



# The New Jersey Research and Development Tax Credit

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**Tax: Corporation Business Tax  
Gross Income Tax**

This Technical Bulletin explains certain aspects of research performed in New Jersey and related issues for both Corporation Business Tax and Gross Income Tax taxpayers.

For New Jersey purposes, there is a Corporation Business Tax R&D credit ([N.J.S.A. 54:10A-5.24](#)) and, if applicable, a deduction for qualified research expenditures and payments. While there is no such credit for the purposes of either the [New Jersey Gross Income Tax or the Pass-Through Business Alternative Income Tax \(BAIT\)](#), there is a deduction for qualified research expenditures and payments.

## The New Jersey Corporation Business Tax R&D Credit

[N.J.S.A. 54:10A-5.24](#) states:

- a. A taxpayer shall be allowed a credit, subject to the provisions of subsection b. of this section, against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to
  - (1) 10% of the excess of the qualified research expenses for the privilege period over the base amount; and
  - (2) 10% of the basic research payments for the privilege period determined in accordance with section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41. Provided however, that the terms "qualified research expenses," "base amount," "qualified organization base amount period," "basic research" and any other terms determined by the Director of the Division of Taxation to affect the calculation of the credit shall include only expenditures for research conducted in this State. For privilege periods beginning on and after January 1, 2018, amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the privilege period, including as contributions, to an energy research consortium for energy research shall also qualify as a basic research payment for purposes of this subsection.
- b. No credit shall be allowed under section 42 of P.L.1987, c.102 (C.54:10A-5.3), or under the "Manufacturing Equipment and Employment Investment Tax Credit Act," P.L.1993, c.171 (C.54:10A-5.16 et al.), or under P.L.1993, c.170 (C.54:10A-5.4 et seq.), for property or expenditures for which a credit is allowed, or which are includable in the calculation of a credit allowed, under this section.

The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law shall be as prescribed by the director. Credits allowable pursuant to this section shall be applied in the order of the privilege periods for which the credits were allowed.

For privilege periods beginning before January 1, 2012, the amount of the credits applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for the privilege period shall not exceed 50% of the tax liability otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

For privilege periods beginning on or after January 1, 2012, the amount of the credits applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for the privilege period shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

For privilege periods beginning on or after January 1, 2018, the credit taken under this section shall not be refundable.

The amount of credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection may be carried over, if necessary, to the seven privilege periods following a credit's privilege period.

- c. No provision terminating section 41 of the federal Internal Revenue Code, 26 U.S.C. s.41, shall apply.
- d. For privilege periods beginning on and after January 1, 2020, the portion of qualified research expenses and qualified payments of a taxpayer that is a qualified small business within the meaning of section 41(h)(3) of the federal Internal Revenue Code (26 U.S.C. s.41) that were disallowed for the section 41(h) tax credit because the taxpayer made an election pursuant to sections 41(h) and 3111(f) of the federal Internal Revenue Code (26 U.S.C. s.41 and s.3111) to take the 3111(f) credit in lieu of the 41(h) credit, shall be allowed for the purposes of calculating the New Jersey credit provided for by this section.

For federal purposes, a taxpayer is allowed an income tax credit for certain qualified research and development expenditures and research payments as long as the requirements of IRC § 174 and IRC § 41 are both met. Additionally, a qualified small business can elect a separate federal payroll credit instead of the federal corporate income tax credit under IRC § 41(h) and IRC § 3111(f). IRC § 280C and certain other provisions of the Internal Revenue Code require the reduction of the federal research and development credit and reduction of the deductible research and development expenditures and research payments when the taxpayer opts for other federal credits.

For purposes of the New Jersey Corporation Business Tax R&D credit, the federal rules and case law on IRC § 174 and IRC § 41 are applicable, except when the statutory limitations in N.J.S.A. 54:10A-5.24, N.J.S.A. 54:10A-4(k)(11), other New Jersey credits preventing the double use of expenses for multiple credits, the Corporation Business Tax Act, or New Jersey case law governing specific issues on the New Jersey R&D Credit differ. N.J.S.A. 54:10A-5.24.a(2) limits the New Jersey R&D credit to only qualifying research expenditures and payments in New Jersey. The New Jersey R&D credit also expressly limits the expenses used in calculating the credit cannot be used for calculating specific other New Jersey credits and vice versa. The New Jersey R&D credit is for all Corporation Business Tax taxpayers, regardless of whether the entity is a corporation, S corporation, Qualified Subchapter S subsidiary, partnership, or disregarded entity (see below for information on these specific entities).

If the qualifying research expenditures were not used to calculate the federal research and development credit but were used to calculate other New Jersey credits for which the taxpayer is prohibited from double counting the expenditures, and the taxpayer subsequently files an amended federal return to claim the federal research and development credit, the taxpayer cannot use those expenditures to claim the New Jersey R&D credit.

**Substantiation Requirements.** Substantiation is necessary to ensure the research expenditures and payments are for research performed in New Jersey and that they are not being double counted toward other New Jersey credits.

**For tax years beginning before January 1, 2018**, the New Jersey R&D credit was calculated based on the federal research and development credit under IRC § 41 in effect on June 30, 1992. Taxpayers were limited to calculating the New Jersey R&D credit using the traditional method or if that was impractical or unavailable, the taxpayer would have to use the start-up method. For more information on the New Jersey R&D credit for tax years beginning before January 1, 2018, see N.J.A.C. 18:7-3.23.

If a taxpayer is filing an amended return to claim the New Jersey R&D credit, they must use Form 306 for the appropriate tax year. For example, a taxpayer cannot use a 2022 Form 306 to claim a tax year 2017 R&D credit. Copies of prior year forms can be found [online](#).

**Note:** See [ANJ-1](#), *New Jersey Taxpayers' Bill of Rights* for information on the statute of limitations.

**For tax years beginning on and after January 1, 2018**, taxpayers must use the same method that was used for claiming the federal research and development credit for corporate income tax purposes, except that the New Jersey R&D credit is limited to 10% of the qualifying research expenditures in New Jersey and 10% of the basic research payments for research in New Jersey. Basic research payments paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium in New Jersey also qualify. The New Jersey R&D credit is not refundable.

If a taxpayer is filing an amended return to claim the New Jersey R&D credit, they must use Form 306 for the appropriate tax year. For example, a taxpayer cannot use a 2023 Form 306 to claim a tax year 2019 R&D credit. Copies of prior year forms can be found [online](#).

**Note:** See [ANJ-1](#), *New Jersey Taxpayers' Bill of Rights* for information on the statute of limitations.

The current federal limitations set forth in the current I.R.C. § 41 for tax years beginning on and after January 1, 2018 (as a result of P.L. 2018, c. 48) apply to the New Jersey R&D Credit, limited to research expenditures and research payments in New Jersey. See also N.J.A.C. 18:7-3.23A.

Taxpayers must use the same method for calculating the New Jersey R&D credit that was used for federal purposes on their federal return. If a taxpayer files an amended federal return changing the method used or adjusting the amount of credit claimed, the taxpayer must file an amended New Jersey Corporation Business Tax return reflecting such change. If the Internal Revenue Service makes adjustments to the amount of qualifying expenses, the taxpayer must reflect these adjustments by filing an amended New Jersey Corporation Business Tax return. Adjustments made for qualifying expenses for the federal research and development credit will not increase or decrease the New Jersey R&D credit if the expenses are not for research conducted in New Jersey.

For purposes of the New Jersey R&D credit, gross receipts must be reduced by returns and allowances made during the tax year to the extent such returns and allowances would reduce the gross receipts for the purposes of the federal research and development credit. In the case of a foreign corporation, only gross receipts that are effectively connected with the conduct of a trade or business within the United States are taken into account.

**For tax years beginning on and after January 1, 2020**, the portion of qualified research expenses and qualified payments of a taxpayer that is a qualified small business within the meaning of IRC § 41(h)(3) that were disallowed for federal purposes because the taxpayer made an election for the federal payroll tax credit, are allowed for purposes of calculating the New Jersey R&D credit. For all other federal credits that a taxpayer elects to take instead of the federal research and development credit, if the taxpayer is

required to reduce their amount of qualified research expenditures and research payments for the federal credit and/or that are deducted from taxable income, those expenditures and payments cannot be used for the New Jersey R&D credit and cannot be deducted from entire net income. See [N.J.S.A. 54:10A-4\(k\)](#).

### **Federal Orphan Drug Credit**

If the taxpayer elects to take the federal orphan drug credit (IRC § 45C) instead of the federal research and development credit, those otherwise qualified expenses and payments are not permitted to be used for the New Jersey R&D credit. In addition, if the taxpayer is required to reduce their amount of deductible research expenditures deducted for federal purposes, they are not allowed to deduct those federally disallowed amounts for New Jersey purposes.

### **New Jersey R&D Credit Carryovers**

In general, the New Jersey R&D credit can be carried forward for seven tax years. However, certain taxpayers in specified qualifying industries performing qualifying research in fields such as advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology, and medical device technology, as defined at [N.J.S.A. 54:10A-5.24b.b](#), are eligible for a 15-year carry forward.

### **New Jersey R&D Credits of Combined Group Members**

For purposes of New Jersey R&D credit, the combined group members included on the same New Jersey combined return will follow the federal consolidated control group rules applicable to qualified research expenditures and qualified payments for research performed in New Jersey. Taxable members of a combined group may share their tax credits and tax credit carryovers with other taxable members of the combined group that are included on the same New Jersey combined return. For more information, see [TB-90](#); [N.J.A.C. 18:7-3.23A](#); and [N.J.A.C. 18:7-21.12](#).

As long as tax credits/credit carryovers are shared among taxable members of a combined group included on the same New Jersey combined return, no benefit transfer certificate is necessary. Transfers of tax credits/credit carryovers to taxpayers outside the combined group filing a New Jersey combined return require a benefit transfer certificate, as applicable.

### **Situations in Which Research Expenditure Location Hard to Quantify**

If a taxpayer has research conducted both inside and outside New Jersey, and cannot determine the amount of New Jersey qualified research expenses for periods beginning on or after January 1, 2018, the taxpayer may calculate the amount of the New Jersey qualified research expenses to be used for the research credit by multiplying the qualified research expenditures everywhere by a three-factor fraction consisting of New Jersey property, payroll, and receipts in the numerator over property, payroll, and receipts everywhere in the denominator.

**For a combined group** filing either a mandatory or elective New Jersey combined return, if the combined group has research both inside and outside New Jersey and cannot determine the amount of New Jersey qualified research expenses for the period, the taxable members of the combined group may calculate the amount of the New Jersey qualified research expenses to be used for the research credit by multiplying the qualified research expenditures everywhere by a three-factor fraction consisting of New Jersey property, payroll, and receipts in the numerator over property, payroll, and receipts everywhere in the denominator. See [N.J.A.C. 18:7-3.23A](#) and [TB-90](#) for more information.

## **Corporate Partners and Partnerships**

The corporate partner is entitled to their proportionate share of the New Jersey R&D credit. The partnership completes Part I, Part II, either Part III or Part IV (depending on the credit method), and Part V of Form 306 and attaches it to the NJ-CBT-1065 in order to claim the credit. However, the credit is not useable by the partnership itself. The partnership includes a copy of Form 306, along with a statement which includes the corporate partner's share of the qualifying activities for the credit and share of the credit on the Schedule NJK-1, Part IV, Supplemental Information, which is provided to the corporate partner. The corporate partner must attach this information to the Corporation Business Tax return, along with copies of Form 306. See N.J.A.C. 18:7-3.23A and N.J.A.C. 18:7-7.6. **Note:** Parts VI and VII of Form 306 do not apply to partnerships completing the form. These sections will be completed by the corporate partners when they file Form 306 claiming their portion of the credit for CBT purposes.

## **S Corporations and Qualified Subchapter S Subsidiaries**

New Jersey S Corporations and New Jersey Qualified Subchapter S Subsidiaries (QSSS) that claimed a federal research and development credit for qualifying research expenditures and/or research payments in New Jersey are also entitled to the New Jersey R&D credit. However, as the QSSS's tax attributes are reported as part of the parent S corporation's tax return, the parent S corporation is the entity that claims the New Jersey R&D credit and includes the QSSS's qualifying research expenditures and research payments in New Jersey as part of the expenditures and payments on Form 306. The credit form must be accompanied by a rider with a break out of research expenditures and research payments by entity.

Since the New Jersey R&D credit cannot reduce the tax below the statutory minimum tax, the New Jersey R&D credit is generally carried forward for use in a future period when the S corporation or QSSS is taxed on income. For example, when the New Jersey S corporation or QSSS elects to be taxed as C corporations or elects to be included as members of a combined group.

**Note:** A federal S corporation (or QSSS) that elects to be treated as a C corporation for New Jersey purposes is called a hybrid corporation. If an entity elects to be a hybrid corporation, they do not follow the information in this section and will instead follow the general information for corporations above.

## **Disregarded Entities and Corporate Owners**

The assets and tax attributes of a disregarded entity are that of the owner and are reported on the owner's New Jersey tax return. In situations in which the owner is a corporation and the disregarded entity had qualifying research expenditures and/or research payments in New Jersey, those amounts must be reported as part of the amounts being claimed on the corporation's Form 306 filed with the Corporation Business Tax return.

## **New Jersey Cannabis Licensees Filing Corporation Business Tax Returns**

A registered cannabis licensee can deduct any expenditures that would have qualified as a qualified research expenditures pursuant to section 174 of the Internal Revenue Code but were disallowed for federal purposes because cannabis is a controlled substance under federal law. Taxpayers must include a copy of their federal return as filed with the IRS. In addition, the taxpayer must include a rider detailing their computations as though 26 U.S.C. s.280E did not apply. The taxpayer may also claim that expense for purpose of the New Jersey Research and Development Tax credit on Form 306, even though such expenses were disallowed for the federal research and development tax credit. Taxpayers must include a detailed rider explaining the calculations.

## Statute of Limitations for Claiming the New Jersey R&D Credit

For New Jersey Corporation Business Tax purposes, taxpayers are required to complete Form 306 when claiming the New Jersey R&D credit. Form 306 must be submitted with the original timely filed Corporation Business Tax return or timely filed amended return. There is a four-year statute of limitations for both refunds and assessments for tax returns. Taxpayers cannot claim unused carryovers of the New Jersey R&D credit in subsequent years if Form 306 was never filed as part of a timely filed original or amended return. Additionally, the Division cannot adjust New Jersey R&D credit carryovers that were earned in periods beyond the statute of limitation. The P.L. 2023, c. 96, amendments to N.J.S.A. 54:49-6 only apply to net operating losses. See: N.J.S.A. 54:49-6; N.J.S.A. 54:49-14; and N.J.A.C. 18:7-13.8.

## Deducting the Research Expenditures and Research Payments for Corporation Business Tax (CBT) Purposes

N.J.S.A. 54:10A-4(k)(11) states:

- (11) No deduction shall be allowed for research and experimental expenditures, to the extent that those research and experimental expenditures are qualified research expenses or basic research payments for which an amount of credit is claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research and experimental expenditures are also used to compute a federal credit claimed pursuant to section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for privilege periods beginning on and after January 1, 2022, a deduction for research and experimental expenditures shall be allowed during the same privilege period for which a credit is claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), notwithstanding the timing schedule required by the federal Internal Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of specified research and experimental expenditures.

The statute applies to all New Jersey Corporation Business Tax (CBT) taxpayers. While N.J.S.A. 54:10A-4(k)(11) does not apply to non-New Jersey research expenditures and research payments, the statute requires that the taxpayer claim both the New Jersey R&D credit and federal research and development credit in order to deduct their qualifying New Jersey research expenditures and research payments. If the taxpayer claimed both the New Jersey R&D credit and federal research and development credit for the privilege period, the taxpayer can deduct their qualifying New Jersey research expenditures and research payments in the same year as the taxpayer claimed the New Jersey R&D credit.

**Note:** The New Jersey qualified research expenditures and payments are recorded on Form 306 at Part I, line 1; Part II, line 2; and *either* Part III, line 9; or Part IV, line 20, depending on the credit calculation method used. These items are eligible to be deducted in the same period as the credit pursuant to N.J.S.A. 54:10A-4(k)(11). Thus, depending on the credit calculation method used, taxpayers will deduct *either* the sum of lines 1, 2, and 9 **or** the sum of lines 1, 2, and 20.

If a taxpayer claimed the New Jersey R&D credit but did not claim the federal research and development credit, N.J.S.A. 54:10A-4(k)(11) requires the add back of the qualified research expenditures and payments used to claim the New Jersey R&D credit.

New Jersey follows the federal amortization and capitalization rules set forth in IRC § 174 for non-New Jersey research expenditures and research payments because N.J.S.A. 54:10A-4(k)(11) does not apply to non-New Jersey research expenditures and research payments. Therefore, taxpayers must use the amounts reported as federal taxable income at line 28 of the 1120 (line 29 of Form 1120-F or line 22 of Form 1120S) when filing their New Jersey return.

See the [chart](#) showing the *Impact of N.J.S.A. 54:10A-4(k)(11) on NJ Qualified Research Expenditures (QREs) Deducted*.

## **Deducting the Research Expenditures and Research Payments for Gross Income Tax (GIT) and Pass-Through Business Alternative Income Tax (BAIT) Purposes**

The New Jersey Gross Income Tax (GIT) Act does not have a specific credit or deduction for IRC § 174 research and development expenses. However, the GIT flow-through business categories of income are reported as a net amount. If an IRC § 174 expense meets the deductibility standard of an ordinary business expense, taxpayers are allowed to deduct these research expenses incurred in connection with the trade or business against the income. Whether or not the activity constitutes a business expense for the purposes of GIT will depend on the specific facts in each case.

In most instances, research expenses are ordinary and necessary for a business to survive and grow. Generally, a taxpayer may deduct research and development expenses in connection with IRC § 174 for New Jersey GIT purposes, as long as the research and development occurs in the ordinary course of the trade or business. Taxpayers must use the same method of accounting for New Jersey GIT purposes that they used for federal purposes. In addition, taxpayers must use the same timing schedule as they were required to use for federal purposes. See [N.J.S.A. 54A:8-3\(c\)](#).

**Cannabis Licensees** filing GIT or Pass-Through Business Alternative Income Tax (BAIT). A registered cannabis licensee can deduct any expenditures that otherwise would have qualified as a qualified research expenditures pursuant to section 174 of the Internal Revenue Code but is currently disallowed federally because cannabis is a controlled substance under federal law. Taxpayers must include a copy of their federal return as filed with the IRS. In addition, the taxpayer must include a rider detailing their computations as though 26 U.S.C. s.280E did not apply. See [TB-106](#) for additional information.

**Pass-Through Business Alternative Income Tax (PTE/BAIT )** is part of the GIT Act. Therefore, a member's share of distributive proceeds is based on the information reported on the entity's NJ-1065 or CBT-100S.

**Note:** A Technical Bulletin is an informational document that provides guidance on a topic of interest to taxpayers and may describe recent changes to the relevant laws, regulations, and/or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes to the applicable laws, regulations, and/or the Division's interpretation thereof may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.