensation and benefits in qualified R&D expenditures can significantly increase the amount of available credit.

The challenge is documenting how much of an executive's time is devoted to R&D. If the CEO didn't keep time records of how his or her time was spent, a tax adviser could help determine that by performing a tax credit study. The study could involve evaluating the executive's job description, interviewing coworkers and reviewing other documentation such as calendars, meeting notes, project descriptions or budget proposals. Our experience working with the Department of Revenue is that auditors are generally willing to accept this type of documentation as long as it's reasonably specific and demonstrates the level of the senior executive's involvement in the R&D process. The Washington state credit generally equals 1.5 percent times the qualifying expenditure, so the benefits quickly add up on investments in research and the personnel involved in that work.

The state requires companies that are eligible to take the B&O tax credit to file annual surveys, due April 30 of each year, related to the previous year.

Therefore, companies interested in claiming a 2014 credit have until April 30, 2015, to file their survey. In addition, companies that filed surveys and claimed the state B&O tax credit using the federal guidelines in the past can go back as far as 2011 to claim additional allowable credits.

Note, however, that to the extent the high-tech R&D credit exceeds a company's B&O tax in a particular year, the excess may not be carried over to the next year. That means that companies that find new credits in a particular

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year can use them to offset any B&O paid in that year, but not other years.

Although the high-tech R&D credit may have expired, companies that have not previously taken the credit may still be able to reap the benefits for 2014. And those that took the credit in prior years but followed the more conservative federal credit may be able to go back even further to claim additional state credits. It's definitely worth a second look.

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