

Specialty Tax Incentives:

R&D Tax Credit

45L Tax Credit

179D Deduction



BRADY BRYAN, CEO



Experience

- Founder & CEO of BRAYN
- Licensed Attorney in California and Texas
- Deloitte alum
- Worked for an Engineering Firm for ~10 years

Specialization

- 10+ years Tax Credit & Incentive Expertise
- R&D Tax Credit Expert
- Business Software Implementation
- Quality Management

Education

- J.D. – Southwestern Law School
- BBA, Management – Sam Houston State University

***Get in contact to learn more about
BRAYN Consulting!***



YONG JEON, TAX PARTNER



- **Education**

- LL.M., Tax Law – Boston University
- J.D. – Syracuse University
- B.A. – Creighton University

- **Experience**

- Deloitte / PWC
- McKesson Corporation – Tax Department
- MA Department of Revenue – Litigation Intern / Consultant
- Tax Planning / Research / Tax Controversy
- R&D Tax Credits / Tax Incentives



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(R&D) Research & Development is “Any attempt to solve a technical uncertainty for the creation of a new or improved product or service through experimentation”

- 41-year-old credit is now a permanent part of the tax code
- Federal Tax Benefit: 7% to 10% of Qualified Research Expenses (QRE)
- Dollar-for-Dollar reduction in tax liability
- Increases the Return on Investment
- General Rule: 1 Year Carryback; 20 Year Carryforward
- S Corps & Partnerships – R&D tax credit flows through to the owners
- Many states offer an R&D tax credit

4-PART TEST FOR R&D QUALIFICATION

Business
Component

Uncertainty

Process of
Experimentation

Technological in
Nature

QUALIFIED RESEARCH EXPENSES

WAGES

SUPPLIES

CONTRACTORS

THIS IS AN ACTIVITIES-BASED CREDIT!

QUALIFIED RESEARCH EXPENSES

Total Time Spent on R&D Activities			
Employees	Direct R&D Activities	R&D Supervision	R&D Support
Architects, Engineers, CAD, BIM, Designers	Most	Mid	Mid
Partners, Principals, VPs, Department Heads	Mid	Most	Least
Project Managers, QA Engineers	Mid	Least	Mid
Interior Designers, UX Designers	Least	Least	Least

Legend:



Most



Mid



Least

EXAMPLE QUALIFIED ACTIVITIES:

- LEED or Energy Efficient Designs
- Electrical System Design
- Structure & Facility Design for Constructability
- Design & Testing of Temporary Services
- BI Modeling
- Development of Means & Methods for Electrical Installation
- Development & Improvement of Construction Equipment
- Specifications for Electrical Conduit Bending
- Calculations of Conduit Wire Overheating
- Means & Methods of Electrical Installation

ELECTRICAL CONTRACTOR CASE STUDY:

Item	Average Annual Amount
Gross Revenues	\$ 37,650,000
Total Payroll	\$ 2,125,000
Qualified Research Expenses (QREs)	\$ 2,125,000
Net Federal Credits	\$ 138,000
Net State Credits	\$ 167,000
Total Net Federal and State Credits	\$ 305,000

NEW!!!! – IRS CHIEF COUNSEL MEMO

- Identify all the business components to which the I.R.C. § 41 research credit claim relates for that year.
- For each business component:
 - identify all research activities performed;
 - identify all individuals who performed each research activity; and
 - identify all the information each individual sought to discover.
- Provide the total qualified employee wage expenses, total qualified supply expenses, and total qualified contract research expenses for the claim year (this may be done using Form 6765, Credit for Increasing Research Activities).

Effective January 10, 2022 with 1-Year Transition Period → 45 Days to Perfect Claim

IRC 174 Amortization Issue

- TCJA eliminated expensing 174 R&E costs starting 1/1/2022
- Expected to be extended or repealed before 2023, included in BBB Act and multiple standalone bills with bipartisan support

	Currently IRC § 174	Under TCJA amortization Domestic R&D	Under TCJA amortization Foreign R&D
R&D Expenditures	\$15 MIL	\$15 MIL	\$15 MIL
Amount deducted	\$15 MIL	\$3 MIL	\$1 MIL
Tax Rate	21%	21%	21%
Tax Benefit/Savings due to Deduction	\$3,150,000	\$630,000	\$210,000
Estimated R&D Credit	\$1,000,000	\$200,000*	\$0 (not in US)
Total Tax Benefit	\$4,150,000	\$830,000	\$210,000

179D ENERGY EFFICIENT INCENTIVE BASICS

	FEDERAL	
FOR BUILDINGS CONSTRUCTED	Any Open Tax Year	
VALUE	Up to \$1.80 per square foot federal tax deduction*	
QUALIFICATION	• Designers / Builders of Govt. Owned Buildings	• Subject to SOL • Requires Allocation
	• Commercial Building Owners	• Subject to depreciation rules
ELIGIBLE QUALIFIED PROPERTY	<ul style="list-style-type: none"> • HVAC / Hot Water • Interior Lighting • Building Envelope 	<ul style="list-style-type: none"> • New Construction • Renovation • Addition
EXAMPLE QUALIFIED GOVERNMENT OWNERS	<ul style="list-style-type: none"> • K-12 Schools • Local, City, County 	<ul style="list-style-type: none"> • State (Univ., etc.) • GSA, Army Corp...
Certification	Requires certification by 3 rd party Professional Engineer	

*After 2020, adjusted for inflation (COLA)

INFLATION REDUCTION ACT IMPACT TO 179D

179D Provision	Previous Law PIS Date Before 1/1/2023	IRA Changes PIS Date Starting After 12/31/2022
MAX DEDUCTION	\$1.80/SF (\$1.88/SF in 2022)	\$2.50/SF to \$5.00/SF*, sliding scale
ENERGY EFFICIENT REQUIREMENTS	50% better than ASHRAE 90.1 standard	25-50% better than ASHRAE 90.1 standard
ENTITIES THAT CAN ALLOCATE 179D	Federal, State, or local government or a political subdivision thereof	Government entities PLUS <ul style="list-style-type: none">• <u>Indian tribal governments,</u>• <u>Alaska Native Corporations, and</u>• Tax-Exempt Entities (Hospitals, churches, etc)

* Drops to \$0.50/SF to \$1.00/SF if IRS provides guidance on prevailing wage and apprentice requirements
AND taxpayers fail to meet those requirements

45L ENERGY EFFICIENT HOME CREDIT

FEDERAL INCENTIVE		
FOR HOMES SOLD/LEASED:	2006 through 2022	
VALUE	\$ 2,000 tax credit per home/unit	
ELIGIBLE TAXPAYERS	<ul style="list-style-type: none">• Home Builders• Residential Developers• Manufacturers of Mobile Homes	
EXAMPLE QUALIFIED PROPERTY	<ul style="list-style-type: none">• Apartments• Assisted Living• Student Housing	<div><div><div></div><div></div><div></div></div><div>3 Stories or less</div></div> <ul style="list-style-type: none">• Single Family Homes• Affordable Housing• Manufactured Homes
QUALIFICATION	<ul style="list-style-type: none">• Certification by third party HERS Rater• Must own & have basis in property during construction	

INFLATION REDUCTION ACT IMPACT TO 45L TAX CREDIT

TAXPAYER TYPE	PRIOR TO 12/31/2022	2023 - 2032 ENERGY STAR CERTIFIED	2023 - 2032 ZERO ENERGY READY CERTIFIED
SINGLE-FAMILY HOME BUILDER	As Is (extended to 2022)	\$2,500/home	\$5,000/home
MULTIFAMILY DEVELOPER	As Is (extended to 2022)	\$2,500/unit*	\$5,000/unit*
MANUFACTURED HOME BUILDER	As Is (extended to 2022)	\$2,500	\$5,000

***\$500/unit or \$1,000/unit if prevailing wage requirements NOT met**

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Q&A

CONNECT WITH US



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