

§5219-K. Research expense tax credit

1. Credit allowed. A taxpayer is allowed a credit against the tax due under this Part equal to the sum of 5% of the excess, if any, of the qualified research expenses for the taxable year over the base amount and 7.5% of the basic research payments determined under the Code, Section 41(e)(1)(A). The term "base amount" means the average amount per year spent on qualified research expenses over the previous 3 taxable years by the taxpayer. As used in this section, unless the context otherwise indicates, the terms "qualified research expenses," "qualified organization base period amount," "basic research" and any other terms affecting the calculation of the credit have the same meanings as under the Code, Section 41, but apply only to expenditures for research conducted in this State. In determining the amount of the credit allowable under this section, the State Tax Assessor may aggregate the activities of all corporations that are members of a controlled group of corporations, as defined by the Code, Section 41(f)(1)(A) and in addition may aggregate the activities of all entities, whether or not incorporated, that are under common control, as defined by the Code, Section 41(f)(1)(B). [PL 2007, c. 627, §91 (AMD).]

2. Reduction not less than zero. The credit allowed under this section for any taxable year may not reduce the tax due to less than zero. [PL 1995, c. 368, Pt. GGG, §7 (NEW).]

3. Limitation on credit allowed. The credit allowed under this section is limited to 100% of a corporation's first \$25,000 of tax due, as determined before the allowance of any credits, plus 75% of the corporation's tax due, as determined in excess of \$25,000. The assessor may adopt rules similar to those authorized under the Code, Section 38(c)(6)(B). [PL 2023, c. 360, Pt. B, §11 (AMD).]

4. Corporations filing combined return. In the case of corporations filing a combined return, a credit generated by an individual member corporation under the provisions of this section must first be applied against the tax due attributable to that company under this Part. A member corporation with an excess research and development credit may apply its excess credit against the tax due of another group member to the extent that that other member corporation can use additional credits under the limitations of subsection 3. Unused, unexpired credits generated by a member corporation may be carried over from year to year by the individual corporation that generated the credit, subject to the limitation in subsection 5. [PL 1997, c. 504, §18 (AMD).]

5. Carryover to succeeding years. A taxpayer entitled to a credit under this section for any taxable year may carry over and apply to the tax due for any one or more of the next succeeding 15 taxable years the portion, as reduced from year to year, of the credit that exceeds the tax due for the taxable year. A taxpayer may carry over and apply to the tax due for any subsequent taxable year the portion of those credits, as reduced from year to year, not allowed by subsection 3. [PL 1995, c. 368, Pt. GGG, §7 (NEW).]

6. Additional rules. The State Tax Assessor may adopt such rules as are necessary to implement this section. [PL 2023, c. 360, Pt. B, §12 (AMD).]

7. Application. This section applies to any tax year beginning on or after January 1, 1996. [PL 1995, c. 368, Pt. GGG, §7 (NEW).]

SECTION HISTORY

PL 1995, c. 368, §GGG7 (NEW). PL 1997, c. 504, §18 (AMD). PL 1999, c. 127, §B9 (AMD). PL 2007, c. 627, §§91, 92 (AMD). PL 2023, c. 360, Pt. B, §§11, 12 (AMD).

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