



# TaxNewsFlash

## United States



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## IRS provides FAQs regarding research credit claims

The IRS has published a set of “frequently asked questions” (FAQs) concerning claims for the research credit.

The [FAQs](#) (dated January 5, 2022) reflect that a one-year transition period will be in effect from the expiration of a “grace period” that ends January 10, 2022. The FAQs were published simultaneously with a [memo](#) [PDF 215 KB] (LB&I-04-0122-0001) from the IRS Large and Midsize Business (LB&I) division that also provides interim guidance on claims for refund that include a claim for credit for increasing research activities along with related changes to the Internal Revenue Manual (IRM).

### Overview

The IRS in October 2021 released a legal advice memorandum (from the Office of the Chief Counsel) that sets forth the information that taxpayers will be required to include for a valid claim for a refund relating to the research credit.

Existing Treasury regulations require that for a refund claim to be valid, it must set forth sufficient facts to apprise the IRS of the basis of the claim. According to the legal advice memo (and the updated FAQs), for a section 41 research credit claim for refund to be considered a valid claim, at the time the refund claim is filed, taxpayers must:

- Identify all the business components to which the section 41 research credit claim relates for that year.
- Identify for each business component all research activities performed and name the individuals who performed each research activity, as well as the information each individual sought to discover.
- Provide the total qualified employee wage expenses, total qualified supply expenses, and total qualified contract research expenses for the claim year

The IRS stated that a grace period is available until January 10, 2022, before the IRS requires the inclusion of this information with timely filed section 41 research credit refund claims. After this date, there will be a one-year transition period during which taxpayers will have 30 days to perfect a research credit claim for refund prior to the final determination by the IRS on the claim. Read [TaxNewsFlash](#)

The FAQs generally reflect this information and set out the guidance under the following topics:

- Guidance and process for including the five items of information on amended returns
- Special circumstances

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