

TaxNewsFlash

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Seventh Circuit: Research tax credit disallowed, Tax Court affirmed

The U.S. Court of Appeals for the Seventh Circuit today affirmed a decision of the U.S. Tax Court disallowing a taxpayer's research tax credit claimed under sections 38 and 41(a) for expenses incurred by the taxpayer's shipbuilding subsidiary in designing and constructing 11 vessels it had never built before.

The case is: *Little Sandy Coal Company, Inc. v. Commissioner*, No. 21-3145 (7th Cir. March 7, 2023). Read the Seventh Circuit's [decision](#) [PDF 386 KB]

Summary

The Tax Court determined that the taxpayer did not meet its burden of proof that substantially all (80% or more) of its "research activities" constituted elements of a process of experimentation. Read *TaxNewsFlash*

The Seventh Circuit stated that although it disagreed with some aspects of the Tax Court's reasoning, ultimately the taxpayer claimed more tax credit than it could prove. The taxpayer did not offer a principled way to determine what portion of the employee activities for each vessel constituted elements of a process of experimentation, much less research activities. Instead, the taxpayer relied on arbitrary estimates and the newness of the vessels.

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