



## ***Think Ahead – Navigating through New IRS Forms for Applying the R&D Tax Credit to Payroll Taxes***

The Protecting Americans from Tax Hikes Act of 2015 (“PATH Act”) created significant opportunities for “startup” companies who previously could not utilize the Research & Development (“R&D”) tax credit. During their early years, these companies frequently do not generate taxable income and the R&D credits go unused and are carried forward to future years when the Companies become taxable. This creates a disincentive to expend the time and effort to adequately document their qualifying research expenditures (QREs). Despite not generating taxable income, however, they still spend a considerable amount of expenditures on R&D and a majority of those expenditures are wages which are subject to payroll tax.

Effective for tax years beginning after December 31, 2015, a qualified small business may elect to apply up to \$250,000 of its R&D credit against its payroll tax liability. A qualified small business is defined as having less than \$5M in gross receipts for the tax year, and no gross receipts for any tax years preceding the five-year period ending with the tax year. The credit is applied against the 1<sup>st</sup> quarter following the filing of the federal income tax return. Qualified startups with \$5M or less in gross receipts in 2016, for example, can apply their 2016 R&D credit toward up to \$250,000 of their payroll tax liability on their 2017 Forms 941.

To facilitate this, the IRS has:

- Released a draft of new Form 8974, Qualified Small Business Payroll Tax Credit for Increasing Research Activities;
- Updated Form 941, Employer's Quarterly Federal Tax Return;
- Updated Form 6765, Credit for Increasing Research Activities; and
- Updated Form 3800, General Business Credit.

Navigating through these forms can be tricky. The amount of the credit is determined on Form 6765 sections A or B and C, then Form 3800 must be completed, if applicable, before completing new section D on Form 6765. The elected offset is then reported on Form 8974 which is filed with Form 941 for each quarter with a Social Security tax liability, to which the credit is applied. Notably, the federal income tax return must be filed before claiming the payroll tax offset.

***More than ever, it behooves small companies to document their qualifying R&D activities even if they're not generating taxable income since the credit must be calculated and the federal return filed before claiming the payroll tax offset.***

Think, LLP has the expertise and experience to help you claim these credits. Please consider Think, LLP to assist you in evaluating and quantifying your development activities in order to maximize your R&D Credit. Give us a call or email us with your questions.

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