Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:Br.7-PLR-100499-00
Date:
March 27, 2001

Legend

Taxpayer:

Company:

Group:

Date 1:

Dear

We received a letter from your authorized representative requesting a ruling that Taxpayer may compute its credit for increasing research activities (research credit) for the taxable year ending December 31, 1999, using the calculation described in § 41(a)(1) of the Internal Revenue Code without regard to § 41(c)(4). This letter is in response to that request.

The facts and representations submitted are summarized as follows:

Taxpayer is an accrual basis taxpayer with a calendar year. For all taxable years prior to its taxable year ending on December 31, 1999, Taxpayer, including all other corporations and trades or businesses that, for purposes of calculating the research credit, were required to be aggregated with Taxpayer under the rules of § 41(f)(1) and §1.41-8(a) of the Income Tax Regulations, computed its research credit using the calculation described in § 41(a)(1) without regard to § 41(c)(4).

On Date 1, Taxpayer acquired a greater than fifty percent ownership interest in Company and its subsidiaries. Company is a foreign corporation. Group is a group of subsidiary entities under Company that file separate or consolidated income tax returns in the United States.

For taxable years ending on or before December 31, 1999, no member of Group as of Date 1 determined its research credit under the alternate incremental research credit rules of § 41(c)(4). Further, for taxable years ending on or before December 31, 1999, no member of Group as of Date 1 elected to determine its research credit under the alternate incremental research credit rules of § 41(c)(4). Taxpayer and Company, however, are uncertain if any member of Group that was in Group prior to Date 1 and was not in Group on Date 1 had elected to determine its credit for increasing research activities under the alternate incremental research credit rules of § 41(c)(4).

Taxpayer requests a ruling that Taxpayer, including all other corporations and trades or businesses that, for purposes of calculating the research credit, are required to be aggregated with Taxpayer under the rules of § 41(f)(1) and §1.41-8(a) of the Income Tax Regulations, may compute its research credit for the taxable year ending December 31, 1999, using the calculation described in § 41(a)(1) without regard to § 41(c)(4).

Section 1.41-8(a) provides that, in determining the amount of research credit allowed with respect to a trade or business that at the end of its taxable year is a member of a controlled group of corporations or a member of a group of trades or businesses under common control, all members of the group are treated as a single taxpayer.

For tax years beginning after June 30, 1996, taxpayers may elect to determine their research credit under the alternate incremental research credit rules of § 41(c)(4). For tax years beginning after June 30, 1996 and before July 1, 1999, the alternate incremental credit is equal to the sum of the following amounts:

a. 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average annual gross receipts for the 4 preceding tax years but does not exceed 1.5 percent of such average.

b. 2.2 percent of so much the qualified research expenses for the taxable year as exceeds 1.5 percent of the average annual gross receipts for the 4 preceding tax years but does not exceed 2 percent of such average.

c. 2.75 percent of so much of the qualified research expenses for the taxable year as exceeds 2 percent of the average annual gross receipts for the 4 preceding tax years.

Section 41(c)(4)(B) provides that any election under § 41(c)(4)(A) shall apply for the taxable year in which made and all succeeding taxable years unless revoked with the consent of the Secretary.

Based solely on the facts submitted and representations made, we conclude that Taxpayer must compute its credit for increasing research activities (research credit) for the taxable year ending December 31, 1999, using the calculation described in § 41(a)(1) of the Internal Revenue Code without regard to § 41(c)(4).

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Temporary or final regulations pertaining to one or more of the issues addressed in this ruling have not yet been adopted. Therefore, this ruling will be modified or revoked by the adoption of temporary or final regulations, to the extent the regulations are inconsistent with any conclusion in the letter ruling. See section 12.04 of Rev. Proc. 2000-1, 2000-1 I.R.B. 4, 46. However, when the criteria in section 12.05 of Rev. Proc. 2000-1 are satisfied, a ruling is not revoked or modified retroactively except in rare or unusual circumstances.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,
Paul F. Kugler
Associate Chief Counsel (Passthroughs and Special Industries)

Enclosure