



TaxNewsFlash

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LB&I directive: Research credit for increasing research activities under section 41

The IRS Large Business & International (LB&I) division today announced the release of a directive as guidance for IRS examiners regarding taxpayer claims for the research credit for increasing research activities under section 41.

LB&I directive

According to the LB&I directive, if a taxpayer complies with the certification requirements contained within this directive:

- LB&I examiners will not challenge qualified research expenses (QREs) that are the adjusted ASC 730 financial statement R&D costs for the credit year. The adjusted ASC 730 financial statement R&D must be computed in accordance with both the method reflected in an appendix and the “definitions” section of the directive.
- Any additional amounts of QREs claimed by the taxpayer on Form 6765 for the credit year over the adjusted ASC 730 financial statement R&D amount will be subject to risk assessment to determine the scope of an examination, if warranted.

The directive is identified as: *Guidance for Allowance of the Credit for Increasing Research Activities under I.R.C §41 for Taxpayers that Expense Research and Development Costs on their Financial Statements pursuant to ASC 730*, [LB&I-04-0917-005](#) (September 11, 2017)

Read a related IRS release—[IR-2017-158](#) (September 22, 2017)

Overview

For purposes of this release:

- The directive applies only to original returns that are timely filed (including extensions) on or after the date of the directive for LB&I taxpayers who choose to follow the terms of this directive.
- The directive is intended to provide an efficient manner of determining QREs for LB&I taxpayers that meet the requirements of the directive, for efficient management of LB&I audit resources.
- The directive provides an administrative solution to accept as sufficient evidence of QREs the “adjusted ASC 730 financial statement R&D” for the credit year—meaning the research and development costs currently expensed on a taxpayer’s certified audited financial statements pursuant to ASC 730 for U.S. GAAP purposes (ASC 730 Financial Statement R&D) and includes certain specified adjustments made to ASC 730 Financial Statement R&D.
- The directive only applies to LB&I taxpayers (those with assets equal to or greater than \$10 million) that follow U.S. GAAP to prepare their certified audited financial statements and that show as a separate line item on the income statement included in their certified audited financial statements (or in a separately stated note) the amount of the currently expensed ASC 730 Financial Statement R&D.

KPMG observation

This directive is being viewed by tax professionals as a welcomed development because it may lead to significant efficiencies for taxpayers, practitioners, and the IRS. An initial review of the directive reveals that among the notable measures are the following:

- Although the directive requires, inter alia, that a taxpayer follow U.S. GAAP to prepare certified audited financial statements and expense R&D costs on the financial statements pursuant to ASC 730, it is available regardless of the taxpayer’s industry.
- Although there is a minimum threshold for application (i.e., assets equal to or greater than \$10 million), there is no maximum.
- Taxpayers that meet the standards described in the directive may take advantage of it, but are not required to apply it.

KPMG’s Research Credit Services team

KPMG’s Research Credit Services (RCS) team has extensive experience with the R&D tax credit and can assist with the R&D credit claims process and in meeting the requirements of this new LB&I directive. For more information, contact any of the individuals listed below:

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