

The Qualifying Therapeutic Discovery Project Credit: How to Best Position Your Company

Josh Meinen, CPA, Baker Tilly Virchow Krause, LLP

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On March 23, 2010, the President signed the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (the "Act"). The Act created Internal Revenue Code section 48D, Qualifying Therapeutic Discovery Project Credit, which provides a tax credit equal to 50 percent of the "qualified investment" of an "eligible taxpayer" for certain research and development expenditures in 2009 and/or 2010 related to certain qualified projects. For companies that cannot currently utilize this as a tax credit, a cash grant of the same amount is available. The total amount of credits/grants that may be allocated under the program will not exceed \$1 billion. While many details are still emerging, this article provides an abridged overview of the credit, what to expect from the Federal government in the coming month, and most importantly, how to best position your company to be selected for this competitive program.

We recently produced a tax alert detailing the credit, eligibility, and benefits released by the government. [Click to read the entire alert >](#)

Baker Tilly insights on the application process

To date, we have assisted with applications that resulted in over \$15 million in section 48C (the Qualifying Advanced Energy Project Credit established in August 2009) funding and over \$840 million for New Markets Tax Credits (NMTC) for our clients. We anticipate the section 48D Qualifying Therapeutic Discovery Project Credit program will be patterned after section 48C.

Based on our recent experience with those applications, we see the section 48D application process as being more competitive than some may think. These programs tend to always have more applicants than expected. With past credits, early review committee scorers were responsible for a large number of applications and their focus on detail was proportional. Companies that plan in advance will have the best chance, in our opinion, of receiving a successful notification. Here are a few more points we think you should consider:

- > Confusion on the application response (primarily eligible expenses) will result in delays
- > The funds will be allocated quicker than expected (the section 48C program oversubscribed the allotted amount of credit by more than three times, resulting in a push for an additional funding)
- > There may be different reporting requirements to both the Treasury and Health and Human Services
- > Consider how these funds can help leverage funding commitments
- > Anticipate the application to be detailed and technical; therefore, be prepared to be as detailed as possible about your eligibility and the qualifying expenditures

Baker Tilly Virchow Krause, LLP is hosting a Webinar on May 26 at 12:00 (cst) to discuss the specifics of the application process. Those specifics are expected to be published by the Secretaries of the Treasury and Health and Human Services on or about May 21, 2010. Webinar details are available on our website.

Time is of the essence, we can help you get started now

The application process is anticipated to be published about May 21, 2010. Once the application process is available, you will want to be in a position to submit a response as soon as possible given the competitive nature. However, immediately, you should start reviewing your 2009 expenditures to figure out what may qualify; pick costs that you are very certain will qualify and be prepared to justify them. It is unknown who exactly will be evaluating the projects on the review committee. However, once the application is received, the committee will have a thirty-day window to review and recommend, deny, or request additional clarification on your application. For these reasons, we are encouraging you to create an application that results in the reader feeling confident in the project and having a clear understanding of why your company would benefit from this program. Referencing prior performance as an indicator of your ability to deliver should also be a plus. The story should make sense to a layperson; any ambiguity or confusion in the response, specifically related to eligible expenses, will likely result in denial or delay. Given this will be a highly competitive process, delays could result in a lack of available funds.

Based on our experience with section 48C and the NMTC, we believe we can add value to your application process and will be pleased to assist. Connect with Josh Meinen for your questions on the Qualifying Therapeutic Discovery Project Credit at 608 240 2331 or joshua.meinen@bakertilly.com.

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