

Think Outside the Box – Claiming R&D Credits for Closed Tax Years

As we previously reported, taxpayers are now permitted to use the Alternative Simplified Credit (ASC) calculation on amended returns where no credit has been previously claimed. Prior to this development, taxpayers were required to use the much more difficult “regular” method on amended returns.

This makes it easier to claim the R&D credit on amended returns for open tax years, but what about “closed” years where the statute of limitations has expired? The good news is that taxpayers with NOL carryforwards can actually reach back into closed years to claim R&D credits and benefit in the current tax year.

Several Private Letter Rulings and Memoranda support the position that adjusting an NOL carryforward schedule does not require the amending of the tax return where the statute of limitations has expired, as long as the credit is utilized in an open year.

This is particularly useful for biotech and other start-up companies that typically conduct extensive R&D in early years while sustaining losses, before reaping the benefits of their research and generating large profits in later years. These companies can benefit significantly by conducting R&D tax credit studies for those early years, *even if closed under the statute of limitations*, and carrying those credits forward to offset taxable income in profitable years.

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

Greg Elias, CPA

Partner

310-405-0237

g Elias@thinkllp.com

Karen Papalia

Director

919-554-2353

kpapalia@thinkllp.com