

105TH CONGRESS
2D SESSION

S. 2268

To amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 7, 1998

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PERMANENT EXTENSION OF RESEARCH CRED-**

4 **IT.**

5 (a) IN GENERAL.—Section 41 of the Internal Reve-
6 nue Code of 1986 (relating to credit for increasing re-
7 search activities) is amended by striking subsection (h).

8 (b) CONFORMING AMENDMENT.—Section 45C(b)(1)
9 of the Internal Revenue Code of 1986 is amended by strik-
10 ing subparagraph (D).

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to amounts paid or incurred after
 3 June 30, 1998.

4 **SEC. 2. IMPROVED ALTERNATIVE INCREMENTAL CREDIT.**

5 (a) IN GENERAL.—Section 41 of the Internal Reve-
 6 nue Code of 1986 (as amended by section 1 of this Act)
 7 is amended by adding at the end of the following new sub-
 8 section:

9 “(h) ELECTION OF ALTERNATIVE INCREMENTAL
 10 CREDIT.—

11 “(1) IN GENERAL.—At the election of the tax-
 12 payer, the credit under subsection (a)(1) shall be de-
 13 termined under this subsection by taking into ac-
 14 count the modifications provided by this subsection.

15 “(2) DETERMINATION OF BASE AMOUNT.—

16 “(A) IN GENERAL.—In computing the base
 17 amount under subsection (c)—

18 “(i) notwithstanding subsection (c)(3),
 19 the fixed-base percentage shall be equal to
 20 85 percent of the percentage which the ag-
 21 gregate qualified research expenses of the
 22 taxpayer for the base period is of the ag-
 23 gregate gross receipts of the taxpayer for
 24 the base period, and

1 “(ii) the minimum base amount under
2 subsection (c)(2) shall not apply.

3 “(B) START-UP AND SMALL TAXPAYER.—
4 In computing the base amount under subsection
5 (c), the gross receipts of a taxpayer for any tax-
6 able year in the base period shall be treated as
7 at least equal to \$1,000,000.

8 “(C) BASE PERIOD.—For purposes of this
9 subsection, the base period is the 8-taxable year
10 period preceding the taxable year (or, if shorter,
11 the period the taxpayer (and any predecessor)
12 has been in existence).

13 “(3) QUALIFIED RESEARCH.—

14 “(A) IN GENERAL.—Notwithstanding sub-
15 section (d), the term ‘qualified research’ means
16 research with respect to which expenditures are
17 treated as research and development costs for
18 the purposes of a report or statement concern-
19 ing such taxable year—

20 “(i) to shareholders, partners, or
21 other proprietors, or to beneficiaries, or

22 “(ii) for credit purposes.

23 Such term shall not include any research de-
24 scribed in subparagraph (F) or (H) of sub-
25 section (d)(4).

1 “(B) FINANCIAL ACCOUNTING STAND-
2 ARDS.—

3 “(i) IN GENERAL.—Subparagarph (A)
4 shall only apply to the extent that the
5 treatment of expenditures as research and
6 development costs is consistent with the
7 Statement of Financial Standards No. 2
8 Accounting for Research and Development
9 Costs.

10 “(ii) SIGNIFICANT CHANGES.—If the
11 Secretary determines that there is any sig-
12 nificant change in the accounting stand-
13 ards described in clause (i) after the date
14 of enactment of this subsection—

15 “(I) the Secretary shall notify the
16 Committee on Ways and Means of the
17 House of Representatives and the
18 Committee on Finance of the Senate
19 of such change, and

20 “(II) such change shall not be
21 taken into account for any taxable
22 year beginning before the date which
23 is 1 year after the date of notice
24 under subclause (I).

1 “(C) TRANSITION RULE.—At the election
2 of the taxpayer, this paragraph shall not apply
3 in computing the base amount for any taxable
4 year in the base period beginning before Janu-
5 ary 1, 1999.

6 “(4) ELECTION.—An election under this sub-
7 section shall apply to the taxable year for which
8 made and all succeeding taxable year unless revoked
9 with the consent of the Secretary.”

10 (b) ASSISTANCE OF SMALL AND START-UP BUSI-
11 NESSES.—The Secretary of the Treasury of his delegate
12 shall take such actions as are appropriate to—

13 (1) provide assistance to small and start-up
14 businesses in complying with the requirements of
15 section 41 of the Internal Revenue Code of 1986,
16 and

17 (2) reduce the costs of such compliance.

18 (c) CONFORMING AMENDMENT.—Section 41(c) of the
19 Internal Revenue Code of 1986 is amended by striking
20 paragraph (4) and redesignating paragraphs (5) and (6)
21 as paragraphs (4) and (5), respectively.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 1998.

1 **SEC. 3. MODIFICATIONS TO CREDIT FOR BASIC RESEARCH.**

2 (a) **ELIMINATION OF INCREMENTAL REQUIRE-**
3 **MENT.—**

4 (1) **IN GENERAL.—**Paragraph (1) of section
5 41(e) of the Internal Revenue Code of 1986 is
6 amended to read as follows:

7 “(1) **IN GENERAL.—**The amount of basic re-
8 search payments taken into account under sub-
9 section (a)(2) shall be determined in accordance with
10 this subsection.”

11 (2) **CONFORMING AMENDMENTS.—**

12 (A) Section 41(a)(2) of such Code is
13 amended by striking “determined under sub-
14 section (e)(1)(A)” and inserting “for the tax-
15 able year”.

16 (B) Section 41(e) of such Code is amended
17 by striking paragraphs (3), (4), and (5) and by
18 redesignating paragraphs (6) and (7) as para-
19 graphs (3) and (4), respectively.

20 (C) Section 41(e)(4) of such Code (as re-
21 designated) is amended by striking subpara-
22 graph (B) and by redesignating subparagraphs
23 (C), (D), and (E) as subparagraphs (B), (C),
24 and (D), respectively.

1 (D) Clause (i) of section 170(e)(4)(B) of
2 such Code is amended by striking “section
3 41(e)(6)” and inserting “section 41(e)(3)”.

4 (b) BASIC RESEARCH.—

5 (1) SPECIFIC COMMERCIAL OBJECTIVE.—Sec-
6 tion 41(e)(4) of the Internal Revenue Code of 1986
7 relating to definitions and special rules) is amended
8 by adding at the end the following new subpara-
9 graph:

10 “(F) SPECIFIC COMMERCIAL OBJECTIVE.—
11 For purposes of subparagraph (A), research
12 shall not be treated as having a specific com-
13 mercial objective if all results of such research
14 are to be published in such a manner as to be
15 available to the general public prior to their use
16 for a commercial purpose.”

17 (2) EXCLUSIONS FROM BASIC RESEARCH.—Sec-
18 tion 41(e)(4)(A) of the Internal Revenue Code of
19 1986 (as redesignated by subsection (a)) is amended
20 by striking clause (ii) and inserting the following:

21 “(ii) basic research in the arts or hu-
22 manities.”

23 (c) EXPANSION OF CREDIT TO RESEARCH AT FED-
24 ERAL LABORATORIES.—Section 41(e)(3) of the Internal
25 Revenue Code of 1986 (as redesignated by subsection

1 (a)(2)(C) of this section) is amended by adding at the end
 2 the following new subparagraph:

3 “(E) FEDERAL LABORATORIES.—Any or-
 4 ganization which is a federal laboratory within
 5 the meaning of that term is section 4(6) of the
 6 Stevenson-Wydler Technology Innovation Act of
 7 1980 (15 U.S.C. 3703(6)).”

8 (d) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years beginning after
 10 December 31, 1998.

11 **SEC. 4. CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-**
 12 **TAIN COLLABORATIVE RESEARCH CONSOR-**
 13 **TIA.**

14 (a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-
 15 TAIN COLLABORATIVE RESEARCH CONSORTIA.—Sub-
 16 section (a) of section 41 of the Internal Revenue Code of
 17 1986 (relating to credit for increasing research activities)
 18 is amended by—

19 (1) striking “and” at the end of paragraph (1);

20 (2) striking the period at the end of paragraph

21 (2) and inserting “, and ”; and

22 (3) adding at the end the following new para-
 23 graph:

1 “(3) 20 percent of the amounts paid or in-
2 curred during the taxable year (including as con-
3 tributions) to a qualified research consortium.”

4 (b) QUALIFIED RESEARCH CONSORTIUM DE-
5 FINED.—Subsection (f) of such Code is amended by add-
6 ing at the end the following new paragraph:

7 “(6) QUALIFIED RESEARCH CONSORTIUM.—The
8 term ‘qualified research consortium’ means any or-
9 ganization which—

10 “(A) is described in section 501(c)(3) and
11 is exempt from tax under section 501(a),

12 “(B) is organized and operated primarily
13 to conduct scientific or engineering research,

14 “(C) is not a private foundation,

15 “(D) to which at least 15 unrelated per-
16 sons paid or incurred (including as contribu-
17 tions), during the calendar year in which the
18 taxable year of the organization begins,
19 amounts to such organization for scientific or
20 engineering research,

21 “(E) to which no 3 unrelated persons paid
22 or incurred (including as contributions) during
23 such calendar year more than 50 percent of the
24 total amounts received by such organization

1 during such calendar year for scientific or engi-
2 neering research, and

3 “(F) to which no single person paid or in-
4 curred (including as contributions) more than
5 25 percent of such total amounts.

6 All persons treated as a single employer under sub-
7 section (a) or (b) of section 52 shall be treated as
8 related persons for purposes of subparagraphs (D)
9 and (E), and as a single person for purposes of sub-
10 paragraph (F).”

11 (c) CONFORMING AMENDMENT.—Paragraph (3) of
12 section 41(b) of such Code is amended by striking sub-
13 paragraph (C).

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 1998.

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