

Forbes

R&D TAX CREDIT --

ADMINISTRATION PROPOSES KEY EXPANSION

Thursday, February 11, 2016

by **Dean Zerbe**, former Senior Counsel to the U.S. Senate Finance Committee and alliantgroup National Managing Director

The administration, as part of its FY 2017 budget proposal, issued its greenbook that details the revenue proposals—and it included several new and thoughtful ideas for expanding the Research and Development (R&D) Tax Credit.

I must admit I'm a little surprised to see the administration coming out swinging with new proposals on R&D given that just in December, Congress passed and President Obama signed into law the PATH Act that not only made the R&D tax credit permanent, but also contained several important improvements to the R&D Tax Credit—especially for small businesses and startup companies that I wrote on earlier. I guess I thought maybe let folks drive the new car for a while—but hats off to Treasury for pushing forward on these proposals that will have a very positive impact on encouraging and rewarding research and development.

So in the spirit of not letting the grass grow under your feet, here are the Treasury Department's new proposals for the R&D Tax Credit:

1. Eliminate the traditional method for calculating the R&D Tax Credit;

2. Increase the rate of the alternative simplified credit (ASC) from 14 to 18 percent;

3. Reduced ASC rate of six percent for businesses without qualified research expenses in the prior three years would be eliminated;

4. R&D Tax Credit would be allowed to offset AMT liability for all taxpayers (right now capped at \$50 million average gross receipts over the prior three years);

5. Contract research expenses would include 75 percent of payments to qualified nonprofit organizations (ex. educational institutions) for qualified research;

6. The special rule for owners of a pass-through entity would be repealed; and

7. The rule regarding amortization of 174 expenditures by passive owners would be repealed.

All happy day. In talking to alliantgroup's thoughtful and capable chief researcher Ben Yaker, he particularly notes the provision that will remove the barriers for passive investors of pass-through companies to claim the credit. Eliminating the

reduced ASC rate for businesses without qualified research expenses Ben notes will result in a significant increase in the credit for companies in their first three years of operation. Obviously, the overall increase to 18 percent is good news for all innovative companies.

So—what chances? This year is still uncertain in terms of taxes, but I would highlight that the Chairman of the Ways and Means Committee, Kevin Brady (R-TX), is a huge champion of the R&D Tax Credit and had very close to the finish line an increase of ASC to 20 percent. So for now, for this year—maybe. But long-term, I think the administration has shown the path going forward and done much to set the table for future discussions. It is clear that Washington is focused on going further in encouraging and supporting research and development tax incentives. [a](#)



Dean Zerbe is alliantgroup's National Managing Director based in the firm's Washington, D.C. office. Prior to joining alliantgroup, Zerbe was Senior Counsel and Tax Counsel to the U.S. Senate Committee on Finance. He worked closely with then-Chairman of the Finance Committee, Senator Charles Grassley, on tax legislation. During his tenure on the Finance Committee, 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. 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.