



THE RESEARCH & DEVELOPMENT PAYROLL-TAX OFFSET

Withum is recognized as one of the country's premier accounting firms providing specialized Research & Development credit services.

The R&D credit has been made a permanent part of the tax code following the PATH Act of 2015. The new R&D payroll-tax offset allows companies to receive a credit against the employer portion of payroll taxes for research activities, even if they are not profitable. To be eligible for the credit, companies must meet these qualifications, even if they are not taxable:

- Incurred Gross Receipts For Five Years Or Less
- Realized Less Than \$5 Million In Gross Receipts in The Year The Credit Is Taken
- Incurred Qualifying Research Activities and Expenditures
- Employer Participated In Qualified Payroll - Tax Liability

For 2018, companies are not eligible for the credit if they generated gross receipts prior to 2014. However, companies that existed prior to 2014 but did not receive gross receipts may still qualify.

HOW IS \$5 MILLION IN GROSS RECEIPTS DEFINED?

- Sales Less Returns/Allowances
- Income From Investments, Including Any Interest Income

The payroll-tax offset is currently available for qualified expenses incurred in 2018. The R&D credit must be calculated and shown on a taxpayer's 2018 federal income tax return with the portion of the credit applied to offset payroll taxes identified and elected when the tax return is filed in 2019. The offset is then available on a quarterly basis beginning in the quarter subsequent to the quarter in which the federal tax return was filed.



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QUALIFIED SMALL BUSINESS (“QSB”)

1. To meet the standards to qualify as a QSB you must be a corporation (including S-Corporation) or partnership with:

- Gross Receipts For Five Years Or Less. For Tax Year 2018, A Company Is Not Eligible If It Generated Gross Receipts Prior To 2014.
- Less Than \$5 Million In Gross Receipts In 2018 And For Each Subsequent Year The Credit Is Elected.
- Qualifying Research Activities And Expenditures.

2. The taxpayer must specify the amount of the R&D credit to be used as a payroll tax credit.

The payroll tax credit portion for any taxable year is the lesser of:

- The Amount Specified By The Taxpayer (Not To Exceed \$250,000)
- The R&D Credit Determined For The Taxable Year, Or
- In The Case Of A QSB Other Than A Partnership Or S Corporation, The Amount Of The Business Credit Carryforward From The Taxable Year Under Section 39 (Determined Before The Application Of This Provision To The Taxable Year).

3. A taxpayer that meets the definition above may utilize the credit against the employer portion of FICA excise tax. Specifically, this would be the employer’s portion of the Social Security or old age, survivors, and disability insurance (“OASDI”) equal to 6.2% of covered wages.

4. The maximum benefit an eligible company is allowed to claim against payroll taxes each year under the new law is \$250,000. If the payroll tax portion of the credit exceeds the QSB’s liability for a calendar quarter, the excess is allowed as a credit against the payroll tax for the following calendar quarter, until fully utilized.

5. If a taxpayer qualifies as a QSB but also pays income tax, the credit can be used to offset income tax and payroll tax.