

# Credit for Increasing Research Activities

## REG-134030-04 and REG-133791-02

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations; notice of public hearing; and withdrawal of previously proposed regulations.

**SUMMARY:** In this issue of the Bulletin, the IRS is issuing temporary regulations (T.D. 9205) relating to the computation and allocation of the credit for increasing research activities for members of a controlled group of corporations, including consolidated groups, or a group of trades or businesses under common control. The text of those regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations and withdraws the proposed regulations published in the **Federal Register** on July 29, 2003 (68 FR 44499).

**DATES:** Written or electronic comments must be received by September 28, 2005. Requests to speak and outlines of the topics to be discussed at the public hearing scheduled for October 19, 2005, at 10 a.m. must be received by September 28, 2005.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-134030-04), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-134030-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. Alternatively,

taxpayers may submit electronic comments directly to the IRS Internet site at *www.irs.gov/regs* or via the Federal eRulemaking Portal at *www.regulations.gov* (IRS and REG-134030-04). The public hearing will be held in the Auditorium, 7<sup>th</sup> Floor, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning these proposed regulations, Nicole R. Cimino at (202) 622-3120; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Robin R. Jones at (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

This document withdraws the notice of proposed rulemaking (REG-133791-02, 2003-2 C.B. 493) published on July 29, 2003, and amends the Income Tax Regulations (26 CFR 1) relating to section 41. The temporary regulations set forth the rules relating to the computation and allocation of the credit for increasing research activities for members of a controlled group of corporations, including consolidated groups, or a group of trades or businesses under common control under section 41(f) for taxable years ending on or after May 24, 2005. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not

apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for October 19, 2005, beginning at 10 a.m. in the Auditorium, 7<sup>th</sup> Floor, of the Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by September 28, 2005. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal author of these regulations is Nicole R. Cimino, Office of the Associate Chief Counsel (Passthroughs and

Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

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#### Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-133791-02) published in the **Federal Register** on July 29, 2003, (68 FR 44499) is withdrawn.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1 — INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Section 1.41-6 also issued under 26 U.S.C. 41(f).\* \* \*

Par. 2. In § 1.41-0, the table of contents is amended as follows:

#### *§ 1.41-0 Table of contents.*

[The text of proposed § 1.41-0 is the same as the text of § 1.41-0 published elsewhere in this issue of the Bulletin].

Par. 3. Section 1.41-6 is revised to read as follows:

#### *§ 1.41-6 Aggregation of expenditures.*

[The text of proposed § 1.41-6 is the same as the text of § 1.41-6T published elsewhere in this issue of the Bulletin].

Par. 4. Section 1.41-8 is revised to read as follows:

#### *§ 1.41-8 Special rules for taxable years ending on or after January 3, 2001.*

[The text of proposed § 1.41-8 is the same as the text of § 1.41-8T published elsewhere in this issue of the Bulletin].

Mark E. Matthews,  
*Deputy Commissioner for  
Services and Enforcement.*