ABOUT KBKG

Established in 1999 with offices across the US, KBKG provides turn-key tax solutions to CPAs and businesses. By focusing exclusively on value-added tax services that complement your traditional tax and accounting team, we always deliver quantifiable benefits to clients.

Our firm provides access to our knowledge base and experienced industry leaders. We help determine which tax programs benefit clients and stay committed to handling each relationship with care and diligence. Our ability to work seamlessly with your team is the reason so many tax professionals and businesses across the nation trust KBKG.

SERVICES OVERVIEW

Research & Development Tax Credits

Federal credit worth approximately 10% of every qualified dollar spent on developing brand new or improving existing products, processes, software, and formulae.

Cost Segregation for Buildings and Improvements

Any building improvement over $750,000 should be reviewed for proper classification of the individual components for tax depreciation, and retirement purposes.

45L Credits for Energy Efficient Residential Developments

Newly constructed or renovated apartments, condos, and tract home developments that meet certain criteria are eligible for a $2,000 credit per unit.

179D Incentive for Energy Efficient Commercial Buildings

Federal deduction worth $1.80 per square foot of energy-efficient buildings. Available to architects, engineers, design/build contractors and building owners.

IC-DISC

The Interest Charge Domestic International Sales Corporation (ICDISC) offers significant Federal income tax savings for making or distributing U.S. products for export. IC-DISC benefits are available to qualified producers or distributors that are either directly involved in exporting, or selling products to distributors or wholesalers who resell for use outside of theU.S.

Transfer Pricing Services

The cross-border transfer prices of goods, royalties, services, and loans drive how much income tax a multinational company pays by country. We assist US and international companies in establishing, documenting, and defending transfer pricing practices for the IRS and international tax authorities.

Fixed Asset Review

While a cost segregation study focuses on buildings, a comprehensive Fixed Asset Tax Review encompasses all fixed assets a company owns including real property, machinery, furniture, fixtures, and equipment.

Repair vs. Capitalization Review §263(a)

Taxpayers often capitalize major building expenditures that should be expensed as repairs and maintenance such as HVAC units, roofs, plumbing, lighting and more. Retirement loss deductions for demolished building structural components are also identified.

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INDUSTRY MATRIX FOR TAX SAVING OPPORTUNITIES

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SOLUTIONS FOR TAX PROFESSIONALS AND BUSINESSES

Tax Credits • Incentives • Cost Recovery

At KBKG, we are committed to identifying all possible tax saving opportunities for our clients and CPA partners. Our detailed Industry Matrix helps quickly determine which tax credits and deductions apply by industry at a glance. Our chart alone provides some insight to ensure that businesses are seeking out all potential benefits; however, KBKG's certified engineers and technical experts perform a thorough assessment during the engagement process to be sure all possible incentives are identified and considered.

INDUSTRY	R&D TAX CREDITS	REPAIR/ ASSET RETIREMENT	45L TAX CREDITS	179D TAX DEDUCTIONS	COST SEGREGATION / FIXED ASSET	IC-DISC	*TRANSFER PRICING	EMPLOYEE RETENTION TAX CREDIT
Affordable Housing		✓	✓	✓	✓			✓
Agriculture, Forestry & Fishing	✓				✓	✓	✓	✓
Architecture & Engineering	✓			✓	✓	✓		✓
Auto Dealerships		✓		✓	✓			✓
Cannabis	✓				✓			✓
Communications & Utilities	✓	✓			✓	✓		✓
Construction	✓				✓			✓
Film & Music	✓				✓	✓	✓	✓
Financial Services	✓	✓			✓		✓	✓
Government Contractors	✓			✓	✓	✓		✓
Healthcare	✓	✓		✓	✓		✓	✓
Home Builder			✓					✓
Hotels	✓	✓		✓	✓		✓	✓
Manufacturing & Distribution	✓	✓		✓	✓	✓	✓	✓
Mining	✓				✓	✓	✓	✓
Multifamily Developers		✓	✓	✓	✓			✓
Oil & Gas	✓	✓			✓		✓	✓
Pharmaceutical	✓	✓		✓	✓	✓	✓	✓
Professional Services	✓	✓			✓		✓	✓
Real Estate		✓		✓	✓			✓
Restaurants		✓			✓			✓
Retail	✓	✓		✓	✓			✓
Technology/Software	✓				✓	✓	✓	✓
Transportation	✓				✓		✓	✓
Wholesale Trade	✓	✓		✓	✓	✓	✓	✓

**May apply to any industry as long as the company has cross border subsidiaries. Industries indicated are more likely to have multinational business.*

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IDENTIFYING VALUE-ADDED TAX OPPORTUNITIES

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KBKG SERVICE	DESCRIPTION & HIGHLIGHTS	APPLICABLE CLIENTS & INDUSTRIES	HOW MUCH IS IT WORTH?	TAX CONSIDERATIONS
RESEARCH & DEVELOPMENT TAX CREDITS (FEDERAL & STATE)	Federal and State tax credit – designed to promote innovation. Expenses incurred in the United States and that meet the qualification criteria can result in a credit. Qualifying expenses can include wages paid to employees, supplies used in the research process, and payments made to contractors for performing qualified research.	Clients developing brand new products, processes, software, or formula. Clients materially improving existing products, processes, software or formula. Clients that employ those with technical backgrounds including: • Manufacturing • Software Development • Architecture • High Tech • Food & Beverage • Equipment or tools • Life Sciences • Agriculture	**Federal Benefit - Roughly 10% of their total Qualified R&D Expenses** Ex.: Client has $1M/year of wages related to R&D. Benefit = $100k in gross credits per year. Many states also allow an R&D credit. For example, CA R&D Credit is worth an additional 7.5% of Qualified R&D expenses.	• Dollar-for-dollar reduction in income tax liabilities. • 1-year carryback / 20-year carryforward of unused credits. • Qualified small businesses can reduce alternative minimum tax liabilities. • Qualified start-up companies can offset up to $250,000 in payroll taxes.
COST SEGREGATION (FEDERAL & STATE)	Allows **taxpayers who have constructed, purchased, expanded, or remodeled any kind of real estate** to accelerate depreciation deductions by reclassifying building components into shorter tax lives.	Any b**uilding with over $750k** of depreciable tax basis (excluding land). Any **leasehold improvement with over $500k** of depreciable tax basis (excluding land). Any smaller **residential rental property with over $150k** of depreciable tax basis (excluding land) can utilize KBKG's online software to generate a cost segregation report.	Net Present Value is roughly **5% of the total building cost.** Ex.: $2M office can yield an after-tax NPV of $100k.	• Reduces AMT • Starting in 2018, unused deductions carryforward. • Must recapture personal property and bonus eligible assets upon the sale of a building.
TRANSFER PRICING (INTERNATIONAL)	Federal credit for developers of **apartments, condos, or spec homes** that meet The transfer prices of goods, royalties, services, and loans drive how much income tax is paid by country. Corrections to transfer pricing may lead to significant improvements in a company's global effective tax rate. Savings dependent on differences in tax rates between countries and can be significant. Tax reform provides incentives for companies to generate income in the US with lower rates certain energy efficiency standards. Units must be certified by a qualified professional to be eligible.	All US and foreign-owned multinational companies. Transfer pricing rules apply to goods, services, royalties, loans and other cross-border transactions in all industries Companies with supply chain restructuring programs, new R&D facilities, or international subsidiaries are often best placed to realize benefits.	US tax reform has created opportunities to improve global effective tax rates through changes to transfer prices, e.g. • Foreign Derived Intangible Income ("FDII") allows C-Corporations to pay a 13.125% rate on some export income • Changes to transfer prices of imported goods may also lead to tax savings at the 21% rate. • Substantial benefits when correcting transfer pricing to utilize tax net operating losses.	Companies without transfer pricing documentation can face additional tax, interest, non-deductible penalties and double tax for all open tax years. Tax authorities are concerned about multinational companies paying their "fair share" of income tax in each country where they operate.

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IDENTIFYING VALUE-ADDED TAX OPPORTUNITIES

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KBKG SERVICE	DESCRIPTION & HIGHLIGHTS	APPLICABLE CLIENTS & INDUSTRIES	HOW MUCH IS IT WORTH?	TAX CONSIDERATIONS
RESIDENTIAL ENERGY CREDITS / SECTION 45L (FEDERAL / STATES CAN HAVE SIMILAR PROGRAMS)	Federal credit for developers of **apartments, condos, or spec homes** that meet certain energy efficiency standards. Units must be certified by a qualified professional to be eligible.	Anyone that has built apartments, condos or production home developments (3 stories or less), in the last 4 years. **Generally, more than 20 units.**	**Federal credit = $2,000 per apartment/home unit.** **Many states have similar credits.** Ex.: 100-unit apartment/ condo can get $200,000 of Federal Tax Credits.	• Credit is realized when unit is first leased or sold, not placed in service. • 1-year carryback • 20-year carryforward. • Does not reduce AMT. • Subject to passive activity loss rules • Credit reduces basis.
COMMERCIAL ENERGY DEDUCTIONS / SECTION 179D (FEDERAL/ STATES CAN HAVE SIMILAR PROGRAMS)	Federal deduction for **architects, engineers, and design/build contractors** that work on public or government buildings such as schools, libraries, courthouses, military housing etc. **Also available to any commercial building owner.**	• **179D for designers:** Architects, general contractors, engineers, electrical & HVAC subcontractors. • **Any building owner or lessee:** That has constructed a commercial improvement greater than 50,000 SF since 1/1/2006.	**$.30 up to $1.80 per square foot in federal tax deductions.** Ex.: 100,000SF building is eligible for $180,000 in deductions.	• Reduces AMT • Deduction reduces basis in real property. • Designers must amend open tax years to claim. • Owners can go back to 2006 with Form 3115 to claim missed deductions.
FIXED ASSET TAX REVIEW (FEDERAL)	Comprehensive review of a company's entire fixed asset listing and supporting documents to assign appropriate tax lives, identify retirements, and correct items that should be expensed. Includes cost segregation and repair analysis.	Operations with > $40M in real property or > 500 lines of fixed assets. • Retail, restaurant, bank and hotel chains of 10 or more • Manufacturing • Utility companies	Net present value (NPV) of 5-8% of total building-related costs. Ex.: Manufacturing client has $60M of 39-year fixed assets. NPV Cash value = $3M -$4.8M	• Reduces AMT • Starting in 2018, unused deductions carryforward. • Must recapture personal property and bonus eligible assets upon the sale of a building.
REPAIR V. CAPITALIZATION REVIEW "ASSET RETIREMENT STUDY" (FEDERAL)	New rules allow you to assign value to "structural" components removed from a building and write off the remaining basis. Regs also clarify repair expense treatment of many types of building costs such as HVAC or roof replacements. KBKG also provides compliance consulting for repair and disposition regulations.	**Any building renovation costs > $400k** **Retirement Study -** Building is renovated AFTER owning it at least 1 year. Building should have **> $500K of remaining depreciable basis left.** **Repair Study** - renovations that include **roof, HVAC, windows, lighting, plumbing, ceilings, drywall, flooring, etc.**	Additional Year 1 deductions of **15%-40% of renovation costs (on top of benefits from 1245 reclassification)** Ex.: Client spends $3M on structural renovations. Additional Year 1 deductions of $450K-$1.2M.	• Depending on project specifics, may require a separate 3115 if doing concurrently with a depreciation change.
IC-DISC FEDERAL INCOME TAX INCENTIVE (FEDERAL)	The IC-DISC provides significant and permanent tax savings for producers and distributors of U.S.-made products and certain services used abroad.	**Any closely held, privately owned business with over $250,000 in profits from exports** • Manufacturers • Distributors • Architects & Engineers • Agriculture and Food Producers • Software Developers • Other Producers	Minimum permanent **17% decrease in tax rate on half of export profits.** Benefits can be dramatically higher by performing a transaction-by-transaction analysis.	• Requires annual filing 1120 IC-DISC. • No changes to business operations. • Benefits begin when entity is formed.

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Qualified Improvements - Depreciation Quick Reference (updated 3/30/2020)

	Applicable PIS Dates (inclusive)	MACRS GDS Recovery Period	Bonus Dep Eligible	3 Year Rule	Unrelated Parties Rule	179 Expense Eligible	Important Notes	Code Section
Qualified **Improvement** Property (QIP): 2018 - Onward	01/01/18 - onward	15 Year / SL	Y	N	N	Y [9]	Applies to interior common areas. Building can be owner occupied. No 3-year rule. See exclusions in definition.	168(e)(6)
Qualified **Improvement** Property (QIP): 2016 - 2017	1/1/16 - 12/31/17	39 [5] Year / SL	Y	N	N	N [7]	Applies to interior common areas. Building can be owner occupied. No 3-year rule. See exclusions in definition.	168(k)(3)
Qualified **Leasehold** Improvements (QLI): 2004 - 2017	10/23/04 - 12/31/17	15 Year / SL	Y [1]	Y	Y	2010 - 2017 [6]	Landlord or lessee can make the interior improvement. See exclusions in definition.	168(e)(6)
Qualified **Leasehold** Improvements (QLI): 2001 - 2004 Partial	9/11/01 - 10/22/04	39 Year / SL	Y	Y	Y	N/A	39 year QLI qualifies for Bonus. Landlord or lessee can make the interior improvement. See exclusions in definition.	168(e)(6)
Qualified **Retail** Improvement Property: 2016 - 2017	1/1/16 - 12/31/17	15 Year / SL	Y	Y	N	2010 - 2017 [6]	Building can be owner occupied. See exclusions in definition.	168(e)(8)
Qualified **Retail** Improvement Property: 2009-2015	1/1/09 - 12/31/15	15 Year / SL	N [2]	Y	N	2010 - 2017 [6]	Building can be owner occupied. See exclusions in definition.	168(e)(8)
Qualified **Restaurant** Property: 2009 - 2017	1/1/09 - 12/31/17	15 Year / SL	N [4]	N	N	2010 - 2017 [6]	Encompasses the entire building structure as well as interior costs. Can be an acquired building.	168(e)(7)
Qualified **Restaurant** Property: 2008	1/1/08 - 12/31/08	15 Year / SL	Y	Y	N	N/A	Applicable to all improvements attached to building.	168(e)(7)
Qualified **Restaurant** Property: 2004-2007	10/23/04 - 12/31/07	15 Year / SL	N [3]	Y	N	N/A	Applicable to all improvements attached to building.	168(e)(7)

Bonus Depreciation Rates (inclusive dates)

9/11/01 - 5/5/03 [8]	30%
5/6/03 - 12/31/04 & 1/1/08 - 9/8/10 [8]	50%
9/9/10 - 12/31/11 [8]	100%
1/1/12 - 9/27/17 [8]	50%
9/28/17 - 12/31/22 [8, 10, 11]	100%
1/1/23 - 12/31/23 [8, 10, 11]	80%
1/1/24 - 12/31/24 [8, 10, 11]	60%
1/1/25 - 12/31/25 [8, 10, 11]	40%
1/1/26 - 12/31/26 [8, 10, 11]	20%

Footnotes:

1) NOT eligible for bonus if placed in service 1/1/2005 - 12/31/2007.

2) Retail Improvements are not eligible for bonus depreciation unless it meets the criteria for QLI.

3) Qualified Restaurant Property is eligible for bonus depreciation if placed in service 10/23/2004 - 12/31/2004.

4) Improvements that also meet the criteria for QLI are eligible for bonus depreciation. After 2015, improvements that also meet the criteria for QIP are eligible for bonus depreciation. Restaurant property that is acquired 9/28/2017-12/31/2017 is fully expensed (subject to written binding contract rules).

5) Improvements that meet the definition of Qualified Improvement Property and meet the definition of QLI , Qualified Retail Improvements, or Qualified Restaurant Property can be depreciated over a 15-year straight line period.

6) Eligible up to $250k from 2010 - 2015; 2016 and 2017 are subject to normal 179 expense cap.

7) Improvements that meet the definition of Qualified Improvement Property and meet the definition of QLI , Qualified Retail Improvements, or Qualified Restaurant Property qualify for the 179 Expense.

8) Long Production Period (QLIs over $1M and construction period exceeds 1 year) - can be placed in service one year after bonus normally expires. QLI (that is also LPP) started before 1/1/2012 can be entirely eligible for 100% bonus if completed during 2012. Bonus is applicable if LPP is started before 1/1/2027. Only pre-1/1/2027 basis is bonus eligible on any LPP.

9) Section 179 rules are modified to include certain improvements to buildings. See 179 Expense notes on page 2.

10) Bonus depreciation is available for used property placed in service after 9/27/17, however it is does not apply to the portion where the taxpayer previously had a depreciable interest.

11) Bonus is not available to taxpayers with floor plan financing (motor vehicle, boat, farm machinery) unless they are exempt from business interest limitations.

Section 179 Expense Limitations (Dates, Dollar Limit, Reduction)		
01/01/11 - 12/31/17	$500,000	$2,000,000
1/1/18 onward [1]	$1,000,000 [2]	$2,500,000 [2]

Footnotes:

1) In 2018 onward, the Section 179 expense includes improvements to the following non-residential real property that are placed in service after the date such property was first placed in service: roofs; heating, ventilation, and air-conditioning; fire protection and alarm systems; and security systems. 179 expensing does not apply to certain non-corporate lessors. See Sec. 179(d)(5)

Qualified Section 179 property now includes depreciable tangible personal property used to furnish lodging (e.g. residential rental properties, hotels, etc).

2) Any taxable year beginning after 2018, the dollar amounts will be indexed for inflation.

Definitions:

3 Year Rule: The improvements must have been placed in service by any taxpayer more than three years after the date the building was first placed into service.

Leased Between Unrelated Party Qualification: Improvements must be made subject to a lease between unrelated parties (see code section 1504). Can be made by lessees, sub-lessees or lessors to an interior portion of a nonresidential building. Parties are related when there is more than 80% ownership shared between them.

Long Production Period Property: 168(k)(2)(B) - Must have a recovery period of at least 10 years, is subject to section 263A, has an estimated production period exceeding 2 years, or an estimated production period exceeding 1 year and a cost exceeding $1,000,000.

Qualified leasehold improvement property (QLI)[A] 2001-2017 (A) Any improvement to an interior portion of a building which is nonresidential real property if— (i) such improvement is made under or pursuant to a lease (I) by the lessee (or any sublessee) of such portion, or (II) by the lessor of such portion, (ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and (iii) such improvement is placed in service more than 3 years after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) any structural component benefiting a common area, and (iv) the internal structural framework of the building.

Qualified retail improvement property[A] 2009-2017: Any improvement to an interior portion of a building which is nonresidential real property if— (i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and (ii) such improvement is placed in service more than 3 years after the date the building was first placed in service. QRIP shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) any structural component benefitting a common area, or (iv) the internal structural framework of the building.

Qualified restaurant property[B] 2004-2008: an improvement to a building if— (A) Such improvement is placed in service more than 3 years after the date such building was first placed in service, and (B) more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

Qualified restaurant property[B] 2009-2017 Any section 1250 property which is (i) a building or improvement to a building — if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals, and (ii) if such building is placed in service after December 31, 2008

Qualified improvement property[A] (QIP) 2016-2017: (A) Any improvement to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) the internal structural framework of the building.

Qualified improvement property[A] (QIP) 2018-onward: (A) Any improvement *made by the taxpayer* to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) the internal structural framework of the building.

Other notes:

A) Tenant improvements that include costs for HVAC rooftop units are excluded from the definition of Qualified Leasehold Improvements (QLI), Qualified Retail Improvements, and Qualified Improvement Property (CCA 201310028)

B) Restaurant tenant improvements located within a multi-tenant building where 50 percent of the building's total square footage is not leased to restaurants, do not meet the definition of Qualified Restaurant Property.

KBKG REPAIR VS. CAPITALIZATION:
IMPROVEMENT DECISION TREE - FINAL REGULATIONS

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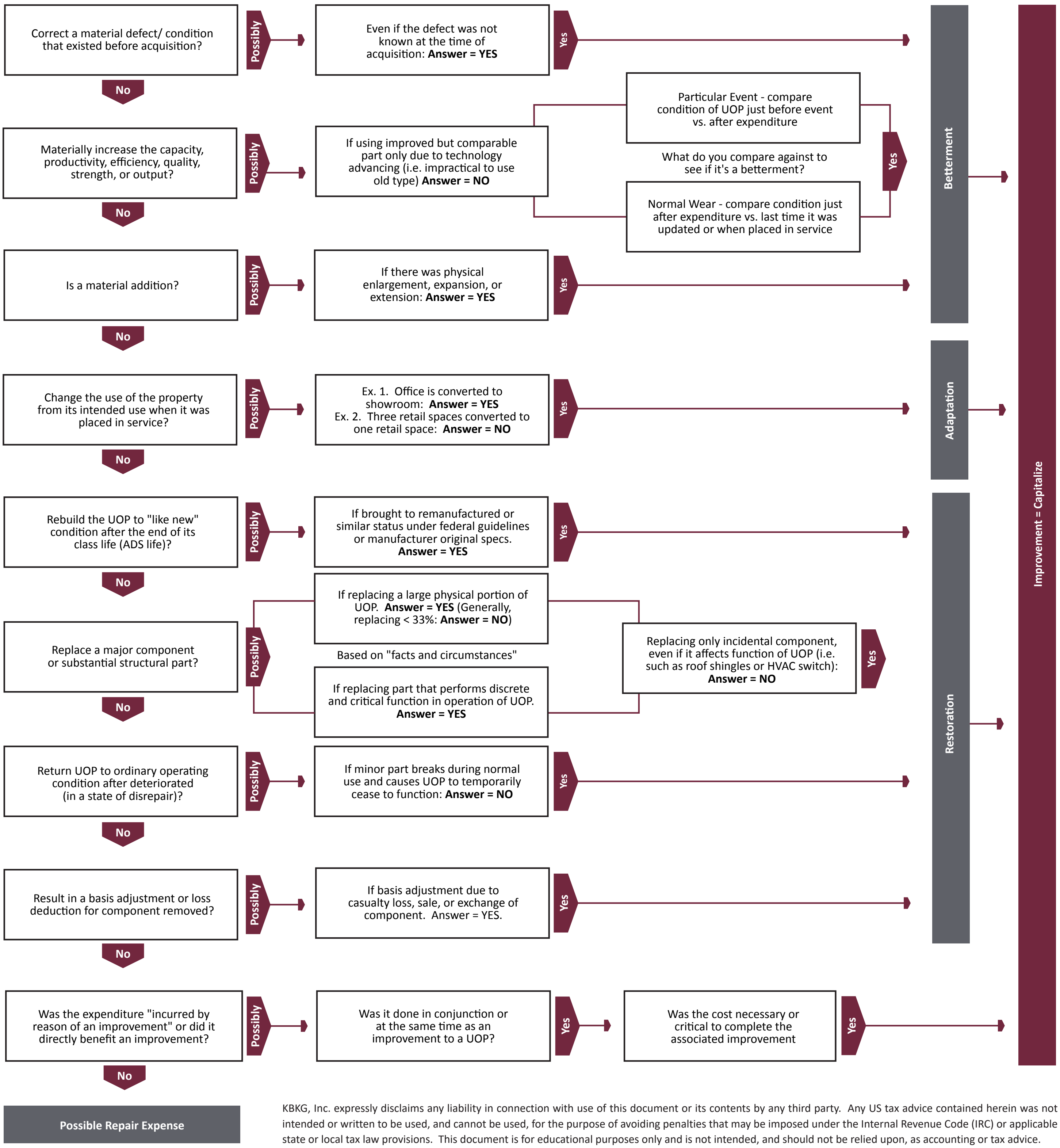
Considering the appropriate Unit of Property (UOP), does the expenditure: (Last Updated 3-20-2015)



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KBKG BUILDING UNIT OF PROPERTY & MAJOR COMPONENTS CHART

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This chart was created to help users identify building systems & typical "major components" in real estate assets. Replacing a major component is a capital expenditure while replacing an incidental component can be expensed

BUILDING STRUCTURE	LAND IMPROVEMENTS	HVAC SYSTEM	ELECTRICAL SYSTEM	PLUMBING SYSTEMS
• Roof system (membrane, insulation and structural supports) • Foundation • Other structural load-bearing elements, including stairs • Exterior wall system • Ceilings • Floors • Doors • Windows • Partitions • Loading docks	• Landscaping (shrubs, trees, ground cover, lawn, irrigation) • Storm drainage (inlets, catch basins, piping, lift stations) • Site lighting (pole lights, bollard lights, up lights, wiring) • Hardscape (retaining walls, pools, water features) • Site structures (gazebos, carports, monument signs) • Paving (roads, driveway, parking areas, sidewalks, curbing)	• Heating system (boilers, furnaces, radiators) • Cooling system (compressors, chillers, cooling towers) • Rooftop packaged units • Air distribution (ducts, fans, etc.) • Piping (heated, chilled, condensate water)	• Service and distribution (panel boards, transformers, switchgear, metering) • Lighting (interior and exterior building mounted) • Site electrical utilities • Branch wiring (outlets, conduit, wire, devices etc.) • Emergency power systems	• Plumbing fixtures (sinks, toilets, tubs etc.) • Wastewater systems (drains, waste and vent piping) • Domestic water (supply piping and fittings) • Water heaters • Site piping utilities

FIRE PROTECTION SYSTEM	SECURITY SYSTEM	GAS DISTRIBUTION SYSTEM	ESCALATORS	ELEVATORS
• Sprinkler systems (piping, heads, pumps) • Fire alarms (detection and warning devices, controls) • Exit lighting and signage • Fire escapes • Extinguishers and hoses	• Building security alarms • (detectors, sirens, wiring) • Building access and control systems	• Gas piping including to/from property line and other buildings	• Stairs and handrails • Drive systems (motors, truss, tracks)	• Elevator cars • Drive systems (motors, lifts, controls) • Suspension systems (counterweights, framing, guide rails)

* Building unit of property (UOP) rules apply to each building structure located on a single property.
** Building system components with a different tax life are separate units of property. For example, a cost segregation study separating HVAC into 5-year & 39-year categories for a restaurant creates two separate HVAC units of property.

Lessee of Building: Must apply the same units of property above but only to the portion of the building being leased.
Personal Property: UOP are parts that are "functionally interdependent" (i.e. placing one part in service is dependent on placing the other part in service).
Plant Property: UOP is each component that performs a discrete and critical function. Generally, each piece of machinery or equipment purchased separately.
Network Assets: UOP is determined by taxpayer's particular facts

<u>Definitions</u>

Plant Property: Machinery and equipment used to perform an industrial process such as manufacturing, generation, warehousing, distribution, automated materials handling, or other similar activities.
Network Assets: Railroad track, oil and gas pipelines, water and sewage pipelines, power transmission and distribution lines, telephone and cable lines; -- owned or leased by taxpayers in each of those respective industries.
Major Component: Part or combination of parts that performs a discrete and critical function in the operation of the unit of property.
Incidental Component: Relatively small, inexpensive, or minor part that performs a discrete and critical function for the UOP. Generally, not capitalized because of its size, cost, or significance.

BEFORE WE GET STARTED

Welcome and thank you for joining KBKG's live webinar

- We will start the live webinar at **12pm PT | 3pm ET**
- For the best audio, dial in using the telephone number provided
- Please enter questions into the Q&A module
- Download the slides from **KBKG.com/resources**
  - **"Research & Development Tax Credits Overview"**

RD 101:
Research & Development Tax Credits

Download PowerPoint slides from **KBKG.com/resources**

All attendees are muted.

The webinar will begin promptly at 12 PM Pacific / 3 PM Eastern

ADMINISTRATIVE

AUDIO

- For the best sound, you should dial in and use the provided telephone number for audio.

HANDOUT MATERIALS

- Download power point slides from KBKG.com/resources

CPE (Continuing Professional Education – for CPAs only)

- Answer all polling questions during the webinar

QUESTIONS AND ANSWERS

- Please submit your questions and we will answer as many as time permits.

ABOUT KBGK

Established in 1999, KBKG is a specialty tax and consulting firm providing nationwide service:

- Research & Development Tax Credits
- Cost Segregation
- Green Building Tax Incentives
- Repair & Maintenance Review
- Fixed Asset Depreciation Review
- IC-DISC
- Employment Tax Credits
- Domestic Production Activities Deductions

TODAY'S PRESENTER

KBKG

Michael Maroney

Director –
Research & Development Tax Credit Services

Jessica Bowen

Manager –
Research & Development Tax Credit Services

AGENDA

Legislative Update

Opportunity

- R&D Tax Credit Benefits, Tax Treatment, and Components

What Activities and Who Qualifies?

- 4-Part Test
- Qualified & Non-Qualified Activities

Calculation Methods & Examples

Wrap-up

- Tax Planning
- Audit Considerations

Questions

LEGISLATIVE UPDATE – PERMANENT CREDIT

- First Enacted in 1981
- Temporary until the Protecting Americans from Tax Hikes Act (“PATH”) of 2015
- Both a federal and state initiative
- Billions of dollars claimed federally each year
- Helps stimulate Economic Development in the United States

EXPANSION OF THE R&D CREDIT

The PATH Act made THREE major changes to the R&D Tax Credit

- First Change:
  R&D Tax Credit has been *permanently* extended
- Second Change:
  R&D Credit can offset a portion of payroll tax
- Third Change: **R&D Tax Credit can offset Alternative Minimum Tax (AMT)**

LEGISLATIVE UPDATE: PAYROLL TAX REDUCTION

Allows qualified startup businesses to claim up to $250,000 of the R&D tax credit against their payroll taxes

- A qualified startup is defined as a company with less than $5 million in gross receipts and no gross receipts for any tax year preceding the five-tax year period ending with the tax year
  - If first year of election is 2022, must have had no gross receipts in a tax year preceding 2018
    - 2018-2022 – must have less than $5 million in gross receipts in credit year
    - 2017 prior – must have zero gross receipts, can not make election for more than 5 years
- Gross receipts are not required (companies with no gross receipts can make the election and use the credit).

LEGISLATIVE UPDATE: PAYROLL TAX REDUCTION

For companies that are not a partnership or S corporation, only the amount of the R&D credit that would be carried forward can be applied against the payroll tax

Election starts the first quarter after the return is filed

- If return is filed in September of 2023, would be able to use the credit against payroll taxes generated the 4th quarter of 2023

Good Candidates for the payroll election:

- Software and biotech company startups will be a rich target
- Loss position companies generally have not wanted to take the credit, because they did not know when it could be used
- Companies that have little or no tax liability

R&D CREDIT & PAYROLL TAXES EXAMPLE

A software developer began operation in 2020. The Company is comprised of 15 individuals and did not receive gross receipts until 2021. Summary of 2022:

- Gross Receipts - $800,000
- Qualified Wages - $2,000,000
- R&D Credits - $200,000
- Qualified Payroll Taxes - $125,000

The Company will file their 2022 tax return in September of 2023 and apply the credits to their payroll taxes in the fourth quarter of 2023. Unused credits will be carried forward.

Before law change R&D Credit Utilization = $0

*After law change R&D Credit Utilization = $ 125,000**

LEGISLATIVE UPDATE – AMT REDUCTION

Prior to PATH Act, Taxpayers in AMT could not use the research credit to offset AMT.

Eligible small businesses can use credit to offset AMT for tax years beginning after December 31, 2015

- An ***eligible small business*** is defined as having an average of $50 million or less in gross receipts the prior three tax years
- Provision is similar to the AMT relief in 2010
- Unused credits can be carried back or forward.

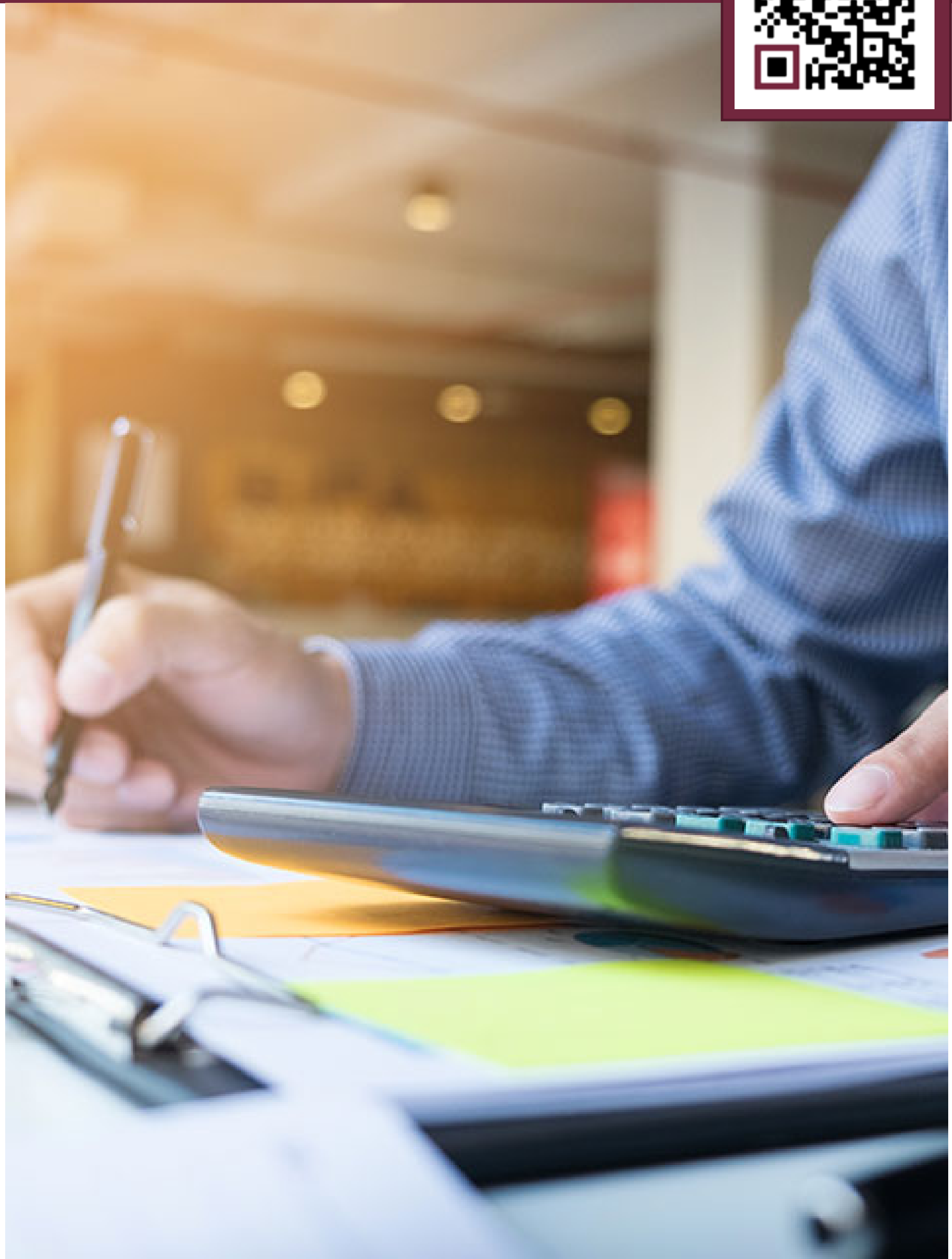
Cannot be a publicly-traded company

R&D CREDIT & AMT EXAMPLE

R&D Tax Credit Utilization *before* 12/31/2015

2015 R&D Tax Credit Generated	**=**	**$ 300,000**
2015 Total Tax Liability	**=**	**$ 181,000***
*** 2015 Regular Tax Liability**		**$ 158,000**
*** 2015 AMT Liability**		**$ 23,000**
Total		**$ 181,000**
2015 R&D Credit Utilization	**=**	**$ 0****
2015 R&D Credit Carryforward	**=**	**$ 300,000**

***** Prior to law change R&D tax credits cannot be utilized against AMT***



R&D CREDIT & AMT TAX EXAMPLE

R&D Tax Credit Utilization ***for tax years beginning 1/1/2016***

2022 R&D Tax Credit Generated	**=**	**$ 331,000**
2022 Total Tax Liability	**=**	**$ 219,000***
*** 2022 Regular Tax Liability**		**$ 188,000**
*** 2022 AMT Liability**		**$ 31,000**
Total		**$ 219,000**

2022 R&D Credit Utilization	**=**	**$ 178,250**
2022 Total Tax Liability after Credit	***=***	***$ 40,750***

Total Tax Savings = $178,250

Prior to PATH ACT Changes Total Tax Savings Would = 0

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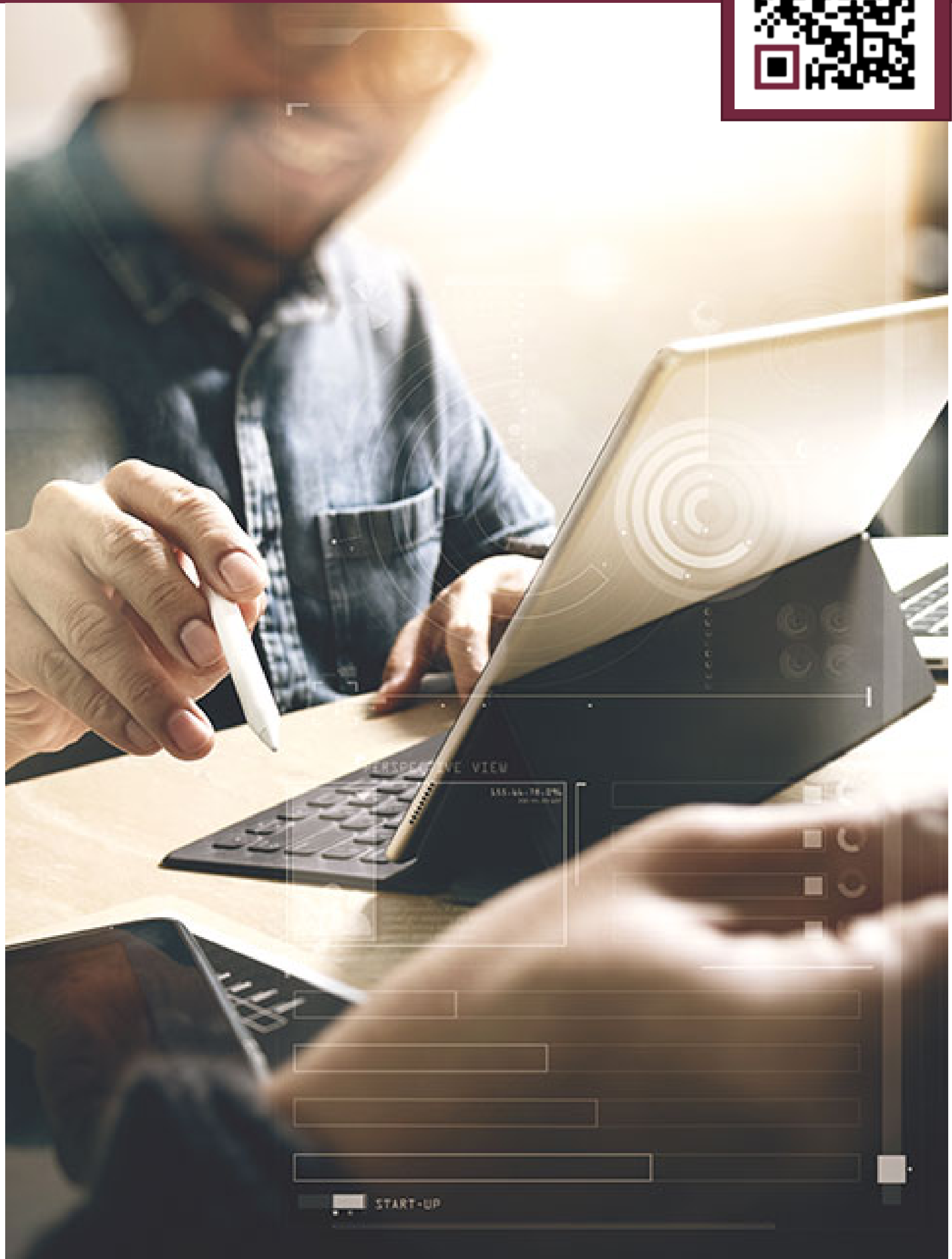
POLLING QUESTION #1

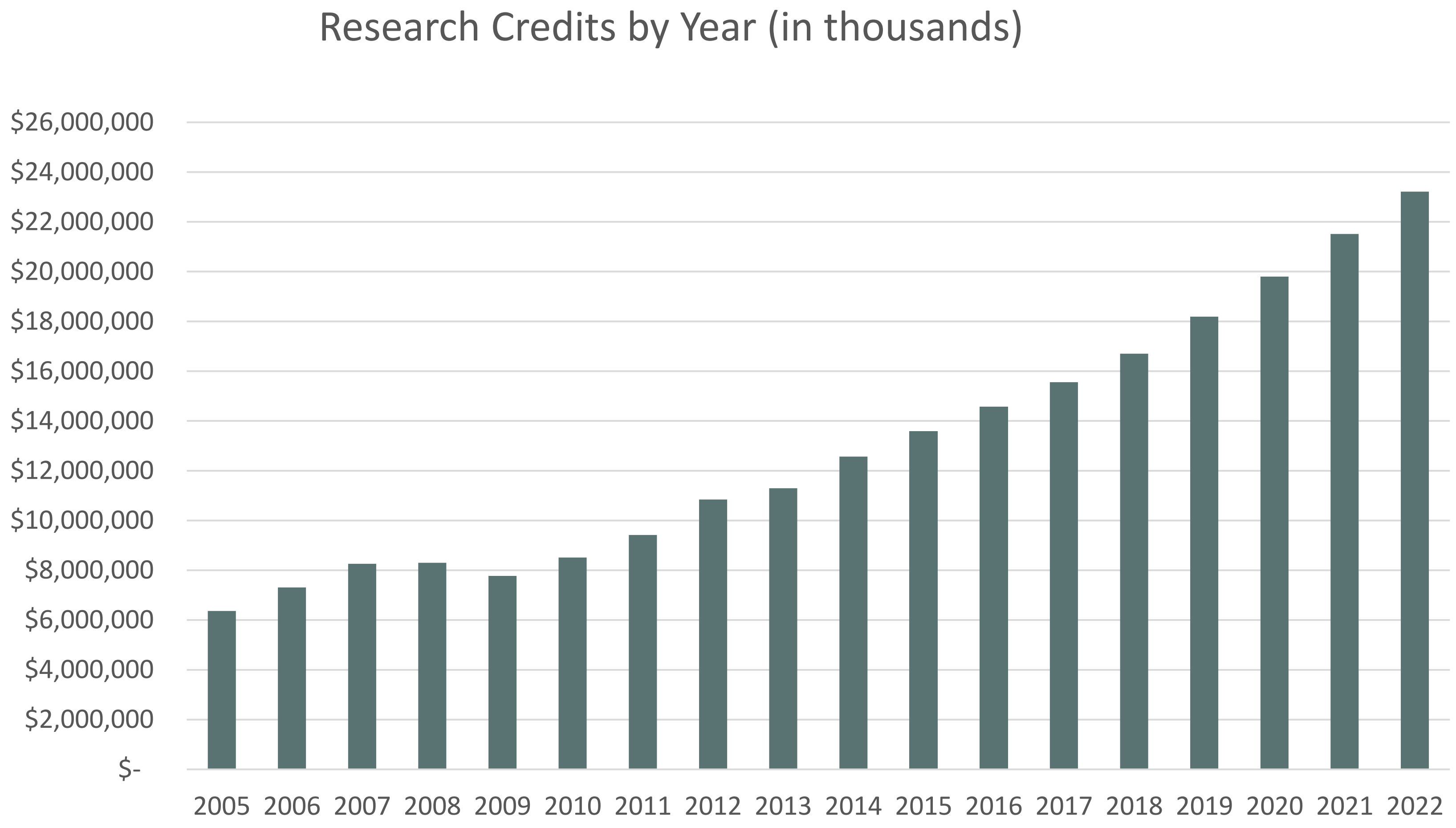
OPPORTUNITY

TAX CREDIT TREATMENT

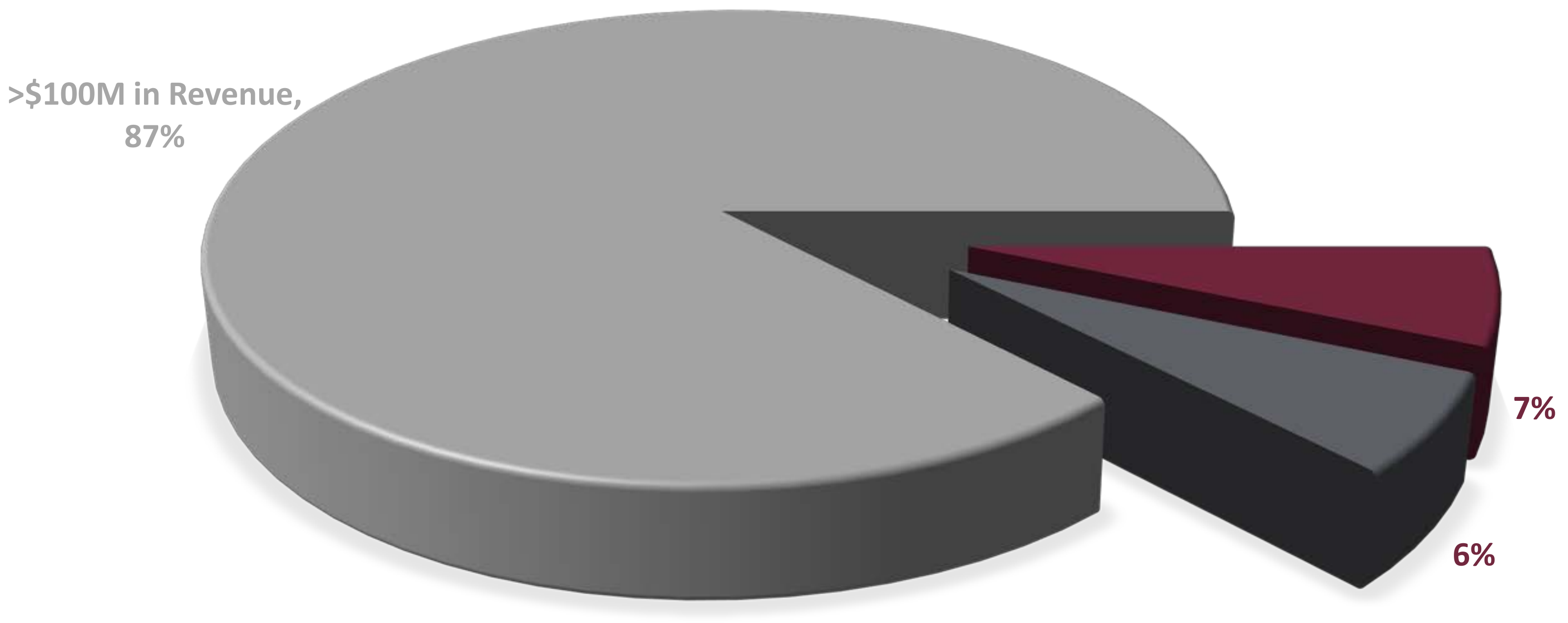
- General business credit under IRC §38
- Dollar for dollar reduction in tax, subject to limitations
- General Rule: 1 Year Carryback; 20 Year Carryforward
- S Corps – Credit flows through to the owners



FEDERAL R&D CREDITS BY YEAR



FEDERAL R&D CREDITS BY BUSINESS SIZE



R&D CREDIT BENEFITS

- **Federal Tax Benefit : 7.9% of Qualified Research Expense (QRE)**
- **Lowers effective tax rate**
- **Improves earnings per share**
- **Many states have an R&D credit**
  - **Nonrefundable credits**
    - California: 15%, nonrefundable, unlimited carryforward
  - **Refundable credits**
    - Virginia: 15%, 20% (if done with Virginia Universities), refundable
    - Arizona: 24%, partially refundable, eligible small businesses, 15 year carryforward
    - Connecticut: 6.5%, $.65 cents per dollar for small business C Corporations
    - Iowa: 6.5%, 4.55% fully refundable after tax liability is paid
    - Maryland: 10%, for credits generated after December, 15, 2012

STATE R&D CREDITS

37 states offer an R&D credit, many in addition to the federal credit:

Arizona
Arkansas
California
Colorado
Connecticut
Delaware
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Missouri
Nebraska
New Hampshire
New Jersey
New Mexico
New York
North Dakota
Ohio
Pennsylvania
Rhode Island
South Carolina
Texas
Utah
Vermont
Virginia
Wisconsin

APPLICABLE INDUSTRIES

- Aerospace
- Apparel
- Architectural & Engineering
- Automotive
- Chemical
- Computer Software
- Equipment
- Food & Beverage
- Hardware Development
- Manufacturing
- Medical
- Pharmaceuticals
- Cosmetics
- Electronics
- Engineering
- Telecommunications
- Tooling, jigs, molds
- Numerous others

Applies Across ALL Industries!!!

FEDERAL R&D CREDITS BY INDUSTRY - ESTIMATED 2022 ALLOCATION

Industry	Credit Amount Estimated 2022	Percentage
Manufacturing	$ 14 billion	61%
Information	$ 3.7 billion	16%
Professional, scientific, technical services	$ 2.3 billion	10%
Wholesale and retail trade	$ 1.6 billion	7%
Finance and insurance	$ 460 million	2%
Holding Companies	$ 229 million	1%
Mining	$ 229 million	1%
Utilities	$ 148 million	<1%
Other	$ 345 million	1.5%
Total	**$ 23 billion**	

STUDY EXAMPLES

- **Formulations** – Development of cosmetics and natural foods (in order to attain organic, vegan or kosher certification), spices, beer formulations
- **Manufacturing** – Design, manufacture and testing of telecommunications equipment, engineering services, prototype design, medical instruments, furniture, chilling systems, fiber optic components, as well as foundry and machine shop activities.
- **Software Development** – Designing accounting, inventory and workflow systems, online mapping applications, web development, cloud-based risk mitigation technologies, investment software, licensing system software, messaging apps, computer animation.
- **Defense contractors** – Design, manufacture and testing of military camera systems, mobile radar and power generation systems.
- **Pharmaceuticals** – Drug formulation/testing for humans and animals.
- **Mining** – Develop innovative extraction techniques.

WHAT ACTIVITIES & WHO QUALIFIES?

QUALIFIED ACTIVITIES: R&D 4-PART TEST

01

02

03

04

1.Technological in Nature (§ 41)

The activity performed must fundamentally rely on principles of:

- Physical Science;
- Biological Science;
- Engineering; or
- Computer Science

2. Permitted Purpose (§ 41)

The activity must relate to a new/improved business component's:

- Function;
- Performance;
- Reliability; or
- Quality

3. Elimination of Uncertainty (§ 174)

The activity must be intended to discover information to eliminate uncertainty concerning the capability, method or design for developing or improving a product or process.

4. Process of Experimentation (§ 41)

The taxpayer must engage in an evaluative process designed to identify and evaluate more than one alternative to achieve a result.

For example: modeling, simulation or a systematic trial and error methodology.

QUALIFIED RESEARCH EXPENSES

Wages

- (1) W-2, Box 1; (2) Partnership Earnings subject to SE tax; & (3) Schedule C
- Excludes 401k & pre-tax benefits, and wages used calculating Work Opportunity Credit under§51 as well as the 2021 Employee Retention Tax Credit

Supplies

- Tangible property used or consumed in qualified research activities (i.e., prototypes), excludes:
- (i) Land – acquisition & improvements; & (ii) Depreciable property

Contract Research

- 65% of amounts paid to non-employees for qualified activities
- 75% of amounts paid to certain qualified research consortia
- 100% of amounts paid for energy research to eligible small businesses, universities, and Federal laboratories

WHO QUALIFIES?

Any Employee Who:

- Performs qualified activities
- Direct Supervision of other employees who perform qualified activities
- Direct Support of other employees who perform qualified activities
- Direct Supervision & Direct Support need not meet 4-Part Test

Outside Contract Service Providers:

- 65% of amounts paid or incurred for qualified research
- Paid to any person other than an employee of the taxpayer

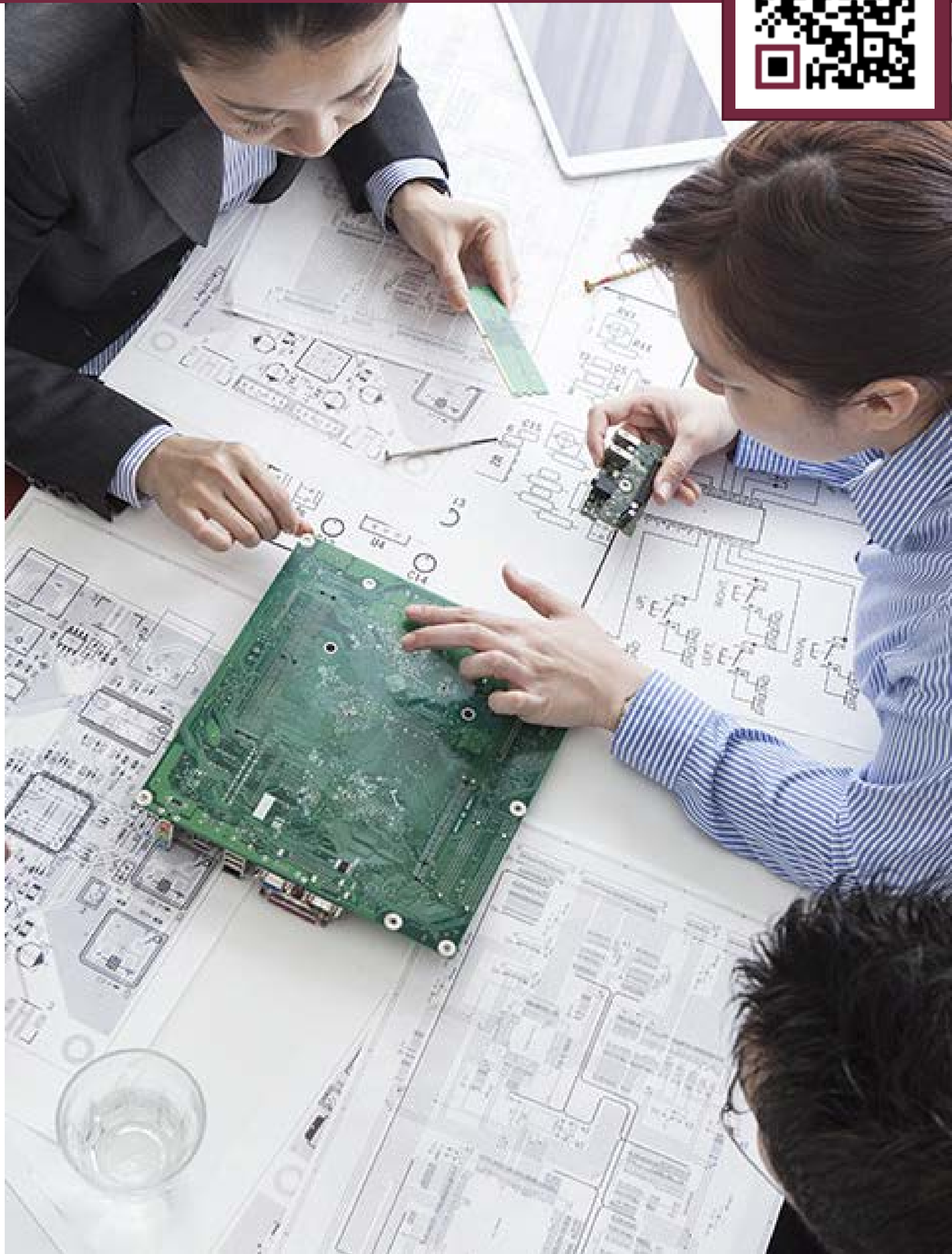
QUALIFIED ACTIVITIES - EXAMPLES

Direct Supervision:

- First line supervision of direct research activity
- Reviewing technical designs
- Communicating requirements

Direct Support:

- Documenting results
- Maintaining & cleaning research equipment
- Compiling research data
- Creating experimental models



QUALIFIED ACTIVITIES

Qualified Activities:

- Applied at the Business Component Level
    - Shrink-back rule
- Development of a new or improved
    - Product
    - Process
    - Formula
    - Software

QUALIFIED ACTIVITIES

- Design - Technical design work, CAD design, modeling & analysis
- Prototype development – design and build
- Testing - Computer modeling & simulation, prototypes, field tests
- Activities from concept through release to commercial production
- Success is not required

NON-QUALIFIED ACTIVITIES

- Activities outside the United States, Commonwealth of Puerto Rico, or any US possession
- Adaptation of an existing business component
- Duplication of an existing business component
- Social Sciences – “soft” sciences, arts, or humanities
- Studies related to efficiencies, management operations or profitability, style, taste, cosmetic or seasonal design factors
- Routine data collection
- Routine or ordinary QA testing
- Funded Research – taxpayer must bear both the Economic Risk & Retain Rights in the results
- Research after commercial production

NON-QUALIFIED ACTIVITIES CONT.

The following are deemed to occur after commercial production:

- Preproduction planning for a finished business component
- Tooling-up for production
- Trial production runs
- Trouble shooting detecting faults in production equipment of processes
- Accumulating data relating to production processes
- Debugging flaws in a business component

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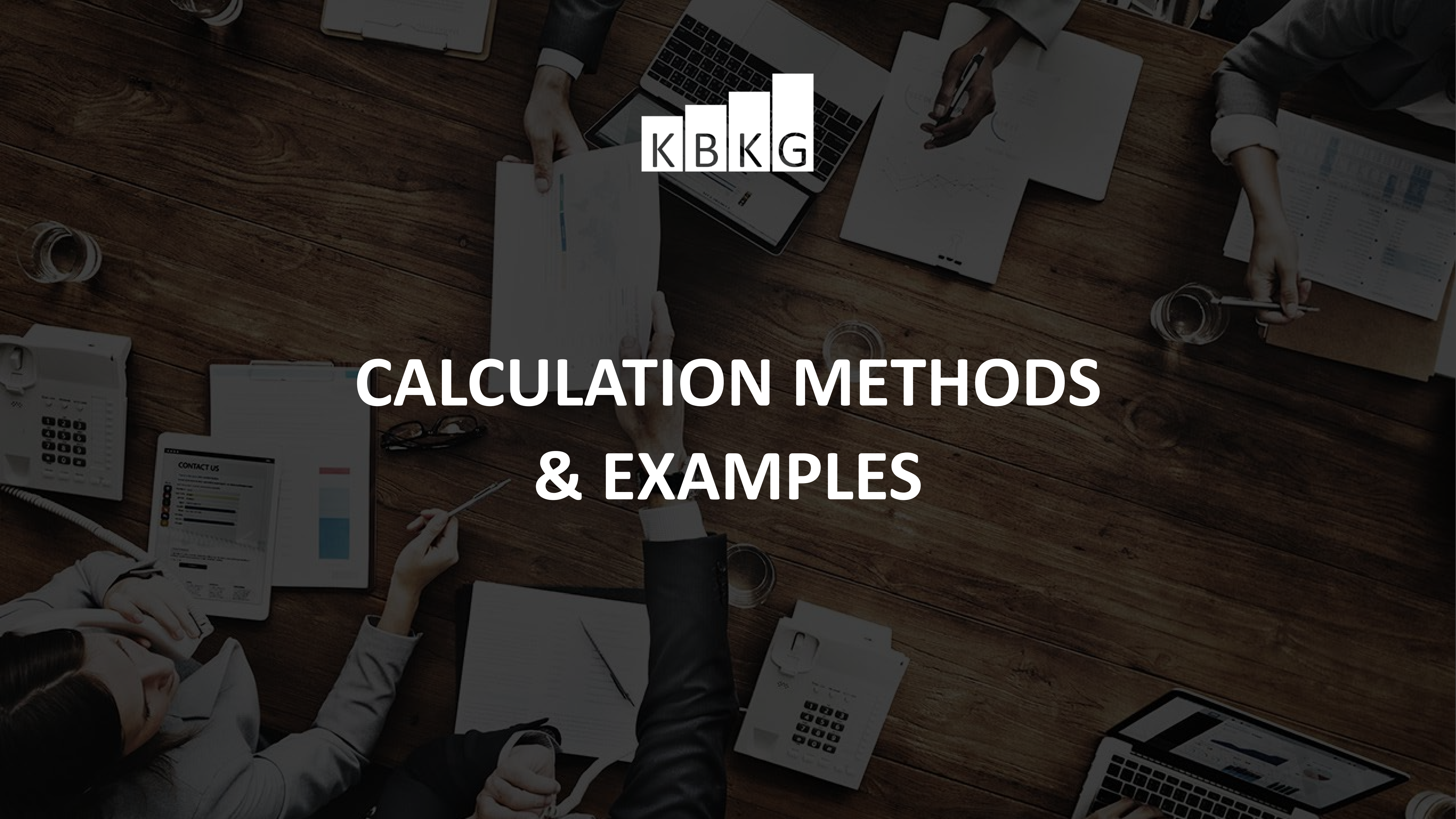
POLLING QUESTION #2



CALCULATION METHODS & EXAMPLES

R&D CREDIT COMPONENTS

Credit is the sum of:

- 20% of the current year Qualified Research Expenses (QREs) over a Base Amount;
- 20% of Basic Research Payments; and
- 20% of amounts paid or incurred to an Energy Research Consortium

Activity Based Credit

- Determine Qualified Activities under 4 Part Test
- Identify related Qualified Research Expenses (QREs)
- Primarily a wage-based credit

Incremental Credit

- QREs must exceed a Base Amount (Threshold Amount)
- Base Amount is recalculated each year

CURRENT METHODS & EXAMPLES

2 Credit Calculation Methods Available:

1. **Regular Credit - §41(a)(1) – "Old & Cold" Method**

   Base Period (1984 – 1988) or Start-up (1994 – forward)

2. **Alternative Simplified Credit (ASC) - §41(c)(5)**

   Effective for tax years ending after Dec. 31, 2006

REGULAR CREDIT METHOD

4 items needed to determine Regular Credit:

1. Qualified Research Expenses (QREs)
2. Prior 4 Years Average Annual Gross Receipts (AAGR)
3. Fixed-Base % (FB%)
   - Fixed-Base % is the ratio of aggregate QREs over aggregate gross receipts for a specific period of time
   - Maximum Fixed-Base % = 16%
4. Base Amount
   - GREATER of AAGR x FB% or 50% of current year QREs
   - Credit rate is applied to the increment of current R&D spend over the base amount

FIXED-BASE % – EXAMPLE

Fixed-Base % (assumes 84-88 Base Period applies)

Year	QREs	Gross Receipts
1984	$ 100,000	$ 6,000,000
1985	$ 200,000	$ 8,000,000
1986	$ 250,000	$10,000,000
1987	$ 200,000	$12,000,000
1988	$ 400,000	$14,000,000
Total	$1,150,000	$50,000,000

F-B% = $1,150,000 ÷ $50,000,000 = 2.30%

REGULAR CREDIT - EXAMPLE

1. Current Year QREs	$ 3,000,000
2. Prior 4 Yr. Avg. Gross Receipts	$75,000,000
3. Fixed-Base %	**2.30%**
(A) Tentative Base Amount (2 x 3)	$ 1,725,000
(B) Minimum Base Amount (50% of CY QREs) (#1 x 50%)	$ 1,500,000
4. Base Amount (Greater of (A) or (B))	$ 1,725,000
Incremental QREs (1 – 4)	$ 1,275,000
Credit %	20%
5. Regular Credit Amount	**$ 255,000**
§280C - Reduced Credit Election	79%
Net Credit Benefit	**$ 201,450**

POLLING QUESTION #3

ALTERNATIVE SIMPLIFIED CREDIT (ASC)

IRC §41(c)(5)

- Applicable for tax years ending after December 31, 2006

ASC Method = 14% x QREs over Base Amount

- You can now amend into the ASC
- If no QREs in any 1 of 3 prior years, ASC Method = 6% x Current Year QREs

Companies that may benefit from the ASC, include:

- Trouble establishing fixed-base percentage
- Large gross receipts
- Several subsidiaries

ASC

2 items needed to calculate the Alternative Simplified Credit (ASC):

- QREs - same as defined under the Regular Credit:
  - Wages
  - Supplies
  - Contract Research
- Base Amount = 50% x (Average QREs for the Prior 3 Years)

ASC – EXAMPLE

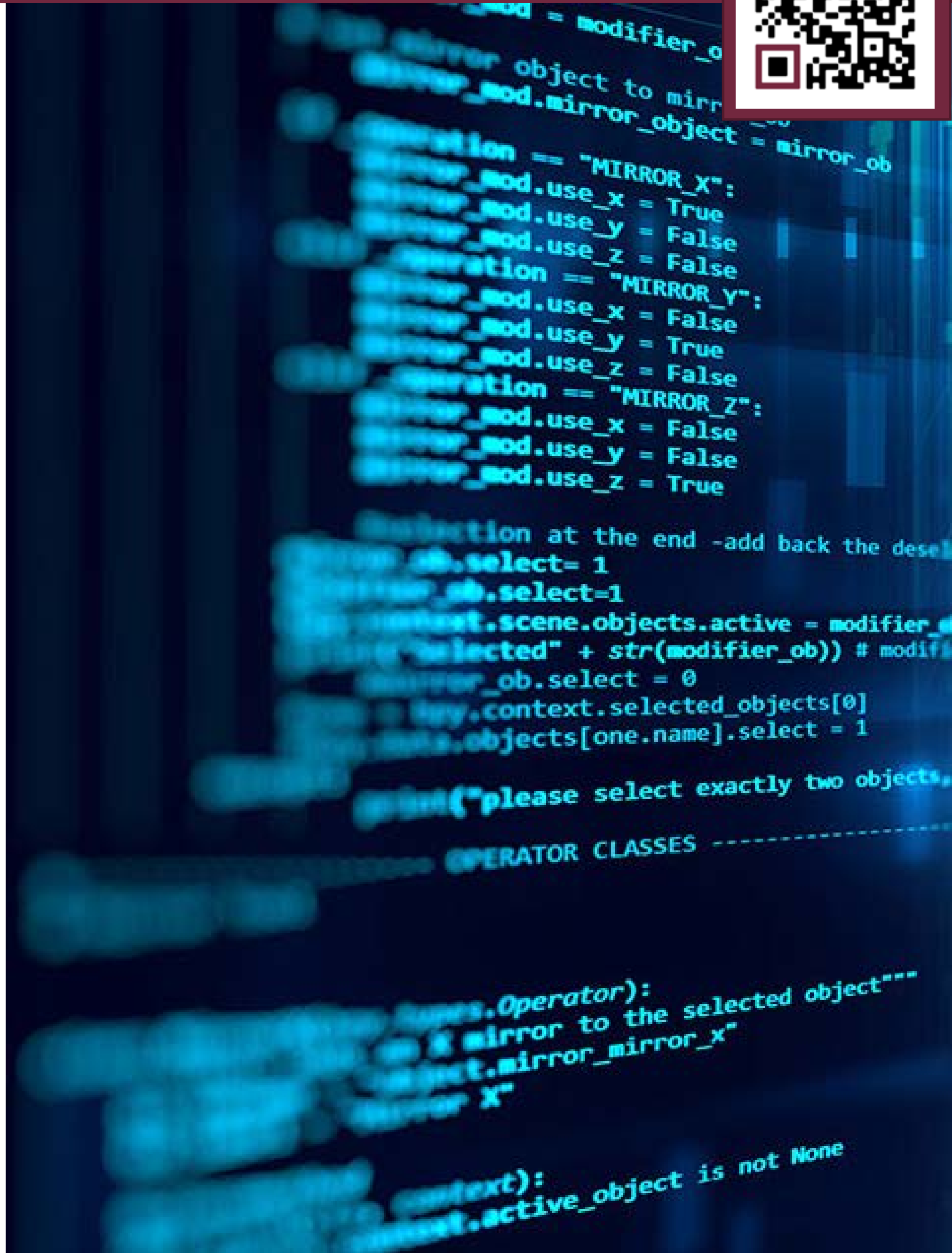
Current Year QREs	=	$ 3,000,000
Less: Base Amount	=	($ 1,125,000)
CY QREs Available	=	$ 1,875,000
ASC Method %	=	14%
ASC Benefit	=	$ 262,500
§280C Reduced Credit (Annual Election)		79%
Reduced ASC Benefit	=	$ 207,375

Effective Reduced Credit Rate = 6.91%

INDUSTRY EXAMPLE - SOFTWARE

A software development company creates a new software or game that can be sold or licensed to third parties.

- Gross Receipts - $3,000,000
- Wage Expense - $1,000,000
- Qualified Wages - $500,000
- Qualifying Activities: Concept development, specification design, coding, beta testing, etc…
- Potential Federal Credits: $50,000



INDUSTRY EXAMPLE - MANUFACTURING

A foundry and machine shop designs, manufactures and tests first article prototype parts for a variety of industries and applications.

- Gross Receipts - $7,000,000
- Wage Expense - $3,000,000
- Qualified Wages - $800,000
- Qualifying Activities: Concept development, specification design, evaluating alternatives, prototype testing, prototype refinement etc…
- Potential Federal Credits: $80,000

POLLING QUESTION #4

WRAP-UP

TAX PLANNING

Electing 280C on a timely-filed return of filing protective 280C election

- Do not have to reduce R&D expenses by amount of the R&D credit

Research Credit Claims on amended returns (CCM 20214101F 10/15/21)

- The Taxpayer is required to provide the specific information in a statement accompanying any amended returns

In losses, credits can be calculated past the statute of limitation (Rev. Rul. 1982-49)

- If Qualified Start-up will be able to apply towards payroll taxes starting in 2016

Consider upcoming Sec 174 changes (effective 1/1/2022)

- The new rules will require R&E expenditures to be capitalized and amortized beginning at the midpoint of the tax year incurred, over:

 - 5 years for expenditures associated with the research conducted in the United States.
 - 15 years if research is conducted outside the United States.

- Software development costs will be included in the definition of R&E expenditures under IRC Section 174
- 3115 Adjustment will be required

IRS AUDIT CONSIDERATIONS

Audit Technique Guide (ATG) outlines the areas agents will focus on when conducting their audits of R&D credit claims.

IRS specifically targets the use of estimates, IRS wants clear nexus

- Taxpayers use of the Cohan rule is generally dismissed by the IRS
- Cohan rule accepted by the courts
- Implies that project accounting is required to establish nexus

Key IRS focus is on substantiation documentation

Law under Treas. Reg. §1.6001-1(a) provides:

- Taxpayer shall keep permanent books and records sufficient to establish the amount of the credit

CONTEMPORANEOUS DOCUMENTATION

Concept Generation & Design

- Functional Requirements
- Project Authorization Requests
- Business Cases / Studies
- Project Schedules
- Budgets
- Design Documents & Revisions
- Architecture Documents
- PowerPoint Presentations
- Release Plans
- Testing
- Test Data / Experimental Runs
- Lab Notebooks
- Progress Reports
- Issue Logs
- Meeting minutes / Notes / Agendas
- Predictive Modeling / CAD Analysis
- Emails relating to R&D
- Record / Documenting Results
- R&D Business Component List
- Product Evaluations / Reviews
- Data Sheets
- Reports to Management / Customer
- Lessons Learned
- Whitepapers
- Patents / Patent Applications
- Records of Invention
- Marketing Brochures

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