



# Instructions for Form 6765

## Credit for Increasing Research Activities

Section references are to the Internal Revenue Code.

### General Instructions

#### Changes To Note

The Tax Relief Extension Act of 1999 made the following changes to the credit for increasing research activities.

- The credit has been extended for amounts paid or incurred through June 30, 2004.
- The alternative incremental credit rates have been increased by one percentage point for tax years beginning after June 30, 1999.
- For amounts paid or incurred after June 30, 1999, qualified research includes research conducted in Puerto Rico or a U.S. possession. However, any employee compensation or other expenses used to figure the research credit may not also be used to figure any credit claimed on **Form 5735**, Possessions Corporation Tax Credit.
- Any portion of the research credit attributable to periods after June 30, 1999, may be temporarily suspended. See the instructions for Parts II and III.



*If you have a fiscal year beginning in 1998 and ending after June 30, 1999, use the 1999 Form 6765 instead of the 1998 Form 6765 to figure your research credit, including the amount of any suspended research credit for that year.*

#### Purpose of Form

Use Form 6765 to figure and claim the credit for increasing research activities (research credit).

#### Who Must File

An individual, estate, trust, organization, or corporation claiming a credit for increasing research activities; or any S corporation, partnership, estate, or trust that allocates the credit to its shareholders, partners, or beneficiaries must complete this form and attach it to its income tax return.

#### Qualified Research

The research credit is generally allowed for qualified research. **Qualified research** means research for which expenditures may be treated as section 174 expenses. This research must be undertaken for discovering information that is technological in nature, and its application must be intended for use in developing a new or improved business component of the taxpayer. In addition, substantially all of the activities of the research must be elements of a process of experimentation relating

to a new or improved function, performance, reliability, or quality.

The research credit is generally **not** allowed for the following types of activities:

- Research conducted after the beginning of commercial production.
- Research adapting an existing product or process to a particular customer's need.
- Duplication of an existing product or process.
- Surveys or studies.
- Research relating to certain internal-use computer software.
- Research conducted outside the United States (outside the United States, Puerto Rico, or a U.S. possession, for amounts paid or incurred after June 30, 1999).
- Research in the social sciences, arts, or humanities.
- Research funded by another person (or governmental entity).

If you incur qualified clinical testing expenses relating to drugs for certain rare diseases, you may elect to claim the orphan drug credit on these expenses instead of taking the research credit. See **Form 8820**, Orphan Drug Credit.

See section 41 for other definitions and special rules.

#### Special Rules

See section 41(f) for special rules related to:

1. Allocation of the credit by partnerships, estates, and trusts.
2. Adjustments if a major portion of a business is acquired or disposed of.
3. Short tax years.

For special rules concerning the allocation and apportionment of research and experimental expenditures between U.S. and foreign source income, see sections 861 through 864.

If you cannot use the research credit because of the tax liability limit, carry it back 1 year, then forward 20 years. Use Form 3800. But see the instructions for Part II for when and how any suspended credit may be claimed.

### Specific Instructions

#### Part I—Current Year Credit

You may claim the regular credit (Section A) or elect the alternative incremental credit (Section B). Under the alternative incremental credit, a smaller three-tiered fixed-base percentage and reduced three-tiered credit rate apply. You may want to figure your credit both ways to see

which gives you the larger credit. However, once elected, the alternative incremental credit applies to the current tax year and all later tax years, unless you receive IRS consent to revoke the election.

## Members of Controlled Groups or Businesses Under Common Control

For purposes of figuring the credit, all members of a controlled group of corporations (as defined in section 41(f)(5)), and all members of a group of businesses under common control, are treated as a single taxpayer. The credit allowed each member is based on its proportionate shares of the group's qualified research expenses and basic research payments. Use Section A or B of Part I to figure the credit for the entire group, but enter only this member's share of the credit on line 16 or line 39, whichever applies. Attach a statement showing how this member's share of the credit was figured, and write "See attached" next to the entry space for line 16 or line 39.

### Section A—Regular Credit

Skip this section and go to Section B if you are electing or previously elected the alternative incremental credit (and have not requested and received permission to revoke the election).

**Line 1.** Corporations (other than S corporations, personal holding companies, and service organizations) may be eligible for a "basic research" credit if payments in cash to a qualified university or scientific research organization (under a written contract) exceed a base period amount (based on their general university giving and certain other maintenance-of-effort levels for the 3 preceding years). Enter your payments on this line. See section 41(e) for details.

**Line 2.** Enter the qualified organization base period amount as defined in section 41(e). The amount on line 2 (not to exceed the amount on line 1), although not eligible for the basic research credit, can be treated as contract research expenses on line 7 subject to the 65% (or 75%) limitation.

**Line 6.** Enter the amount you paid or incurred for the rental or lease of computers used in qualified research. The computer must be located off your premises and you must not be the operator or primary user of the computer. Reduce this amount by the amount that you (or any member of a controlled group of corporations or businesses under common control) received or accrued for the right to use substantially identical property.

**Line 7.** Include 65% of any amount you 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% of that portion of the line 1 basic research payments that does not exceed the line 2 base amount.

However, use 75% in place of 65% for payments made to a qualified research consortium. A qualified research consortium is a tax-exempt organization described in section 501(c)(3) or 501(c)(6) that is organized and operated primarily to conduct scientific research and is not a private foundation.

**Line 9.** The fixed-base percentage depends on whether you are an existing company or a start-up company.

A start-up company is a taxpayer that had **both** gross receipts and qualified research expenses either:

1. For the first time in a tax year beginning after 1983, or
2. For fewer than 3 tax years beginning after 1983 and before 1989.

The fixed-base percentage for a start-up company is figured as follows:

- For the first 5 tax years beginning after 1993 for which you have qualified research expenses, the percentage is 3%.
- For the 6th tax year beginning after 1993 for which you have qualified research expenses, divide the aggregate qualified research expenses for the 4th and 5th such tax years by the aggregate gross receipts for those tax years, and multiply the result by 0.1667.

**Note:** See section 41(c)(3)(B)(ii) to figure the fixed-base percentage for any tax year after the 6th tax year beginning after 1993 for which you have qualified research expenses.

The fixed-base percentage for an existing company (any company that is not a start-up company) is figured by dividing the aggregate qualified research expenses for the tax years beginning after 1983 and before 1989 by the aggregate gross receipts for those tax years.

The fixed-base percentage for all companies (existing and start-up) must be rounded to the nearest 1/100th of 1% (i.e., four decimal places) and cannot exceed 16%. In addition, when figuring your fixed-base percentage, you must reflect expenses for qualified research conducted in Puerto Rico or a U.S. possession for the prior tax years included in the computation.

If gross receipts or qualified expenses are de minimis in a tax year or short tax years are involved, see sections 41(c)(3) and 41(f)(4).

**Note:** Reduce gross receipts by returns and allowances. For a foreign corporation, include only gross receipts that are effectively connected with a trade or business in the United States (or in Puerto Rico or a U.S. possession, if applicable).

**Line 10.** Enter the average annual gross receipts (reduced by returns and allowances) for the 4 tax years preceding the tax year for which the credit is being determined. You may be required to annualize gross receipts for any short tax year. For a foreign corporation, include only gross receipts that are effectively connected with a trade or business in the United States (or in Puerto Rico or a U.S. possession, if applicable).

**Line 16.** 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 this line. If the 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 schedule 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.

## Section B—Alternative Incremental Credit

Complete this section **only** if you are electing or previously elected the alternative incremental credit instead of the regular credit (and have not requested and received permission to revoke the election).

**Line 18.** Enter the qualified organization base period amount as defined in section 41(e). The amount on line 18 (not to exceed the amount on line 17), although not eligible for the basic research credit, can be treated as contract research expenses on line 24 subject to the 65% (or 75%) limitation.

## Section C—Current Year Credit

**Line 40.** Enter the amount of credit that was allocated to you as a shareholder, partner, or beneficiary.

**Line 41.** Pass-through entities should report the amount on line 41 as follows.

**Estates and trusts.** Allocate the research credit on line 41 between the estate or trust and the beneficiaries in the same proportion as income was allocated. In the margin for line 41, the estate or trust should enter its share of the credit. Label it "1041 Portion" and use this amount in Parts II and III (or on Form 3800, if required) to figure the credit to take on Form 1041. On Schedule K-1, show each beneficiary's share of the portion allocated to that beneficiary.

**S corporations and partnerships.** Attach Form 6765 to Form 1120S or 1065, and on Schedule K-1 show the credit allocated to each shareholder or partner. Electing large partnerships should include this credit in "general credits."

## Part II—Suspended and Allowable Current Year Credits

Any research credit attributable to the **first suspension period** (July 1, 1999, through September 30, 2000) may not be claimed or otherwise taken into account before October 1, 2000. Any research credit attributable to the **second suspension period** (October 1, 2000, through September 30, 2001) may not be claimed or otherwise taken into account before October 1, 2001. See the instructions for lines 43 and 44 to figure the credit attributable to each suspension period.

The suspended credit allowed for the current year may **not** be claimed on your original income tax return. Instead, see the instructions for line 57 for when and how to claim it.

Any credit not allowed for the current year that is attributable to either suspension period may not be claimed as a carryback or carryforward until the day after the end of the suspension period. The credit not allowed for the current year is the excess of line 42 over line 56 (or the amount of the research credit included on Form 3800, line 17b, if applicable). You must apply the credit **not** allowed for the current year in the following order:

- Any credit not attributable to either suspension period.
- Any credit attributable to the first suspension period.
- Any credit attributable to the second suspension period.

**Line 43.** Multiply the amount on line 42 by the applicable suspension percentage. The applicable suspension percentage is the number of months in your tax year

included in the first suspension period (see above) divided by the total number of months in your tax year. However, if you have a research credit on line 40 from a flow-through entity that has a tax year different from your tax year, you must instead multiply that portion of the credit by the number of months in the entity's tax year included in the first suspension period divided by the total number of months in the entity's tax year.

**Line 44.** Multiply the amount on line 42 by the applicable suspension percentage. The applicable suspension percentage is the number of months in your tax year included in the second suspension period (see above) divided by the total number of months in your tax year. However, if you have a research credit on line 40 from a flow-through entity that has a tax year different from your tax year, you must instead multiply that portion of the credit by the number of months in the entity's tax year included in the second suspension period divided by the total number of months in the entity's tax year.

## Who Must File Form 3800

Complete **Form 3800**, General Business Credit, instead of Part III of Form 6765, to figure the tax liability limit for the credit if for this year you have:

- More than one of the credits included in the general business credit (see list below),
- A carryback or carryforward of any of the credits,
- A research credit from a passive activity, or
- General credits from an electing large partnership (Schedule K-1 (Form 1065-B)).

The general business credit consists of the following credits:

- Investment (Form 3468),
- Work opportunity (Form 5884),
- Welfare-to-work (Form 8861),
- Alcohol used as fuel (Form 6478),
- Research (Form 6765),
- Low-income housing (Form 8586),
- Enhanced oil recovery (Form 8830),
- Disabled access (Form 8826),
- Renewable electricity production (Form 8835),
- Indian employment (Form 8845),
- Employer social security and Medicare taxes paid on certain employee tips (Form 8846),
- Orphan drug (Form 8820),
- Contributions to selected community development corporations (Form 8847), and
- Trans-Alaska pipeline liability fund.

The empowerment zone employment credit (Form 8844), while a component of the general business credit, is figured separately on Form 8844 and is never carried to Form 3800.

## Part III—Tax Liability Limit

**Line 52.** Although you may not owe alternative minimum tax (AMT), you generally must still compute the tentative minimum tax (TMT) to figure your credit. For a small corporation exempt from the AMT under section 55(e),

enter zero. Otherwise, enter the TMT that was figured on the appropriate AMT form or schedule.

**Line 53.** See section 38(c)(3) for special rules that apply to married couples filing separate returns, controlled corporate groups, regulated investment companies, real estate investment trusts, and estates and trusts.

**Line 56.** For an individual, estate, or trust, the credit(s) on line 16, 39, or 40 is limited to the amount of tax attributable to your taxable income from the sole proprietorship or your interest in the partnership, S corporation, estate, or trust (flow-through entity) generating the credit. Figure the research credit limitation separately for each business enterprise by using the following formula:

$$\frac{\text{Taxable income attributable to the sole proprietorship or your interest in the flow-through entity}}{\text{Taxable income for the year (Form 1040, line 39, or Form 1041, line 22)}} \times (\text{Line 51} - \text{Line 53})$$

The credit is limited to 100% of line 51 minus line 53. 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.

**Line 57.** The amount on line 57 (or on Form 3800, line 17c, if applicable) is allowed for the current year, but is temporarily suspended and may not be claimed on your original income tax return. Instead, this amount may be claimed only on an application for tentative refund (**Form 1045**, Application for Tentative Refund, or **Form 1139**, Corporation Application for Tentative Refund) or on an amended income tax return (Form 1040X, 1120X, or other amended return). The portion attributable to the **first** suspension period (the **smaller** of **(a)** line 57 (or Form 3800, line 17c) or **(b)** Form 6765, line 43) may not be claimed before October 1, 2000. Any remaining portion of the amount on line 57 is attributable to the **second** suspension period and may not be claimed before October 1, 2001.



*If you file **Form 8801**, Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts; or **Form 8827**, Credit for Prior Year Minimum Tax—Corporations, **do not** treat the research credit as being suspended when completing Form 8801, line 22, or Form 8827, line 5 (i.e., reduce the amount you would otherwise enter on that line by the suspended research credit allowed for the current year).*

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

|                                                        |                 |
|--------------------------------------------------------|-----------------|
| <b>Recordkeeping</b> .....                             | 18 hr., 11 min. |
| <b>Learning about the law or the form</b> .....        | 1 hr., 35 min.  |
| <b>Preparing and sending the form to the IRS</b> ..... | 1 hr., 57 min.  |

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.