

**Internal Revenue Service, Treasury****§ 1.280C-4**

capitalized the amount subject to depreciation must be reduced by an amount equal to the amount of the credit (determined without regard to the provisions of section 53) in determining the depreciation deduction. In the case of an employer who uses the full absorption method of inventory costing under §1.471-11, the portion of the basis of the inventory attributable to the wage or salary expenses giving rise to the credit and paid or incurred in the year the credit is earned must be reduced by the amount of the credit allowable (determined without regard to the provisions of section 53). If the employer is an organization that is under common control (as described in §1.52-1), it must reduce its deduction for wage or salary expenses by the amount of the credit apportioned to it under §1.52-1 (a) or (b). The deduction for wage and salary expenses must be reduced in the year the credit is earned, even if the employer is unable to use the credit in that year because of the limitations imposed by section 53.

(Secs. 44B, 381, and 7805 of the Internal Revenue Code of 1954, 92 Stat. 2834 (28 U.S.C. 44B); 91 Stat. 148 (26 U.S.C. 381(c)(26)); 68A Stat. 917 (28 U.S.C. 7805))

[T.D. 7921, 48 FR 52908, Nov. 23, 1983]

**§ 1.280C-3 Disallowance of certain deductions for qualified clinical testing expenses when section 28 credit is allowable.**

(a) *In general.* If a taxpayer is entitled to a credit under section 28 for qualified clinical testing expenses (as defined in section 28(b)), it must reduce the amount of any deduction for qualified clinical testing expenses paid or incurred in the year the credit is earned by the amount allowable as credit for such expenses (determined without regard to section 28(d)(2)).

(b) *Capitalization of qualified clinical testing expenses.* In a case in which qualified clinical testing expenses are capitalized, the amount chargeable to the capital account for a taxable year must be reduced by the excess of the amount of the credit allowable for the taxable year under section 28 (determined without regard to section 28(d)(2)) over the amount allowable as a deduction for qualified clinical testing expenses (determined without regard to

paragraph (a) of this section) for the taxable year. See section 174 and the regulations thereunder.

(c) *Controlled group of corporations; organizations under common control.* In the case of a taxpayer described in paragraph (d)(5) of §1.28-1 of this chapter (relating to controlled groups of corporations and organizations under common control), paragraphs (a) and (b) of this section shall be applied in accordance with the rules prescribed for aggregation of expenditures under that paragraph.

(d) *Example.* The following example illustrates the application of paragraphs (a) and (b) of this section:

*Example.* A incurs \$1,000 in clinical testing expenses for which a \$500 credit is allowable under section 28. A also elects under section 174 of the Code to amortize these expenses over a 5-year period beginning in the year the credit is claimed. Under paragraph (a), the current year amortization deduction of \$200 ( $\$1,000 \div 5$ ) is disallowed. Moreover, the amount which would otherwise be capitalized, \$800, is reduced by the excess of the amount of the section 28 credit claimed for the taxable year over the amount of the allowable section 174 amortization deduction for the taxable year, or \$300 (\$500-\$200). Thus, the amount chargeable to the capital account for the taxable year is \$500 (\$800-\$300). A is entitled to amortize \$500 over the remaining amortization period resulting in a deduction of \$125 for each of the remaining four years.

[T.D. 8232, 53 FR 38715, Oct. 3, 1988]

**§ 1.280C-4 Credit for increasing research activities.**

(a) *In general.* An election under section 280C(c)(3) to have the provisions of section 280C(c)(1) and (c)(2) not apply and elect the reduced research credit under section 280C(c)(3)(B) shall be made on Form 6765, "Credit for Increasing Research Activities" (or any successor form). In order for the election to be effective, the Form 6765 must clearly indicate the taxpayer's intent to make the section 280C(c)(3) election, and must be filed with an original return for the taxable year filed on or before the due date (including extensions) for filing the income tax return for such year, regardless of whether any research credits are claimed on the original return. An election, once made for any taxable year, is irrevocable for that taxable year.

## § 1.280F-1T

(b) *Controlled groups of corporations; trades or businesses under common control*—(1) *In general.* A member of a controlled group of corporations (within the meaning of section 41(f)(5)), or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 41(f)(1)(B)), may make the election under section 280C(c)(3). However, only the common parent (within the meaning of § 1.1502-77(a)(1)(i)) of a consolidated group may make the election on behalf of the members of a consolidated group. A member or trade or business shall make the election on Form 6765 and by the time prescribed in paragraph (a) of this section.

(2) *Example.* The following example illustrates an application of paragraph (b) of this section: A, B, and C, all of which are calendar year taxpayers, are members of a controlled group of corporations (within the meaning of section 41(f)(5)). A, B, and C each attach a statement to the 2012 Form 6765, “Credit for Increasing Research Activities,” showing A and C were the only members of the controlled group to have qualified research expenses when calculating the group credit. A and C report their allocated portions of the group credit on the 2012 Form 6765 and B reports no research credit on Form 6765. Pursuant to paragraph (a) of this section, A and B, but not C, each make an election for the reduced credit under section 280C(c)(3)(B) on the 2012 Form 6765. In December 2013, B determines it had qualified research expenses in 2012 resulting in an increased group credit. On an amended 2012 Form 6765, A, B, and C each report their allocated portions of the group credit. B reports its credit as a regular credit under section 41(a) and reduces the credit under section 280C(c)(3)(B). C may not reduce its credit under section 280C(c)(3)(B) because C did not make an election for the reduced credit with its original return.

(c)(1) *Effective/applicability date.* This section applies to taxable years ending on or after July 27, 2011.

(2) *Taxable years beginning after December 31, 2011.* Paragraphs (b)(2) and (c)(2) and (3) of this section apply to taxable years beginning on or after April 2, 2018. For taxable years ending before April 2, 2018, see § 1.280C-4T as contained in 26 CFR part 1, as revised April 1, 2017.

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(3) *For taxable years ending before January 1, 2012.* See § 1.280C-4 as contained in 26 CFR part 1, revised April 1, 2014.

[T.D. 9539, 76 FR 44801, July 27, 2011, as amended by T.D. 9717, 80 FR 18099, Apr. 3, 2015; T.D. 9832, 83 FR 13185, Mar. 28, 2018]

### § 1.280F-1T Limitations on investment tax credit and recovery deductions under section 168 for passenger automobiles and certain other listed property; overview of regulations (temporary).

(a) *In general.* Section 280F(a) limits the amount of investment tax credit determined under section 46(a) and recovery deductions under section 168 for passenger automobiles. Section 280F(b) denies the investment tax credit and requires use of the straight line method of recovery for listed property that is not predominantly used in a qualified business use. In certain circumstances, section 280F(b) requires the recapture of an amount of cost recovery deductions previously claimed by the taxpayer. Section 280F(c) provides that lessees are to be subject to restrictions substantially equivalent to those imposed on owners of such property under section 280F (a) and (b). Section 280F(d) provides definitions and special rules; note that section 280F(d) (2) and (3) apply with respect to all listed property, even if the other provisions of section 280F do not affect the treatment of the property.

(b) *Key to Code provisions.* The following table identifies the provisions of section 280F under which regulations are provided, and lists each provision below with its corresponding regulation section:

Section 1.280F-2T	Section 1.280F-3T	Section 1.280F-4T	Sections 1.280F-5T and 1.280F-7	Section 1.280F-6
(a)	(b)	(d)(2)	(c)	(d)(3)
(d)(1)	(d)(1)			(d)(4)
(d)(8)				(d)(5)
(d)(10)				(d)(6)

Sections 1.280F-2T(f) and 1.280F-4T(b) also provide special rules for improvements to passenger automobiles and other listed property that qualify as capital expenditures.

(c) *Effective dates*—(1) *In general.* This section and §§ 1.280F-2T through 1.280F-6 apply to property placed in service or