

### **Qualifying Therapeutic Discovery Project Credit**

The recent health care bills made available a new credit to encourage medical science investments for 2009 and 2010. Eligible taxpayers with 250 or fewer employees across all businesses may claim a tax credit for either tax year 2009 or 2010 if costs for expenses necessary for and directly related to a qualifying therapeutic discovery project are incurred. The credit amount equals 50 percent of the qualified investment, limited to a per-taxpayer amount to be determined by the Secretary.

A qualifying therapeutic discovery project is designed to:

- > Treat or prevent disease through clinical trials and research protocols to obtain FDA approval of a product,
- > Diagnose diseases by developing molecular diagnostics to guide therapeutic decisions, or
- > Develop a therapeutic product, process, or technology.

The Secretary shall only consider projects that show reasonable potential to:

- > Result in new therapies to treat unmet medical needs or prevent, detect, or treat chronic or acute diseases,
- > Reduce long-term health care costs in the U.S., or
- > Significantly advance the cure for cancer within the next 30 years.

The Secretary shall consider projects having the greatest potential for creating and sustaining high quality, high-paying jobs in the U.S. and helping the U.S. compete globally in the medical sciences.

### **Preparing for the application process**

The Secretary has until mid-May to establish a program to award certifications for qualifying investments. In past years, taxpayers have had only 30 days between the time guidance was issued and the deadline for an application. Although it is unclear what the timeline will be for guidance under this new credit, taxpayers should be prepared for a quick application process to ensure timely submissions.

**Planning consideration:** Taxpayers eligible for the credit should gather information now to ensure a timely application when it becomes available.

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**Program exclusions**

Total credits for the program are limited to \$1 billion. Not all costs are eligible for the credit. Excluded costs include:

- > Certain remuneration costs,
- > Interest expense,
- > Facility maintenance costs incurred to maintain a facility, including mortgage or rent, insurance, utility and maintenance, and employment of maintenance personnel,
- > Service costs, and
- > Any other expenses identified by the Secretary.

In addition, if a taxpayer receives a credit on account of depreciable property purchased, he shall reduce his depreciable basis by the amount of the credit received. A credit is not available toward the cost of property eligible for bonus depreciation, the research credit, or the orphan drug credit. The taxpayer may not deduct expenses for which the credit is claimed. Taxpayers may request a grant instead. Grants are not includible in the taxpayer's income, and the taxpayer cannot deduct any expenses for which the grant is issued. Tax-exempt entities may not receive grants.

If you have any questions regarding qualifying therapeutic discovery projects or any of the recent health care legislation, please contact your Baker Tilly advisor or send an e-mail to [tax@bakertilly.com](mailto:tax@bakertilly.com).