

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date: July 22, 2004

LEGEND

Taxpayer =

S =

W =

z =

Dear :

We received your letter requesting permission for Taxpayer to revoke its election under § 41(c)(4) of the Internal Revenue Code. This letter responds to that request.

The facts submitted and the representations made are as follows: Taxpayer is an accrual method taxpayer using a calendar year for tax purposes. Taxpayer relied on S to prepare and file its tax return for the w taxable year. Taxpayer intended that S would calculate Taxpayer's research credit using the method that would be most beneficial to Taxpayer. S intended to use the regular method of § 41(a) to calculate Taxpayer's research credit because that method would result in the maximum allowable credit. In reviewing a draft of Taxpayer's tax return for the w taxable year, a manager at S discovered that the research credit mistakenly was calculated using the alternative incremental research credit (AIRC) rules of § 41(c)(4). Upon discovering this error, the manager ordered that Taxpayer's tax return be corrected to compute Taxpayer's research credit using the regular method and that the tax return be reprocessed. However, due to a clerical error, the correction was not made, and the tax return was filed using the AIRC rules. The mistake was discovered during the preparation of Taxpayer's return for the z taxable year.

Before the due date of its return (including extensions) for the z taxable year, Taxpayer submitted a request to compute its allowable research credit under the regular

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method set forth in § 41(a) for the w taxable year because Taxpayer had not intended to use the AIRC method in § 41(c)(4) for the w taxable year.

For taxable years beginning after June 30, 1996, taxpayers may elect to determine their research credit under the AIRC rules of § 41(c)(4). Section 41(c)(4)(B) provides that any election under § 41(c)(4)(A) shall apply for the taxable year in which made and all succeeding taxable years unless revoked with the consent of the Secretary.

After reviewing the facts and relevant documents, and considering the clerical errors that occurred, conclude that Taxpayer may compute its credit for increasing research activities for the w taxable year and all succeeding taxable years using the general rule of § 41(a) provided that Taxpayer does not make a new election to determine its credit for increasing research activities under the AIRC rules of § 41(c)(4).

This ruling is based upon the information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

Except as expressly provided herein, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Further, we express or imply no opinion concerning expenditures Taxpayer treated as qualified research expenses.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative. A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

/s/

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)