

Timely IRS Guidance Makes Taking the R&D Tax Credit Easier

September, 2025



IRS issues R&D guidance in Rev. Proc. 2025-28 on August 28, 2025. Many of the issues and unanswered questions from OBBBA have been addressed in this revenue procedure.

Key Highlights:

- Most Taxpayers can file “Superseding 2024” returns to take the positions described in the OBBBA or revenue procedure. In lieu of an amended return, even if they did not file an extension.
- Small businesses (gross receipts under \$31M for 2025) filing timely returns on or before November 15, 2025, will “be deemed” to have elected OBBBA treatment if they deduct R&D expenses on the return. Thus, no need to deduct §174A expenses per OBBBA on an “amended return”.
- IRC §280C(c)(2) Elections to take the reduced credit on “late elections (or revocations)” are permitted adjusting the relationship between R&D deductions and credits. This will require amended Form 6765 and a statement providing certain information elections.
- Domestic vs. Foreign Expenses. Domestic R&D: Immediate deductions or capitalization available under OBBBA for tax years beginning in 2025. Foreign R&D: Pre- and post-2025 tax year expenses must be capitalized under OBBBA, though method changes are available to align with compliance.

Although rather complex, these changes provide taxpayer favorable changes and will allow most to take the R&D credit without the whipsaw of non-deductibility of §174A expenses.

Please contact our team to assist with addressing any client situations you might have related to this guidance.



ARCHER
LEWIS

Specialized Tax Services – R&D Tax Credit
Bob Crumley
214.725.6400
bcrumley@archerlewis.com

Federal Tax Services
Dwight Littlefield
360.956.1040
dlittlefield@archerlewis.com