

§ 1.41-6T

taxable years ending on or before December 31, 2006. For taxable years ending after December 31, 2006, see § 1.41-6T.

[T.D. 9296, 71 FR 65725, Nov. 9, 2006; 71 FR 70875, Dec. 7, 2006; 71 FR 75614, Dec. 15, 2006; T.D. 9401, 73 FR 34188, June 17, 2008]

§ 1.41-6T Aggregation of expenditures (temporary).

(a) [Reserved] For further guidance, see § 1.41-6(a).

(b) *Computation of the group credit*—(1) *In general.* All members of a controlled group are treated as a single taxpayer for purposes of computing the research credit. The group credit is computed by applying all of the section 41 computational rules on an aggregate basis. All members of a controlled group must use the same method of computation, either the method described in section 41(a)(1), the alternative incremental credit (AIRC) method described in section 41(c)(4), or the alternative simplified credit (ASC) method described in section 41(c)(5), in computing the group credit for a credit year.

(2) [Reserved] For further guidance, see § 1.41-6(b)(2).

(c) *Allocation of the group credit.* (1) [Reserved] For further guidance, see § 1.41-6(c)(1).

(2) *Stand-alone entity credit.* The term *stand-alone entity credit* means the research credit (if any) that would be allowable to a member of a controlled group if the credit were computed as if section 41(f)(1) did not apply, except that the member must apply the rules provided in § 1.41-6(d)(1) (relating to consolidated groups) and § 1.41-6(i) (re-

lating to intra-group transactions). Each member's stand-alone entity credit for any credit year must be computed under whichever method (the method described in section 41(a), the method described in section 41(c)(4), or the method described in section 41(c)(5)) results in the greatest stand-alone entity credit for that member, without regard to the method used to compute the group credit.

(d) [Reserved] For further guidance see § 1.41-6(d).

(e) *Example—Group alternative simplified credit.* The following example illustrates a group computation in a year for which the ASC method under section 41(c)(5) is in effect. No members of the controlled group are members of a consolidated group and no member of the group made any basic research payments or paid or incurred any amounts to an energy research consortium.

Example. (i) *Facts.* Q, R, and S, all of which are calendar-year taxpayers, are members of a controlled group. The research credit under section 41(a)(1) is not allowable to the group for the 2008 taxable year (the credit year) because the group's aggregate QREs for the credit year are less than the group's base amount. The group does not use the AIRC method of section 41(c)(4) because its aggregate QREs for the credit year do not exceed 1 percent of the average annual gross receipts for the four years preceding the credit year. The group credit is computed using the ASC rules of section 41(c)(5).

Assume that each member of the group had QREs in each of the three years preceding the credit year. For purposes of computing the group credit for the credit year, Q, R, and S had the following:

	Q	R	S	Group aggregate
Credit Year QREs	\$0x	\$20x	\$30x	\$50x
Average QREs for 3 Years Preceding the Credit Year	10x	20x	10x	40x

(ii) *Computation of the group credit.* The research credit allowable to the group is computed as if Q, R, and S are one taxpayer. The group credit is equal to 12 percent of so much of the QREs for the credit year as exceeds 50 percent of the average QREs for the three taxable years preceding the credit year. The group credit is $0.12 \times (\$50x - (0.5 \times \$40x))$, which equals \$3.6x.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, the stand-

alone entity credit for each member of the group must be computed using the method that results in the greatest stand-alone entity credit for that member. The stand-alone entity credit for Q is zero under all three methods. Assume that the stand-alone entity credit for each of R (\$1.2x) and S (\$3x) is greatest using the ASC method. Therefore, the stand-alone entity credits for each of R and S must be computed using the ASC method. The sum of the stand-alone entity

Internal Revenue Service, Treasury

§ 1.41-7

credits of the members of the group is \$4.2x. Because the group credit of \$3.6x is less than the sum of the stand-alone entity credits of all the members of the group (\$4.2x), the group credit is allocated among the members

of the group based on the ratio that each member's stand-alone entity credit bears to the sum of the stand-alone entity credits of all the members of the group. The \$3.6x group credit is allocated as follows:

	Q	R	S	Total
Stand-Alone Entity Credit	\$0x	\$1.2x	\$3x	\$4.2x
Allocation Ratio (Stand-Alone Entity Credit/Sum of Stand-Alone Entity Credits)	0/4.2	1.2/4.2	3/4.2	
Multiplied by: Group Credit	\$3.6x	\$3.6x	\$3.6x	
Equals: Credit Allocated to Member	\$0x	\$1.03x	\$2.57x	\$3.6x

(f) through (i) [Reserved] For further guidance see § 1.41-6(f) through (i).

(j) *Effective/applicability dates.* This section is applicable for taxable years ending after December 31, 2006. For taxable years ending on or before December 31, 2006, see § 1.41-6.

(k) *Expiration date.* The applicability of this section will expire on or before June 13, 2011.

[T.D. 9401, 73 FR 34188, June 17, 2008]

§ 1.41-7 Special rules.

(a) *Allocations—(1) Corporation making an election under subchapter S—(i) Pass-through, for taxable years beginning after December 31, 1982, in the case of an S corporation.* In the case of an S corporation (as defined in section 1361) the amount of research credit computed for the corporation shall be allocated to the shareholders according to the provisions of section 1366 and section 1377.

(ii) *Pass-through, for taxable years beginning before January 1, 1983, in the case of a subchapter S corporation.* In the case of an electing small business corporation (as defined in section 1371 as that section read before the amendments made by the subchapter S Revision Act of 1982), the amount of the research credit computed for the corporation for any taxable year shall be apportioned pro rata among the persons who are shareholders of the corporation on the last day of the corporation's taxable year.

(2) *Pass-through in the case of an estate or trust.* In the case of an estate or trust, the amount of the research credit computed for the estate or trust for any taxable year shall be apportioned among the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(3) *Pass-through in the case of a partnership—(i) In general.* In the case of a partnership, the research credit computed for the partnership for any taxable year shall be apportioned among the persons who are partners during the taxable year in accordance with section 704 and the regulations thereunder. See, for example, § 1.704-1(b)(4)(ii). Because the research credit is an expenditure-based credit, the credit is to be allocated among the partners in the same proportion as section 174 expenditures are allocated for the year.

(ii) *Certain expenditures by joint ventures.* Research expenses to which § 1.41-2(a)(4)(ii) applies shall be apportioned among the persons who are partners during the taxable year in accordance with the provisions of that section. For purposes of section 41, these expenses shall be treated as paid or incurred directly by the partners rather than by the partnership. Thus, the partnership shall disregard these expenses in computing the credit to be apportioned under paragraph (a)(3)(i) of this section, and in making the computations under section 41 each partner shall aggregate its distributive share of these expenses with other research expenses of the partner. The limitation on the amount of the credit set out in section 41(g) and in paragraph (c) of this section shall not apply because the credit is computed by the partner, not the partnership.

(4) *Year in which taken into account.* An amount apportioned to a person under this paragraph shall be taken into account by the person in the taxable year of such person which or within which the taxable year of the corporation, estate, trust, or partnership (as the case may be) ends.