

RESEARCH & DEVELOPMENT TAX CREDIT

Position

RILA supports the extension of the credit for increasing research activities – commonly known as the research and development (R&D) tax credit. Retailers are continually looking for ways to provide cutting-edge products, manage costs, and keep consumer prices down. The R&D tax credit helps many retailers develop new products, often through private-label brands, as well as develop innovative technology and software.

Recent Activity

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 extended the R&D tax credit through 2011.¹ Under the prior extension, the Emergency Economic Stabilization Act of 2008 (EESA)² also increased the new alternative simplified research credit (ASC) from its original 12 percent to 14 percent for qualified research expenses, and the legislation terminated the alternative incremental credit after December 31, 2008.

The Obama Administration proposed in its Fiscal Year 2012 budget to enhance the R&D credit and make it permanent.³

In the current Congress, on March 8, 2011, Representative Kevin Brady (R-TX) introduced the American Research and Competitiveness Act of 2011, which would extend the regular R&D tax credit through 2012, increase the ASC to 20 percent, and make the ASC permanent.⁴ Similar legislation was introduced in the Senate by Senators Max Baucus (D-MT) and Orrin Hatch (R-UT) in the 111th Congress.⁵

Action Needed

RILA urges Congress to make the R&D tax credit permanent to encourage businesses to invest in long-term product development and technological improvements in the United States. Short of that goal, RILA will continue to advocate for extending the credit and the ASC percentage for a multi-year period, given the importance of the R&D tax credit to the retail industry.

Background

As part of the Economic Recovery Act of 1981,⁶ Congress enacted a tax credit for research and development expenses. Since it was established, the R&D credit has been extended 14 times, often retroactively after it had lapsed. The credit has also been tightened and expanded many times during the 30 years it has existed.

Today, businesses can claim a 20-percent tax credit for certain qualified R&D expenditures that exceed an historic base amount. Beginning in 2007,⁷ businesses were permitted to claim the alternative simplified research credit, which is now equal to 14 percent of the qualified research expenses for the taxable year that exceed 50 percent of the average research expenses for the three preceding years. (Between 1996⁸ and 2009,⁹ an alternative incremental research credit (AIRC) also existed, which was based on a three-tiered system of fixed-percentage credits.)

The R&D credit applies to qualified R&D expenditures, such as wages paid with respect to research activities, certain payments to third-party contractors for qualified research, and materials and supplies used to conduct the research. However, the credit is available only for R&D expenditures incurred in the United States.

For retailers, the R&D credit is an important incentive for the development of new and improved materials and products – often seen as “private labels.” Many retailers also utilize the credit to help finance innovative research into new technology and software in areas such as inventory management, packaging, loss prevention, production development, and automated systems.

Making the R&D tax credit permanent (or at a minimum enacting a multi-year extension) is essential for the credit to achieve its objective of encouraging long-term research and development in the United States and its aim of increasing the high-paying U.S. jobs that such research requires. Too often over the past three decades, the R&D credit has been allowed to lapse, and the extensions have often been for only one or two years. The result has been significant uncertainty for businesses seeking to undertake research projects, which can frequently span multiple years. Moreover, the uncertainty surrounding the credit has had adverse effects on financial reporting for companies relying on the credit when it has lapsed.

The R&D credit is also an important inducement for businesses to keep research activities in the United States. In recent years, foreign governments have offered substantial tax and other financial incentives to attract U.S. companies to invest their research dollars abroad. In an increasingly global economy, the R&D credit helps level the playing field so the United States can maintain its position as a leader in research and development.

Contact

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Additional References

- RILA Issue Brief: Expiring Tax Provisions
- R&D Credit Coalition – www.investinamericasfuture.org

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¹ Pub. L. No. 111-312, § 731 (Dec. 17, 2010) – available at: <http://www.gpo.gov/fdsys/pkg/PLAW-111publ312/pdf/PLAW-111publ312.pdf>.

² Pub. L. No. 110-343, Division C, § 301 (Oct. 3, 2008) – available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ343.110.pdf.

³ U.S. Department of the Treasury, General Explanations of the Administration's Fiscal Year 2012 Revenue Proposals (Feb. 2011) at p. 32 & Table 1 – available at: <http://www.treasury.gov/resource-center/tax-policy/Documents/Final%20Greenbook%20Feb%202012.pdf>.

⁴ H.R. 942, 112th Cong., 1st Sess. (Mar. 8, 2011) – available at: <http://www.gpo.gov/fdsys/pkg/BILLS-112hr942ih/pdf/BILLS-112hr942ih.pdf>.

⁵ S. 1203, 111th Cong., 1st Sess. (Jun. 8, 2009) – available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s1203is.txt.pdf.

⁶ Pub. L. No. 97-34 (Aug. 13, 1981).

⁷ Pub. L. No. 109-432, § 104, Tax Relief and Health Care Act of 2006 (Dec. 20, 2006) – available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ432.109.pdf.

⁸ Pub. L. No. 104-188, § 1204, Enacted in the Small Business Protection Act (Aug. 20, 1996) – available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_public_laws&docid=f:publ188.104.pdf.

⁹ Repealed by EESA, Pub. L. No. 110-343, Division C, § 302 (Oct. 3, 2008) – available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ343.110.pdf.