

A wooden gavel is positioned on the left side of the image, with its head resting on a wooden surface. To the right, a clear glass jar is tipped over, spilling a large number of coins, including pennies, nickels, and dimes, onto a dark, reflective surface. The background is dark and textured, suggesting a wooden table or desk.

Forbes

Surprise Change to R&D Tax Credit Rules is Big Help for Small Business

BY DEAN ZERBE, former Senior Counsel to the Senate Finance Committee and alliantgroup National Managing Director

It is a rare day that small and medium business owners view news from the IRS and Treasury as a good thing. Today is different – different in a big way. **Today, Treasury announced regulations (TD 9666) that will allow companies to take the Research and Development Alternative Simplified Credit (ASC) on amended returns.** This seemingly arcane change will mean many more dollars in the wallets of innovative small and medium businesses – money that will be used to create new jobs, expand businesses and keep doors open.

As I've written about this previously for Forbes (Top 7 Tax Ideas to Create Jobs) – the previous regulations allowed companies to take the ASC only on original returns. This limitation allowing ASC only on original returns is in stark contrast to the regular R&D Tax Credit (and just about every other tax provision) which the law and regulations allow you to take for all open years (usually the previous three tax years).

Why is allowing ASC on amended returns such a gamechanger? Simple – even under ASC it is not a walk in the park for a business to qualify (requiring books, records, etc.) for the R&D Tax Credit. The reality is that for many small and medium business owners it's not worth the candle to qualify for the ASC if they are only getting one year of benefit. By allowing the ASC on amended returns, Treasury and IRS have completely changed the math for thousands of small and medium business owners, who will now see for the first time the benefits of the R&D Tax Credit.

For example, a manufacturer we work with who previously decided not to take the R&D Tax Credit because her company would only see a benefit of \$35,000 for the current tax year is now able to amend her company's previous tax filings and will qualify for roughly \$150,000 in tax credits (not to mention the state tax R&D credits for which she may be eligible). It truly is Christmas in June for her company and employees.

Now the only other problem to overcome is self-censoring by businesses that don't think they qualify for the R&D

Tax Credit. Tens of thousands of businesses – especially small and medium businesses – wrongly think they don't qualify. A key is to understand that the R&D Tax Credit isn't just for basic research, but is also for applied research. Moreover, the number of industries potentially eligible for the R&D Tax Credit is vast.

Let me close by pointing out that getting even a commonsense change like this isn't easy under any administration. I want to thank Mark Mazur; Assistant Secretary of the Treasury (Tax Policy), John Dalrymple; Deputy Commissioner for Services and Enforcement at the Internal Revenue Service as well as David Selig at Treasury for all their time, effort and leadership in making this happen. I commend them for their good work and also the administration for its support for this critical change.

Finally, while the administration should be commended for this change, my view is that it would not have happened (or happened as quickly) but for Senators and Members of Congress making strong noises in support of this change; key were Senators Coons (D-DE), Cornyn (R-TX), Grassley (R-IA), Hatch (R-UT), Klobuchar (D-MN), Roberts (R-KS) (a particularly big tip of the hat to the Kansas Senator – who was huge), Schumer (D-NY) and Wyden (D-OR) as well as Members of Congress Brady (R-TX) (raised this issue in markup), Camp (R-MI), Gerlach (R-PA), Jenkins (R-KS), Neal (D-MA) and Linda Sanchez (D-CA CA +0.03%). They have all been champions of helping small and medium businesses benefit from the R&D Tax Credit.

A good day for small and medium businesses, a good day for jobs and a good day for innovation.



Dean Zerbe is alliantgroup's National Managing Director based in the firm's Washington D.C. office. Prior to joining alliantgroup, Mr. Zerbe was Senior Counsel and Tax Counsel to the U.S. Senate Committee on Finance. He worked closely with then-Chairman and current Ranking Member of the Finance Committee, Senator Charles Grassley (R-IA), on tax legislation. During his tenure on the Finance Committee, Mr. Zerbe was intimately involved with nearly every major piece of tax legislation that was signed into law – including the 2001 and 2003 tax reconciliation bills, the JOBS bill in 2004 (corporate tax reform), and the Pension Protection Act. Mr. Zerbe is a frequent speaker and author on the outlook for short-term and long-term changes in tax policy, as well as ways accounting firms can help their clients lower their tax bill.