



TaxNewsFlash

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Notice 2023-63: Guidance on application of section 174

The IRS today released an advance version of [Notice 2023-63](#) [PDF 271 KB] providing interim guidance intended to clarify the application of section 174, as amended by Pub. L. No. 115-97 (commonly referred to as the “Tax Cuts and Jobs Act” (TCJA)).

The notice includes guidance addressing:

- Capitalization and amortization of specified research or experimental (SRE) expenditures under section 174, as amended
- Treatment of SRE expenditures under section 460
- Application of section 482 to cost sharing arrangements involving SRE expenditures

The notice also announces that the Treasury Department and the IRS intend to issue proposed regulations providing rules consistent with the guidance in the notice applicable for tax years ending after September 8, 2023, and until then taxpayers may rely on the interim guidance in the notice, provided the taxpayer applies all of the rules in a consistent manner. However, taxpayers may not rely on the rules in section 7 of the notice for SRE expenditures paid or incurred with respect to property that is contributed to, distributed from, or transferred from a partnership.

The notice further announces that the Treasury Department and IRS intend to issue guidance providing procedures for taxpayers to obtain automatic consent to change methods of accounting to comply with the notice, and until then taxpayers may rely on section 7.02 of Rev. Proc. 2023- 24 to change their methods of accounting under section 174 to comply with the notice. The Treasury Department and IRS anticipate issuing updated procedures that will address situations in which taxpayers have, prior to the issuance of the notice, changed methods of accounting to comply with section 174 as amended by the TCJA but whose treatment of SRE expenditures is not entirely consistent with the notice.

The notice specifically states that the guidance in the notice does not apply for purposes of determining whether an expenditure paid or incurred for taxable years beginning before January 1, 2022, is a research or experimental expenditure under section 174 as in effect for tax years beginning before January 1, 2022. In addition, the notice provides guidance regarding expenditures that are treated as SRE expenditures under section 174 and, therefore, affects expenditures that may be treated as SRE

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expenditures for purposes of section 41(d)(1)(A) and Treas. Reg. § 1.41-4(a)(2)(i), but the notice is not intended to change the rules for determining eligibility for or computation of the research credit under section 41, including rules for “research with respect to computer software,” and the definitions of “qualified research” and “qualified research expenses.”

Comments on the notice are generally requested, along with comments on specific issues and issues not addressed in the notice.

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