

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Corporation Tax
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1981 Legislation

Research and Development Tax Credit

Section 14 of Chapter 103 of the Laws of 1981 added a new Section 210.18 to Article 9-A of the New York State Tax Law.

The new section allows a credit of 10%, of the cost or other basis for federal income tax purposes, of qualified tangible personal property or other qualified tangible property acquired, constructed or reconstructed or erected AFTER June 30, 1982.

In order for the property to qualify, it must:

1. be used for the purposes of research and development in the experimental or laboratory sense. The ordinary testing or inspecting of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotion or research in connecting with literary, history or similar projects DO NOT QUALIFY as research and development for this credit.
2. have a situs in New York State.
3. have a useful life of 4 years or more.
4. be depreciable pursuant to Section 167 of the Internal Revenue Code.
5. be acquired by purchase as defined by Section 179(d) of the Internal Revenue Code.

This credit is allowed after tax credits have been allowed for the eligible business facility tax credit (Section 210.11), the sales and use tax credit on catalytic, purifying or bleaching agents (Section 210.15) and the sales and use tax credit on tangible personal property used in industrial waste treatment or air, water, or noise pollution abatement facilities (Section 210.16).

The research and development tax credit is not allowed on property that is:

1. claimed as a deduction for optional depreciation (Section 210.2(e)(3)) on the New York State Corporation Franchise Tax Report.
2. allowed as a tax credit for the eligible business facility tax credit (Section 210.11) or the investment tax credit (Section 210.12).
3. leased to any other person or corporation. A lease, for the research and development tax credit, shall be considered any contract or agreement to lease, rent or for a license to use such property.

The credit can not reduce the tax below the minimum tax required to be paid by Article 9-A of the New York State Tax Law. Any unused research and development tax credit can be carried forward to the next succeeding taxable period.

When the property is disposed of, a recapture of the credit is required as follows:

1. If the property is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the credit is taken, then the credit must be proportioned by the ratio of months of qualified use bears to the useful life, in months, of the property.
2. If the property is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back in the year of the disposition. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio of the months of qualified use bears to the months of useful life. For the purpose of this credit, the useful life of the property shall be the same as the taxpayer uses for depreciation purposes when computing his federal income tax liability.
3. If the property is disposed of or ceases to be in qualified use after it has been in qualified use for more than 12 consecutive years, it shall not be necessary to add back the credit.