

Part III - Administrative, Procedural, and Miscellaneous

Form 7004-Research Credit Suspension Period

Notice 2001-29

In Notice 2001-2, 2001-2 I.R.B. 265, the Internal Revenue Service provided guidance to help taxpayers compute and report their credit for increasing research activities (research credit) under 41 of the Internal Revenue Code for taxable years that include the research credit suspension periods described in 502(d)(2) of the Tax Relief Extension Act of 1999, Pub. L. No. 106-170 (the Act). This notice provides additional guidance to corporate taxpayers that may request extensions of time to file their income tax returns for taxable years that include expired research credit suspension periods.

Section 502(d) of the Act provides that, for purposes of the Code, any research credit attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, that is otherwise allowable under the Code, may not be taken into account prior to October 1, 2000. Further, any research credit attributable to the period beginning on October 1, 2000, and ending on September 30, 2001, that is otherwise

allowable under the Code, may not be taken into account prior to October 1, 2001.

Notice 2001-2 provides that, for the Service to administer 502(d) of the Act properly, research credits attributable to a research credit suspension period may not be used as a credit against tax on a timely filed or late filed original return for a taxable year that includes any part of that suspension period even if that original return is filed after the expiration of the suspension period. The research credit attributable to a suspension period may be taken into account after the close of that period as a credit against tax for a taxable year that includes any part of a suspension period by filing a Form 1045, Application for Tentative Refund, or a Form 1139, Corporation Application for Tentative Refund, or by filing an amended income tax return (Form 1040X, Form 1120X, or other amended return) on or after the date the taxpayer files an original return for the applicable tax year. Further, after the close of the applicable research credit suspension period, taxpayers may use research credits attributable to a suspension period as an adjustment to estimated taxes.

Under 1.6081-3 of the Income Tax Regulations, a 6-month extension of time to file a corporate income tax return is granted automatically, if a corporation properly files a completed Form 7004, Application for Automatic Extension of Time to File Corporation Income Tax Return, and pays the balance due on line six of the form by the due date of the return for which the extension applies. Because Notice 2001-2 provides that research credits attributable to a research credit suspension period may not be used as a credit against tax on a timely filed or late filed original return for a taxable year that includes any part of the suspension period, a taxpayer seeking to

obtain an extension of time for filing a corporate income tax return by filing Form 7004 may indicate a balance due on that form. Any balance due that is attributable to a research credit suspension period that ended on or before the close of the taxable year will be eliminated when the taxpayer files its Form 1139 or its amended income tax return to claim its research credit for the suspension period that ended on or before the close of the taxable year. Therefore, if a taxpayer is otherwise eligible for an extension of time to file its return and shows a balance due that relates to the research credit attributable to a suspension period that ended before the close of the applicable taxable year, the taxpayer may file a Form 7004 without paying that balance. Taxpayers should file the Form 7004, with the statement **Research Credit Suspension Period** indicated at the top of the form.

For example, assume that a calendar-year corporation expects that it will have at least 800x dollars of research credit for the taxable year ending December 31, 2000. The amount of research credit attributable to the period from January 1 through September 30, 2000, would be 600x dollars ($9/12 \times 800x$ dollars).

Taxpayer's 600x dollars of research credit attributable to the period January 1 through September 30, 2000, may not be taken into account in determining any of the estimated tax payments that are due before October 1, 2000. The taxpayer's first estimated tax payment due on or after October 1, 2000, is the payment due on December 15, 2000. Taxpayer reduced the amount of its estimated tax payments otherwise required to be paid on December 15, 2000, by 600x dollars, the amount equal to its 600x dollars of research credit attributable to the period January 1 through

September 30, 2000, and available for use on October 1, 2000.

For its taxable year ending December 31, 2000, taxpayer wants an extension of time to file its corporation income tax return. Taxpayer's Form 7004 shows a balance due of 600x dollars, the amount of its research credit attributable to the first suspension period that ended on September 30, 2000. Taxpayer files the Form 7004 on March 15, 2001, showing a balance due of 600x dollars and indicating at the top **Research Credit Suspension Period**. Because taxpayer's 600x dollar balance due for the taxable year ending December 31, 2000 results from research credits for the taxable year that are attributable to the first suspension period that ended on September 30, 2000, the extension will be granted automatically.

DRAFTING INFORMATION

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