

Life Science, Medical Device & Biotech Tax Incentives for NJ Innovators

R&D Tax Savers

By Charles R. Goulding and Daniel Audette

With many of the nation's largest firms and a healthy ecosystem of new start up innovation driven by leading universities and industry partnerships, New Jersey is quickly reclaiming its position as a leader in the MedTech and Life Sciences sector. For highly innovative and important companies in these industries, it often takes many years to get products and processes through the required regulatory and standards requirements including FDA and quality standards. The new and expanded R&D tax incentives are particularly helpful for this industry. Often "Science" companies aren't thinking about the eventuality of taxes while spending tremendous sums of money for many years. Companies don't realize they may qualify for cash rebates or even capturing a decade's worth of tax incentives at once.

The New R&D Tax Provisions

As of January 1, 2016 the US R&D tax credit was made much more broadly applicable and particularly helpful for Science companies. Importantly, the existing R&D tax credit was made permanent. Since there is no tax statute of limitations for companies that have never been profitable "Science" companies now know they can indefinitely accumulate large tax benefits during tax loss years. As an example we recently helped a life science company achieve 15 years of tax savings at once in the first year they were allowed to trigger the 15 years of tax benefits. Science companies who understand this opportunity can accumulate the tax credit as an asset on their balance sheet and make themselves more attractive to potential investors during successive funding rounds. Another major change is that the Science R&D tax credits can be used to offset corporate or individual Alternative Minimum Tax (AMT). This change now enables a New Jersey Science company or individual that couldn't previously benefit from the credit, now obtain the tax benefits. It is important to realize that in addition to the federal R&D tax credit New Jersey has its own state R&D tax credit for C-Corporations.



The New \$1,250,000 Cash rebates

As of January 1, 2016 Science start ups have the opportunity to obtain up to \$1,250,000 in payroll tax cash rebates. To be eligible the company must have less than \$5,000,000 in sales. We have two "Science" clients that have already obtained \$750,000 cash each for the first 3 years of this program. The 5-year maximum cash rebate time period commences in the company's first taxable year when a sale occurs. This means that many existing "Science" companies that have not had their first sale remain eligible for these payroll tax cash rebates. For these tax planning purposes, a company might not want to process a nominal sale in their beginning years - a donation might be a better strategy.

Historically, New Jersey was the Titan of large campus corporate science research centers. The new science business model is smaller, much more focused on innovation and often with strong University affiliations.

Artificial intelligence (AI) and machine learning is being used to analyze the treasure trove of pharmaceutical patents from the previous big research center model to create new models and resulting new Science start-ups. New Jersey is the ideal mar-

ket for the new science model since it already has a vast pool of well-educated science professionals and strong supporting University and state sponsorship of science projects. NJMEP is emphasizing science and has thrown its weight behind the MedAccred quality program for medical devices. For example, we published articles on how MedAccred can integrate 3D printing

into its Standards. We have also analyzed how MedAccred's plastic injection molding certification may utilize 3D printing next. Manufacturing Matters previously wrote about this topic, and then we chimed in on MedAccred's certification and how it provides the framework for Micro Medical Components.

New Jersey is at the forefront of driving the national MedAccred program with founding companies including NJ's own Johnson and Johnson and Stryker. MedAccred requires a strong medical device component supply chain and New Jersey's over 10,000 manufacturers have the resources to do this. New Jersey also has the opportunity to optimize utilization of the new science business model by understanding how the enhanced R&D tax credit applies to New Jersey "Science" companies

The Research & Development Tax Credit

Enacted in 1981, the now permanent Federal Research and Development (R&D) Tax Credit allows a credit that typically ranges from 5%-8% of eligible spending for new and improved products and processes. Qualified research must meet the following four criteria:

- Must be technological in nature
- Must be a component of the taxpayer's business
- Must represent R&D in the experimental sense and generally includes all such costs related to the development or improvement of a product or process
- Must eliminate uncertainty through a process of experimentation that considers one or more alternatives

Eligible costs include US employee wages, cost of supplies consumed in the R&D process, cost of pre-production testing, US contract research expenses, and certain costs associated with developing a patent.

On December 18, 2015, President Obama signed the PATH Act, making the R&D Tax Credit permanent. Beginning in 2016, the R&D credit can be used to offset Alternative Minimum tax for companies with revenue below \$50MM and, startup businesses can obtain up to \$250,000 per year in payroll tax cash rebates.

For information on R&D Tax Credits go to www.njmep.org or call 973-998-9801.

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