1991

Department of the Treasury
Internal Revenue Service

Instructions for Form 6765

Credit for Increasing Research Activities (or for claiming the orphan drug credit)

(Section references are to the Internal Revenue Code unless otherwise noted.)

Items You Should Note

- The credit for increasing research activities and the orphan drug credit are extended through June 30, 1992. If the date is further extended, the IRS will use the media to notify you.
- If you are filing for a fiscal tax year ending after June 30, 1992, and the credit is **not** extended beyond 6-30-92, the [illegible]
- Research conducted outside the United States;
- Research in the social sciences, arts, or humanities; or
- Research funded by another person (or governmental entity).

See section 41 for more details and rules.

If you incur qualified clinical testing expenses relating to drugs for certain

that allocates the credit(s) to its shareholders, partners, or beneficiaries should complete this form and attach it to its income tax return.

S corporations, partnerships, estates, and trusts that allocate the credit(s) on lines 4 and 28 to any shareholder, partner, or beneficiary must show on the appropriate line of Schedule K-1, or on an attachment to Schedule K-1, the

shown on line 2. See section 280C(b) for special rules.

Line 3.—Enter the amount of credit that was allocated to you as a shareholder, partner, or beneficiary.

Line 4.— If you have credits from passive activities, see **Form 8582-CR,** Passive Activity Credit Limitations, or **Form 8810,** Corporate Passive Activity Loss and Credit Limitations, before completing the remainder of this form.

Estates and trusts.—The orphan drug credit on line 4 is allocated between the estate or trust and the beneficiaries in the same proportion as income was allocated. On the dotted line to the left of the amount on line 4, the estate or trust should enter its share of the credit. Label it "1041 PORTION" and use this amount in Part II to figure the credit to take on Form 1041. On Schedule K-1, show the credit for each beneficiary.

S corporations and partnerships.—Prorate the orphan drug credit on line 4 among the shareholders or partners. Attach Form 6765 to the return and on Schedule K-1 show the credit for each shareholder or partner.

Part II. Tax Liability Limitation for the Orphan Drug and Research Credits

Line 10.—Include the orphan drug credit on the appropriate line of your 1991 tax return. If it is not listed separately on the return, include the credit on the "other credits" or "total credits" line; then write "ORPHAN DRUG CREDIT" and the amount on the dotted line to the left of the entry amount.

Part III. Current Year Credit for Increasing Research Activities

Line 11.—Corporations (other than S corporations, personal holding companies, and service organizations) may be eligible for a "basic research" credit if your 1991 payments in cash to a qualified university or scientific research organization (pursuant to a written contract) exceed a base period amount (based on your general university giving and certain other maintenance-of-effort levels for the 3 preceding years). Enter your 1991 payments on line 11. See section 41(e) for details.

Line 12.—Enter the base period amount as defined in section 41(e). The amount on line 12 (but not more than the amount on line 11), although not eligible for the 1991 basic research credit, can be treated as 1991 contract research expenses on line 17 (and subject to the 65% (.65) limitation).

Line 16.—See section 41(b)(2)(A) for rules on leased property if you receive payments from anyone for the rental or lease of substantially identical property.

Line 17. —Include 65% (.65) of any amount paid or incurred for qualified research performed on your behalf. Prepaid contract research expenses are considered paid in the year the research is actually done. Also include 65% (.65) of that portion of the line 11 basic research payments that does not exceed the line 12 base amount. See section 41(e)(1)(B).

Line 19.—Compute the fixed-based percentage as follows:

Existing firms.—The fixed-base percentage is the ratio that the aggregate qualified research expenses for at least 3 tax years from 1984 to 1988 bears to the aggregate gross receipts for such tax years. Round off the percentage to the nearest 1/100th of 1%.

Start-up companies.—If there are fewer than 3 tax years between 1984 and 1988 in which the taxpayer had both gross receipts and qualified research expenses, the percentage is 3%. If the percentage computation involves de minimis amounts of gross receipts and qualified expenses in a tax year or short tax years are involved, see sections 41(c)(3) and 41(f)(4).

Note: *The maximum percentage that can be entered on line 19 is 16%.*

Line 20.—Enter on line 20 the average annual gross receipts for the 4 tax years preceding the tax year for which the credit is being determined (called the credit year). You may be required to annualize gross receipts for any short tax year. See sections 41(c)(1)(B) and 41(f)(4) for details.

For purposes of lines 19 and 20, reduce gross receipts for any tax year by returns and allowances made during the tax year. In the case of a foreign corporation, include only gross receipts that are effectively connected with the trade or business within the United States.

Line 21.—If your tax year begins before July 1, 1992, and ends after June 30, 1992, the line 21 base amount is reduced. The reduced amount for such year is the amount which bears the same ratio to the base amount for such year as the number of days in the tax year before 7/1/92, bears to the total number of days in the tax year.

Line 23.—The base amount cannot be less than 50% (.50) of the current year qualified research expenses. This rule applies both to existing and newly organized businesses.

Line 26.—If you do not elect the reduced credit, you must reduce your otherwise allowable deduction for qualified research expenses or basic research expenses by the amount of the credit on line 26. If the line 26 credit exceeds the amount allowed as a deduction for the tax year, reduce the amount chargeable to the capital account for the year for such expenses by the amount of the excess.

Attach a statement to your tax return that lists the deduction amounts (or capitalized expenses) that were reduced. Identify the lines of your return (schedule or forms for capitalized items) on which the reductions were made.

Line 27.—Enter the amount of credit that was allocated to you as a shareholder, partner, or beneficiary.

Line 28. *Estates and trusts.*—Allocate the research credit on line 28 between the estate or trust and the beneficiaries in the same proportion as income was allocated. On the dotted line to the left of the amount on line 28, the estate or trust should enter its share of the credit. Label it "1041 PORTION" and use this amount in Part IV (or on Form 3800, if required) to figure the credit to take on Form 1041. On Schedule K-1, show the credit for each beneficiary.

S corporations and partnerships.—Prorate the research credit on line 28 among the shareholders or partners. Attach Form 6765 to the return and on Schedule K-1 show the credit for each shareholder or partner.

Part IV. Computation of Allowable Research Credit

Line 31—Limitations.—See section 38(c)(2) for special rules for married couples filing separate returns, for controlled corporate groups, and for estates and trusts.

Line 34—Limits.—If you are an individual, estate, or trust, the credit(s) on lines 26 or 27 is limited to the amount attributable to your interest in the proprietorship, partnership, S corporation, estate, or trust generating the credit. Figure the credit separately for each business enterprise by using the following formula:

$$(\text{Line 30–Line 31}) \times \frac{\text{Taxable income attributable to your interest in the unincorporated business, 1065, 1041, or 1120S entity}}{\text{Taxable income for the year (Form 1040, line 37)}}$$

When using the formula, the result is limited to 100% of line 30 less line 31.

If in the current tax year you had no taxable income attributable to a particular business interest, you cannot claim any research credit this year for that business.

*U.S. Government Printing Office: 1991 — 285-382