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SENATE BILL 6430

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Liias, Fain, Hobbs, Litzow, Eide, Dammeier, McAuliffe, Baumgartner, Cleveland, Angel, and Ericksen

Read first time 01/24/14. Referred to Committee on Ways & Means.

1 AN ACT Relating to extending tax preferences for high-technology  
2 research and development; amending RCW 82.04.4452 and 82.63.030; and  
3 providing expiration dates.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to  
6 read as follows:

7 (1) In computing the tax imposed under this chapter, a credit is  
8 allowed for each person whose research and development spending during  
9 the year in which the credit is claimed exceeds 0.92 percent of the  
10 person's taxable amount during the same calendar year.

11 (2)(a) The credit is calculated as follows:

12 ((+a)) (i) Determine the greater of the amount of qualified  
13 research and development expenditures of a person or eighty percent of  
14 amounts received by a person other than a public educational or  
15 research institution in compensation for the conduct of qualified  
16 research and development;

17 ((+b)) (ii) Subtract 0.92 percent of the person's taxable amount  
18 from the amount determined under (a)(i) of this subsection;

1           ~~((e))~~ (iii) Multiply the amount determined under (b) of this  
2 subsection by the following:

3           ~~((i))~~ (A) For the period June 10, 2004, through December 31,  
4 2006, the person's average tax rate for the calendar year for which the  
5 credit is claimed;

6           ~~((ii))~~ (B) For the calendar year ending December 31, 2007, the  
7 greater of the person's average tax rate for that calendar year or 0.75  
8 percent;

9           ~~((iii))~~ (C) For the calendar year ending December 31, 2008, the  
10 greater of the person's average tax rate for that calendar year or 1.0  
11 percent;

12           ~~((iv))~~ (D) For the calendar year ending December 31, 2009, the  
13 greater of the person's average tax rate for that calendar year or 1.25  
14 percent;

15           ~~((v))~~ (E) For the calendar year ending December 31, 2010, and  
16 thereafter, 1.50 percent.

17           (b) For purposes of calculating the credit, if a person's reporting  
18 period is less than annual, the person may use an estimated average tax  
19 rate for the calendar year for which the credit is claimed by using the  
20 person's average tax rate for each reporting period. A person who uses  
21 an estimated average tax rate must make an adjustment to the total  
22 credit claimed for the calendar year using the person's actual average  
23 tax rate for the calendar year when the person files its last return  
24 for the calendar year for which the credit is claimed.

25           (3) Any person entitled to the credit provided in subsection (2) of  
26 this section as a result of qualified research and development  
27 conducted under contract may assign all or any portion of the credit to  
28 the person contracting for the performance of the qualified research  
29 and development.

30           (4) The credit, including any credit assigned to a person under  
31 subsection (3) of this section, must be claimed against taxes due for  
32 the same calendar year in which the qualified research and development  
33 expenditures are incurred. The credit, including any credit assigned  
34 to a person under subsection (3) of this section, for each calendar  
35 year may not exceed the lesser of two million dollars or the amount of  
36 tax otherwise due under this chapter for the calendar year.

37           (5) For any person claiming the credit, including any credit  
38 assigned to a person under subsection (3) of this section, whose

1 research and development spending during the calendar year in which the  
2 credit is claimed fails to exceed 0.92 percent of the person's taxable  
3 amount during the same calendar year or who is otherwise ineligible,  
4 the department must declare the taxes against which the credit was  
5 claimed to be immediately due and payable. The department must assess  
6 interest, but not penalties, on the taxes against which the credit was  
7 claimed. Interest must be assessed at the rate provided for delinquent  
8 excise taxes under chapter 82.32 RCW, retroactively to the date the  
9 credit was claimed, and accrues until the taxes against which the  
10 credit was claimed are repaid. Any credit assigned to a person under  
11 subsection (3) of this section that is disallowed as a result of this  
12 section may be claimed by the person who performed the qualified  
13 research and development subject to the limitations set forth in  
14 subsection (4) of this section.

15 (6) A person claiming the credit provided in this section must file  
16 a complete annual survey with the department under RCW 82.32.585.

17 (7) (~~For the purpose of this section:~~) The definitions in this  
18 subsection apply throughout this section unless the context clearly  
19 requires otherwise.

20 (a) "Average tax rate" means a person's total tax liability under  
21 this chapter for the calendar year for which the credit is claimed  
22 divided by the taxpayer's total taxable amount under this chapter for  
23 the calendar year for which the credit is claimed.

24 (b) "Qualified research and development expenditures" means  
25 operating expenses, including wages, compensation of a proprietor or a  
26 partner in a partnership as determined under rules adopted by the  
27 department, benefits, supplies, and computer expenses, directly  
28 incurred in qualified research and development by a person claiming the  
29 credit provided in this section. The term does not include amounts  
30 paid to a person other than a public educational or research  
31 institution to conduct qualified research and development. Nor does  
32 the term include capital costs and overhead, such as expenses for land,  
33 structures, or depreciable property.

34 (c) "Qualified research and development" (~~shall have~~) has the  
35 same meaning as provided in RCW 82.63.010.

36 (d) "Research and development spending" means qualified research  
37 and development expenditures plus eighty percent of amounts paid to a

1 person other than a public educational or research institution to  
2 conduct qualified research and development.

3 (e) "Taxable amount" means the taxable amount subject to the tax  
4 imposed in this chapter required to be reported on the person's  
5 combined excise tax returns for the calendar year for which the credit  
6 is claimed, less any taxable amount for which a credit is allowed under  
7 RCW 82.04.440.

8 (8) This section expires January 1, (~~(2015)~~) 2040.

9 **Sec. 2.** RCW 82.63.030 and 2008 c 15 s 4 are each amended to read  
10 as follows:

11 (1) Except as provided in subsection (2) of this section, the  
12 department (~~(shall)~~) must issue a sales and use tax deferral  
13 certificate for state and local sales and use taxes due under chapters  
14 82.08, 82.12, and 82.14 RCW on each eligible investment project.

15 (2) No certificate may be issued for an investment project that has  
16 already received a deferral under chapter 82.60 RCW or this chapter,  
17 except that an investment project for qualified research and  
18 development that has already received a deferral may also receive an  
19 additional deferral certificate for adapting the investment project for  
20 use in pilot scale manufacturing.

21 (3) This section (~~(shall)~~) expires January 1, (~~(2015)~~) 2040.

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