

106TH CONGRESS  
1ST SESSION

# H. R. 3505

To amend the Internal Revenue Code of 1986 to provide for a medical research tax credit.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1999

Mr. WATKINS introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for a medical research tax credit.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. CREDIT FOR MEDICAL RESEARCH.**

4       (a) IN GENERAL.—Subpart D of part IV of sub-  
5       chapter A of chapter 1 of the Internal Revenue Code of  
6       1986 (relating to business related credits) is amended by  
7       inserting after section 41 the following new section:

8       **“SEC. 41A. CREDIT FOR MEDICAL RESEARCH EXPENSES.**

9       “(a) GENERAL RULE.—For purposes of section 38,  
10      the medical research credit determined under this section

1 for the taxable year shall be 30 percent of the excess (if  
2 any) of—

3 “(1) the qualified medical research expenses for  
4 the taxable year, over

5 “(2) the medical research base period amount.

6 In determining the amount of credit, the special rules set  
7 forth in section 41(f) shall apply.

8 “(b) QUALIFIED MEDICAL RESEARCH ACTIVITIES.—

9 “(1) DEFINITIONS.—The term ‘qualified med-  
10 ical research activities’ means research, including  
11 human clinical testing and animal testing, in or rea-  
12 sonably expected to lead to, the development of any  
13 medical product for the prevention, cure, or allevi-  
14 ation of human disease, sickness, or injury which oc-  
15 curs before—

16 “(A) the date on which an application with  
17 respect to such product is approved under sec-  
18 tion 505(b) or 505A of the Federal Food,  
19 Drug, and Cosmetic Act,

20 “(B) the date on which a license for such  
21 product is approved under section 351 of the  
22 Public Health Service Act, or

23 “(C) the date (or latter of the dates) clas-  
24 sification of a device intended for human use is  
25 made under section 513 of the Federal Food,

1 Drug, and Cosmetic Act or approval of a device  
2 intended for human use is granted under sec-  
3 tion 515 of such Act.

4 The term ‘qualified medical research activities’ includes  
5 preclinical and clinical testing occurring after the dates  
6 specified above in this subsection if the purpose of such  
7 testing is to develop new functional uses (including pedi-  
8 atric studies as described in section 355A(g) of the Fed-  
9 eral Food, Drug, and Cosmetic Act), characteristics, indi-  
10 cations, combinations, dosages, or delivery forms to an ex-  
11 isting product.

12 “(2) EXCLUSIONS.—The term ‘qualified med-  
13 ical research activities’ shall not include—

14 “(A) any amount to the extent funded by  
15 any grant, contract, or otherwise by another  
16 person, entity, government, or instrumentality  
17 of a government,

18 “(B) any such activities conducted outside  
19 the United States and its possessions,

20 “(C) except as otherwise permitted by  
21 paragraph (1) of this subsection, any research  
22 conducted after commercial production of the  
23 product,

24 “(D) market research, testing, or develop-  
25 ment (including advertising or promotion), or

1                   “(E) routine or ordinary testing or inspec-  
2                   tion for quality control.

3           “(c) OTHER DEFINITIONS.—For purposes of this  
4 section—

5                   “(1) QUALIFIED MEDICAL RESEARCH EX-  
6           PENSES.—The term ‘qualified medical research ex-  
7           penses’ means amounts paid or incurred by the tax-  
8           payer for qualified medical research activities which  
9           are qualified research expenses within the meaning  
10          of section 41(b); except that paragraph (3)(A) of  
11          section 41(b) shall be applied for purposes of this  
12          section by substituting ‘100 percent’ for ‘65 percent’  
13          with respect to amounts paid to a qualified academic  
14          institution and by substituting ‘85 percent’ for ‘65  
15          percent’ with respect to amounts paid to a qualified  
16          nonprofit medical institution.

17                  “(2) PRODUCT.—The term ‘product’ means any  
18          drug, biologic, medical or diagnostic test, or medical  
19          device.

20                  “(3) QUALIFIED ACADEMIC INSTITUTION.—The  
21          term ‘qualified academic institution’ means any of  
22          the following institutions:

23                          “(A) EDUCATIONAL INSTITUTION.—An in-  
24                          stitution described in section 170(b)(1)(A) (ii)  
25                          or (iii) which is owned or affiliated with an in-

1           stitution of higher education as described in  
2           section 3304(f).

3           “(B) CANCER RESEARCH INSTITUTION.—A  
4           cancer research institution which is designated  
5           as a cancer center by the National Cancer In-  
6           stitute, is, or is owned by, an organization de-  
7           scribed in section 501(c)(3), is exempt from  
8           taxation under section 501(a), and is not a pri-  
9           vate foundation, or

10          “(C) NONPROFIT INDEPENDENT RE-  
11          SEARCH INSTITUTIONS.—A not-for-profit, inde-  
12          pendent research institute organized and oper-  
13          ated exclusively for scientific or educational  
14          purposes and exempt from taxation under sec-  
15          tion 501(c)(3).

16          “(4) QUALIFIED NONPROFIT MEDICAL INSTITU-  
17          TION.—The term ‘nonprofit qualified medical insti-  
18          tution’ means any not-for-profit organization which  
19          is described in section 501(c)(3), is exempt from  
20          taxation under section 501(a) by reason of its oper-  
21          ation of a hospital or medical or health activity, and  
22          is not a private foundation and which is not a quali-  
23          fied academic institution.

24          “(5) MEDICAL RESEARCH BASE PERIOD  
25          AMOUNT.—The term ‘medical research base period

1 amount' means the average of the taxpayer's quali-  
2 fied medical research expenses for the most recent  
3 consecutive 5 taxable years of the taxpayer which  
4 ended 6 months before the beginning of the taxable  
5 year for which such base period amount is deter-  
6 mined.

7           “(A) If the taxpayer has not paid or in-  
8 curred expenses for qualified medical research  
9 activities for any year during the base period  
10 set forth above, the base period amount shall be  
11 the average of the taxpayer's expenses for quali-  
12 fied medical research activities for the years  
13 during such period in which the taxpayer did  
14 pay or incur expenses for qualified medical re-  
15 search activities.

16           “(B) For each of the first 2 taxable years  
17 in which the taxpayer pays or incurs qualified  
18 medical research expenses, the medical research  
19 base period amount shall be 60 percent of the  
20 taxpayer's qualified medical research expenses  
21 for the taxable year for which such base period  
22 amount is determined.

23           “(d) COORDINATION WITH CREDIT FOR INCREASING  
24 RESEARCH EXPENDITURES AND WITH CREDIT FOR CLIN-

1 ICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR  
2 RARE DISEASES.—

3 “(1) No credit is allowable under this section  
4 for any taxable year for which the taxpayer is al-  
5 lowed the credit under section 41.

6 “(2) Any expenses for qualified medical re-  
7 search expenses for a taxable year to which an elec-  
8 tion under this section applies shall not be taken  
9 into account for purposes of determining the credit  
10 allowable under section 45C for such taxable year.”

11 (b) GENERAL BUSINESS CREDIT.—Section 38(b) of  
12 such Code (relating to current business year credit) is  
13 amended by striking “plus” at the end of paragraph (11),  
14 by striking the period at the end of paragraph (12), and  
15 inserting “, plus”, and by adding at the end the following:

16 “(13) the medical research expenses credit de-  
17 termined under section 41A(a).”

18 (c) DEDUCTION FOR UNUSED PORTION OF CRED-  
19 IT.—Section 196(c) of such Code (defining qualified busi-  
20 ness credits) is amended by striking “and” at the end of  
21 paragraph (7), by striking the period at the end of para-  
22 graph (8) and inserting “, and”, and by adding at the  
23 end the following:

24 “(9) the medical research expenses credit deter-  
25 mined under section 41A(a).”

1 (d) LIMITATION ON DEDUCTIONS FOR EXPENSES  
2 FOR WHICH CREDIT IS ALLOWABLE.—Section 280C of  
3 such Code (relating to certain expenses for which credits  
4 are allowable) is amended by adding at the end the fol-  
5 lowing new subsection:

6 “(d) CREDIT FOR INCREASING RESEARCH ACTIVI-  
7 TIES.—

8 “(1) IN GENERAL.—No deduction shall be al-  
9 lowed for that portion of the qualified medical re-  
10 search expenses (as defined in section 41A(c)(1))  
11 otherwise allowable as a deduction for the taxable  
12 year which is equal to the amount of the credit de-  
13 termined for such taxable year under section 41A(a).

14 “(2) SIMILAR RULE WHERE TAXPAYER CAP-  
15 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

16 “(A) the amount of the credit determined  
17 for the taxable year under section 41A(a), ex-  
18 ceeds, and

19 “(B) the amount allowable as a deduction  
20 for such taxable year for qualified medical re-  
21 search expenses (determined without regard to  
22 paragraph (1)),  
23 the amount chargeable to capital account for the  
24 taxable year for such expenses shall be reduced by  
25 the amount of such excess.



1 “(3) ELECTION OF REDUCED CREDIT.—

2 “(A) IN GENERAL.—In the case of any  
3 taxable year for which an election is made  
4 under this paragraph—

5 “(i) paragraphs (1) and (2) shall not  
6 apply, and

7 “(ii) the amount of the credit under  
8 section 41A(a) shall be the amount deter-  
9 mined under subparagraph (B).

10 “(B) AMOUNT OF REDUCED CREDIT.—The  
11 amount of credit determined under this sub-  
12 paragraph for any taxable year shall be the  
13 amount equal to the excess of—

14 “(i) the amount of credit determined  
15 under section 41A(a) without regard to  
16 this paragraph, over

17 “(ii) the product of—

18 “(I) the amount described in  
19 clause (i), and

20 “(II) the maximum rate of tax  
21 under section 11(b)(1).

22 “(C) ELECTION.—An election under this  
23 paragraph for any taxable year shall be made  
24 no later than the time for filing the return of  
25 tax for such year (including extensions), shall

1           be made on such return, and shall be made in  
2           such manner as the Secretary may prescribe.  
3           Such an election, once made, shall be irrev-  
4           ocable.

5           “(4) CONTROLLED GROUPS.—Paragraph (3) of  
6           subsection (b) shall apply for purposes of this sub-  
7           section.”

8           (e) CONFORMING AMENDMENT.—The table of sec-  
9           tions for subpart D of part IV of subchapter A of chapter  
10          1 of such Code is amended by inserting after the item  
11          relating to section 41 the following:

          “Sec. 41A. Credit for medical research expenses”.

12          (f) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to taxable years beginning after  
14          December 31, 1999.

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