

1982 Legislation

Amendments to the Research and Development Tax Credit

Sections 7, 8 and 9 of Chapter 55 of the Laws of 1982 amended Sections 210.18(b), 210.18(d) and 210.18(f) of the Tax Law.

Section 7 allows the research and development credit to be taken on qualified property subject to accelerated cost recovery under Section 168 of the Internal Revenue Code (ACRS), provided such property was placed in service after December 31, 1980.

Section 8 allows the research and development credit to be taken by the lessee/user with respect to qualified property involved in a "Safe Harbor" lease for taxable years beginning after December 31, 1981.

Section 9 deals with the amount of research and development credit allowable on property that is disposed of or ceased to be in qualified use prior to the end of its useful life or depreciated life. Section 9 amended the Tax Law to provide different formulas for property depreciated for Federal purposes under Sections 167 and 168 of the Internal Revenue Code.

The credit allowable on research and development property which is depreciated pursuant to Section 167 of the Internal Revenue Code and which is disposed of or ceases to be in qualified use prior to the end of its useful life will be computed by multiplying the original research and development credit claimed by the ratio which the months of qualified use bear to the months of useful life. The difference between the amount of credit originally claimed and the allowable amount of the credit as redetermined must be added back in the year the property is disposed of or ceases to be in qualified use. The formula for recapture of research and development credit is:

$$\frac{\text{Months in Qualified Use}}{\text{Months of Useful Life}} \quad \times \quad \text{Research and Development Tax Credit Allowed}$$

With respect to three year property, as defined in paragraph 2 of subdivision (c) Section 168 of the Internal Revenue Code, which is disposed of or ceases to be in qualified use, the amount of credit for actual use shall be determined by multiplying the original research and development credit claimed by the ratio which the months of qualified use bear to 36. The difference between the amount of credit originally claimed and the allowable amount of the credit as redetermined must be added back in the year the property is disposed of or ceases to be in qualified use. The formula for recapture of research and development credit is:

$$\frac{\text{Months in Qualified Use}}{36 \text{ Months}} \quad \times \quad \text{Research and Development Tax Credit Allowed}$$

With respect to a building or a structural component of a building which is disposed of or ceases to be in qualified use, the amount of credit for actual use shall be determined by multiplying the original research and development credit claimed by the ratio which the months of qualified use bear to the total number of months over which the taxpayer chose to deduct the property under Section 168 of the Internal Revenue Code. The difference between the amount of credit originally claimed and the allowable amount of the credit as redetermined must be added back in the year the property is disposed of or ceases to be qualified use. With respect to such property, the formula for recapture of research and development credit is:

$$\frac{\text{Months in Qualified Use}}{\text{Months the Taxpayer chose to depreciate the property under Section 168 of the IRC}} \times \text{Research and Development Tax Credit Allowed}$$

Recapture of the Research and Development credit is not required on either recovery property, which is a building or a structural component of a building, or on property which is depreciated pursuant to Section 167 of the Internal Revenue Code which ceases to be in qualified use after 12 consecutive years.

For additional information on the Research and Development Tax Credit, see TSB-M-81(9)C.