

PUBLICATION

Spotlight on Louisiana Incentives: Experimentation Results in Less Taxation

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The Louisiana Research and Development Tax Credit (LA RDTC) incentivizes businesses, particularly start-ups, to develop their products in Louisiana. Any business that conducts experimental research and development (R&D) in Louisiana to improve or create a new product may qualify for the LA RDTC in an amount equal to as much as 40 percent of its in-state R&D expenses. If a Louisiana business receives a Federal Small Business Innovation Research Grant, then it may also qualify for the LA RDTC in an amount equal to 40 percent of the grant award.

Benefit of the Credit

The taxpayer may use each \$1.00 of the LA RDTC earned to satisfy \$1.00 of its Louisiana income or franchise liability. The LA RDTC is a refundable credit -- meaning that the State will refund to the taxpayer in cash any credits that the taxpayer claims in excess of its tax liability. Unlike some other Louisiana tax credits, the LA RDTC may not be transferred by sale to other Louisiana taxpayers. However, if a business entity earns the credits and the entity is taxed on a pass-through basis (e.g. a limited liability company taxed as a partnership), the entity may allocate the LA RDTCs that it earns to its owners. As with some other allocable Louisiana tax credits, and with proper structuring, in some cases the entity may allocate all of the LA RDTCs to one or more specified investors rather than proportionately among all of the entity's owners, thus enhancing its financing sources.

Requirements

Businesses eligible for the LA RDTC are those in any tax year that either: (i) employ more than 50 persons and claim the Federal R&D credit, (ii) employ 50 persons or less and incur "Qualified Research Expenses" or (iii) receive the Federal Small Business Innovation Research Grant. "Qualified Research Expenses" (QREs) means expenditures incurred in connection with the taxpayer's trade or business which represent research and development costs in the experimental or laboratory sense. The term includes all such costs incident to the development or improvement of a product. If the business employs 100 or more persons, the LA RDTC is equal to 8 percent of its Louisiana QREs minus 70 percent of its average Louisiana QREs (if any) for the previous three years. If in any tax year the business employs 50 or more persons but no more than 99 persons, the LA RDTC is equal to 20 percent of its Louisiana QREs minus 70 percent of its average annual Louisiana QREs (if any) for the previous three years. If the business employs less than 50 persons, the LA RDTC is equal to 40 percent of its Louisiana QREs for the tax year. If the Louisiana business receives a Federal Small Business Innovation Research Grant, the business is eligible to receive an LA RDTC equal to 40 percent of the grant received for the tax year. To claim the LA RDTC, a business must submit an application with the Louisiana Department of Economic Development (LED) including, among other information, a description of the R&D conducted, employee information, federal tax returns and proof of grant award, if any.

Special Rules and Limitations to Consider

A business cannot receive other incentives administered by the LED for the same R&D expenditures and no LA RDTCs will be awarded for expenditures made and/or grants received after December 31, 2019. In addition to in-house R&D conducted by the business, in certain circumstances up to 100 percent of the amounts that

the business pays to an unrelated contractor (other than an employee of the business) for qualified R&D may be eligible for the LA RDTC. Software development activities will generally qualify for the LA RDTC if the software is to be held for sale, lease, license or use in a trade or business.

Conclusion

By its very nature, the LA RDTC is particularly well-suited for small start-up businesses that are conducting R&D in Louisiana for the first time. However, it will also benefit larger, later stage businesses that are increasing their R&D expenditures in Louisiana over previous years.

This Alert is part of a series of Tax Alerts designed to highlight many of the tax and economic incentives available in Louisiana. For previously issued Alerts included in this series, see our [6/30/11](#) and [5/11/11](#) Alerts.

If you would like to discuss strategies for earning and maximizing your benefit from or have questions about the Louisiana Research and Development Credit, or questions regarding any other Louisiana tax issues, please contact this Alert author Rob Wolfarth, or any of the attorneys from either the Firm's Tax Department or Emerging Companies Team.