



July 31, 2025

The Honorable Kenneth J. Kies
Assistant Secretary of the Treasury, Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue
Washington, DC 20220

Re: Small Business Taxpayer Domestic Research and Experimental Expenditures and the Election for the Retroactive Effective Date of Section 174A

Dear Mr. Kies:

The American Institute of CPAs (AICPA) is requesting immediate guidance on section¹ 174A of the Internal Revenue Code (IRC) related to domestic research and experimental expenditures (domestic research costs), which was recently enacted in H.R. 1² (“the Act”).

We recommend that guidance provides the ability for eligible small business taxpayers (as defined in subsection (f)(1)(B) of Section 70302 of the Act) to immediately deduct, on their 2024 originally filed income tax returns, domestic research costs paid or incurred in taxable years beginning in 2024. The AICPA will provide further comments on section 174A at a later date. However, the issue raised in this letter requires immediate consideration as many otherwise eligible taxpayers are finalizing their 2024 federal income tax returns.

Overview

Section 70302 Full Expensing of Domestic Research and Experimental Expenditures of the Act provides, in general, that taxpayers will be allowed to immediately expense section 174A domestic research costs paid or incurred in taxable years beginning after December 31, 2024. Under this Section of the Act, eligible small business taxpayers can elect to substitute “December 31, 2021 for December 31, 2024” per the legislative text, effectively allowing such taxpayers retroactive treatment of immediate expensing of domestic research costs. The statute provides that to effectuate the election an eligible taxpayer shall file an amended return for each taxable year affected by the election.

Many eligible taxpayers have not yet filed their income tax returns for the 2024 income tax filing period, and it is unclear whether they may deduct 2024 domestic research costs on their 2024 originally filed federal income tax returns, rather than capitalize the amounts on an originally filed return with the intention of filing amended 2024 returns to deduct such costs.

The language of the Act provides an eligible taxpayer with the ability and authority to make an election to substitute the effective dates of Section 70302 and provides such taxpayers the ability to treat the election as a change in method of accounting for the first taxable year affected

¹ All references to “section” are to the Internal Revenue Code of 1986, as amended, and all references to “Treas. Reg. §,” “Prop. Reg. §,” and “regulations” are to U.S. Treasury regulations promulgated thereunder, unless otherwise specified.

² Pub. L. No. 119-21

by the election. However, making the election appears to bind an eligible taxpayer to amending returns unless an election to treat as a change in method of accounting is concurrently made.

Recommendation

The AICPA recommends that Treasury and the IRS issue guidance stating that an eligible taxpayer that deducts 2024 domestic research costs on its 2024 federal income tax return, and includes a statement or reference that it is making an election for the 2024 tax year under Section 70302(f)(1)(A), will be deemed to have made a valid election under subsection (f)(1)(A) of Section 70302 of the Act provided such taxpayer is otherwise eligible under subsection (f)(1)(B) of Section 70302 of the Act as of December 31, 2024, and complies with section 280C(c), as amended by subsection (b)(2)(B) of the Act.

In addition, the guidance should state that notwithstanding the deemed election on the 2024 federal income tax return, such taxpayer may either amend its 2022 and 2023 federal income tax returns, for domestic research costs paid or incurred in taxable years beginning in 2022 and 2023, to apply Section 70302 of the Act retroactively, or elect to file a change in method of accounting, as described in subsection (f)(1)(C) of Section 70302 of the Act, for its first taxable year beginning after December 31, 2024.

The guidance should also state that if an eligible taxpayer makes the aforementioned election but has a net operating loss for any taxable year affected by the election, then in lieu of amending the NOL year return the taxpayer is permitted to adjust in the NOL carryforward year(s) noting that the NOL has been adjusted to reflect the election.

Analysis

The above recommendations allow eligible taxpayers to avoid unintended consequences if they deduct domestic research costs on their 2024 original income tax returns. Providing timely guidance that allows eligible taxpayers the ability to deduct their 2024 domestic research costs while preserving the ability to recover domestic research costs paid or incurred in taxable years beginning in 2022 and 2023 in accordance with the transition rules in subsection (f)(1) of Section 70302 of the Act would provide the benefit of sound tax administration for impacted taxpayers, practitioners, and the IRS.

Providing this guidance will allow immediate tax relief to these eligible taxpayers as well as provide relief to eligible taxpayers that inadvertently deducted 2024 domestic research costs on their 2024 federal income tax returns and fear such deduction may place in jeopardy their ability to elect to treat the retroactivity election in the Act as a change in method of accounting.

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We appreciate your consideration of our comments that are necessary to achieve the tax policy objectives of the voluntary method change procedures. We welcome further discussion of these issues and our comments. If you have any questions, please contact Ryan Corcoran, Chair, AICPA Section 174 Working Group, at (202) 370-8235 or ryan.corcoran@rsmus.com; Jessica Thielken, Chair, AICPA Tax Methods and Periods Technical Resource Panel, at (267) 256-1897 or jblair@kpmg.com; Reema Patel, Senior Manager, AICPA Tax Policy & Advocacy, at (202) 434-9217 or reema.patel@aicpa-cima.com; or me Cheri Freeh at (610) 217-4495 or CheriFreeh@gmail.com.

Sincerely,



Cheri Freeh, CPA, CGMA
Chair, AICPA Tax Executive Committee

cc: The Honorable William (Billy) H. Long II, Commissioner, Internal Revenue Service
Ms. Heather Harman, Taxation Specialist, Office of Tax Legislative Counsel,
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