

§ 1.41-0T

§ 1.41-5 Basic research for taxable years beginning after December 31, 1986. [Reserved]

§ 1.41-6 Aggregation of expenditures.

- (a) Controlled groups of corporations; trades or businesses under common control.
 - (1) In general.
 - (2) Consolidated groups.
 - (3) Definitions.
 - (b) Computation of the group credit.
 - (1) In general.
 - (2) Start-up companies.
 - (c) Allocation of the group credit.
 - (1) In general.
 - (2) Stand-alone entity credit.
 - (d) Special rules for consolidated groups.
 - (1) In general.
 - (2) Start-up company status.
 - (3) Special rule for allocation of group credit among consolidated group members.
 - (e) Examples.
 - (f) For taxable years beginning before January 1, 1990.
 - (g) Tax accounting periods used.
 - (1) In general.
 - (2) Special rule when timing of research is manipulated.
 - (h) Membership during taxable year in more than one group.
 - (i) Intra-group transactions.
 - (1) In general.
 - (2) In-house research expenses.
 - (3) Contract research expenses.
 - (4) Lease payments.
 - (5) Payment for supplies.
 - (j) Effective/applicability date.
 - (1) In general.
 - (2) Consolidated group rule.
 - (3) Taxable years ending on or before December 31, 2006.

§ 1.41-7 Special rules.

- (a) Allocations.
 - (1) Corporation making an election under subchapter S.
 - (i) Pass-through, for taxable years beginning after December 31, 1982, in the case of an S corporation.
 - (ii) Pass-through, for taxable years beginning before January 1, 1983, in the case of a subchapter S corporation.
 - (2) Pass-through in the case of an estate or trust.
 - (3) Pass-through in the case of a partnership.
 - (i) In general.
 - (ii) Certain expenditures by joint ventures.
 - (4) Year in which taken into account.
 - (5) Credit allowed subject to limitation.
 - (b) Adjustments for certain acquisitions and dispositions—Meaning of terms.
 - (c) Special rule for pass-through of credit.
 - (d) Carryback and carryover of unused credits.

§ 1.41-8 Alternative incremental credit.

- (a) Determination of credit.

26 CFR Ch. I (4-1-09 Edition)

- (b) Election.
 - (1) In general.
 - (2) Time and manner of election.
 - (3) Revocation.
 - (4) Special rules for controlled groups.
 - (5) Effective/applicability dates.

§ 1.41-9 Alternative simplified credit.

[Reserved] For further guidance, see the entries for § 1.41-9T in § 1.41-0T.

[T.D. 8930, 65 FR 287, Jan. 3, 2001, as amended by T.D. 9104, 69 FR 26, Jan. 2, 2004; T.D. 9205, 70 FR 29601, May 24, 2005; T.D. 9296, 71 FR 65725, Nov. 9, 2006; T.D. 9401, 73 FR 34187, June 17, 2008]

§ 1.41-0T Table of contents (temporary).

This section lists the table of contents for §§ 1.41-6T, 1.41-8T, and 1.41-9T.

§ 1.41-6T Aggregation of expenditures (temporary).

- (a) [Reserved] For further guidance, see the entry for § 1.41-6(a) in § 1.41-0.
- (b) Computation of the group credit.
 - (1) In general.
 - (2) [Reserved] For further guidance, see the entry for § 1.41-6(b)(2) in § 1.41-0.
 - (c) Allocation of the group credit.
 - (1) [Reserved] For further guidance, see the entry for § 1.41-6(c)(1) in § 1.41-0.
 - (2) Stand-alone entity credit.
 - (d) [Reserved] For further guidance, see the entry for § 1.41-6(d) in § 1.41-0.
 - (e) Example.
 - (f) through (i) [Reserved] For further guidance, see the entries for § 1.41-6(f) through (i) in § 1.41-0.
 - (j) Effective/applicability dates.

§ 1.41-8T Alternative incremental credit (temporary).

- (a) [Reserved] For further guidance, see the entry for § 1.41-8(a) in § 1.41-0.
- (b) Election.
 - (1) In general.
 - (2) Time and manner of election.
 - (3) Revocation.
 - (4) Special rules for controlled groups.
 - (i) In general.
 - (ii) Designated member.
 - (5) Effective/applicability dates.

§ 1.41-9T Alternative simplified credit (temporary).

- (a) Determination of credit.
- (b) Election.
 - (1) In general.
 - (2) Time and manner of election.
 - (3) Revocation.
 - (4) Special rules for controlled groups.
 - (i) In general.
 - (ii) Designated member.
 - (c) Special rules.

Internal Revenue Service, Treasury

§ 1.41-2

- (d) Effective/applicability dates.
- (e) Expiration date.

[T.D. 9401, 73 FR 34187, June 17, 2008]

§ 1.41-1 Credit for increasing research activities.

(a) *Amount of credit.* The amount of a taxpayer's credit is determined under section 41(a). For taxable years beginning after June 30, 1996, and at the election of the taxpayer, the portion of the credit determined under section 41(a)(1) may be calculated using the alternative incremental credit set forth in section 41(c)(4). For taxable years ending after December 31, 2006, and at the election of the taxpayer, the portion of the credit determined under section 41(a)(1) may be calculated using either the alternative incremental credit set forth in section 41(c)(4), or the alternative simplified credit set forth in section 41(c)(5).

(b) *Introduction to regulations under section 41.* (1) Sections 1.41-2 through 1.41-8 and 1.41-3A through 1.41-5A address only certain provisions of section 41. The following table identifies the provisions of section 41 that are addressed, and lists each provision with the section of the regulations in which it is covered.

Section of the regulation	Section of the Internal Revenue Code
§ 1.41-2	41(b).
§ 1.41-3	41(c).
§ 1.41-4	41(d).
§ 1.41-5	41(e).
§ 1.41-6	41(f).
§ 1.41-7	41(f).
	41(g).
§ 1.41-8	41(c).
§ 1.41-3A	41(c) (taxable years beginning before January 1, 1990).
§ 1.41-4A	41(d) (taxable years beginning before January 1, 1986).
§ 1.41-5A	41(e) (taxable years beginning before January 1, 1987).

(2) Section 1.41-3A also addresses the special rule in section 221(d)(2) of the Economic Recovery Tax Act of 1981 relating to taxable years overlapping the effective dates of section 41. Section 41 was formerly designated as sections 30 and 44F. Sections 1.41-0 through 1.41-8 and 1.41-0A through 1.41-5A refer to these sections as section 41 for conformity purposes. Whether section 41,

former section 30, or former section 44F applies to a particular expenditure depends upon when the expenditure was paid or incurred.

[T.D. 8930, 65 FR 288, Jan. 3, 2001, as amended by T.D. 9401, 73 FR 34187, June 17, 2008]

§ 1.41-2 Qualified research expenses.

(a) *Trade or business requirement—(1) In general.* An in-house research expense of the taxpayer or a contract research expense of the taxpayer is a qualified research expense only if the expense is paid or incurred by the taxpayer in carrying on a trade or business of the taxpayer. The phrase “in carrying on a trade or business” has the same meaning for purposes of section 41(b)(1) as it has for purposes of section 162; thus, expenses paid or incurred in connection with a trade or business within the meaning of section 174(a) (relating to the deduction for research and experimental expenses) are not necessarily paid or incurred in carrying on a trade or business for purposes of section 41. A research expense must relate to a particular trade or business being carried on by the taxpayer at the time the expense is paid or incurred in order to be a qualified research expense. For purposes of section 41, a contract research expense of the taxpayer is not a qualified research expense if the product or result of the research is intended to be transferred to another in return for license or royalty payments and the taxpayer does not use the product of the research in the taxpayer's trade or business.

(2) *New business.* Expenses paid or incurred prior to commencing a new business (as distinguished from expanding an existing business) may be paid or incurred in connection with a trade or business but are not paid or incurred in carrying on a trade or business. Thus, research expenses paid or incurred by a taxpayer in developing a product the sale of which would constitute a new trade or business for the taxpayer are not paid or incurred in carrying on a trade or business.

(3) *Research performed for others—(i) Taxpayer not entitled to results.* If the taxpayer performs research on behalf of another person and retains no substantial rights in the research, that research shall not be taken into account