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Michigan law creates research and development tax credit

On January 13, 2025, Michigan Governor Gretchen Whitmer signed into law [HB 5100](#) and [HB 5101](#), which create a refundable research and development (R&D) tax credit that may be claimed against the state's corporate income tax and the withholding tax for flow-through entities (FTEs). R&D companion bills ([HB 4368](#), [HB 5099](#) and [HB 5102](#)), which define key terms and provide reporting requirements for the R&D credit program, were enacted in July 2024.

R&D credit

Effective for tax years beginning on or after January 1, 2025, a taxpayer¹ or an employer² that is an authorized business may claim the R&D credit for expenses incurred in conducting research in Michigan during the calendar year. An "authorized business" includes corporations, insurance companies, financial institutions and unitary business groups (i.e., taxpayers) and FTEs subject to withholding requirements under MCL Section 703(2) (i.e., employers) that have increased their qualifying R&D expenses.³ A taxpayer/employer may not assign or transfer the R&D credit, and a member of an FTE that submits an R&D credit claim may not claim any portion of the R&D credit. Credit amounts that exceed a taxpayer's/employer's tax liability are refundable.

The credit available to an authorized business with 250 or more employees (hereafter "large business") is 3% of the taxpayer's/employer's qualifying R&D expenses incurred during the calendar year up to the base amount.⁴ The credit increases to 10% of qualifying expenses that exceed the base amount. The total amount of credit that can be claimed by a large business taxpayer/employer is capped at \$2 million per year.

The credit available to an authorized business with fewer than 250 employees (hereafter "small business") is 3% of the taxpayer's/employer's qualifying R&D expenses incurred during the calendar year up to the base amount and 15% of those expenses exceeding the base amount. The total amount of credit that can be claimed by a small business taxpayer/employer is capped at \$250,000 per year.

Taxpayers/employers collaborating with a Michigan research university may be eligible to claim an additional R&D credit equal to 5% of the qualifying R&D expenses used to calculate the above credit. The additional credit is capped at \$200,000 per year per taxpayer/employer.

The aggregate amount of all R&D credits available is capped at \$100 million per year.

Claiming the credit

Taxpayers/employers seeking to claim the R&D credit must submit a tentative claim to the Michigan Department of Treasury (Department) by April 1, 2026 for qualifying R&D expenses incurred during calendar year 2025. For calendar year 2026 and beyond, tentative claims must be filed by March 15 for expenses incurred in the prior calendar year for which the taxpayer/employer intends to seek a credit.

The credit allowed for each claimant will be prorated if the aggregate amount of all tentative claims submitted for the year exceeds the \$100 million cap. Credits will be prorated as follows:

- a. If the aggregate amount of tentative claims by small businesses does not exceed \$25 million, credits claimed by the small businesses will not be prorated. The amount of credit allowed to each large business claimant will equal the claimant's pro rata share of the remaining amount of credits.
- b. If the aggregate amount of tentative claims by small businesses exceeds \$25 million, credits claimed by the small businesses will be prorated so that each claimant's allowed credit equals its pro rata share of \$25 million. The amount of credit allowed to each large business claimant will equal its pro rata share of \$75 million.
- c. If the aggregate amount of tentative claims submitted by all small businesses exceeds 25% of the aggregate amount of tentative claims submitted by all taxpayers/employers, the proration under b) does not apply. Instead, the amount of tentative claims submitted by each taxpayer/employer will be prorated so that the amount of credit allowed each claimant will equal the claimant's pro rata share of \$100 million.

A claim for the R&D credit must be submitted on the taxpayers'/employers' annual return required to be filed for the same tax year for which the credit is claimed. The R&D credit is claimed after all allowable nonrefundable credits.

Annual report on the effectiveness of the R&D credit

The Department, in cooperation with the Board of Directors of the Michigan Strategic Fund, by July 1 each year must submit to the legislature and the governor a report on "the operation and effectiveness" of the R&D credit. This report must include information on the number of authorized businesses filing tentative claims for the credit, the name of each business submitting a claim for the credit, and the amount of the R&D tax credit allowed for the immediately preceding calendar year for those businesses.

Implications

Taxpayers should keep in mind that while they must submit tentative claims by April 1, 2026, to apply for the 2025 tax year, that deadline is moved to March 15th for ensuing years. In addition, because the state has appropriated \$100 million per year for the total aggregate credit allowed to all taxpayers, total credit amounts awarded to each taxpayer may be less than otherwise authorized as the Department distributes the credits on a prorated basis. Finally, taxpayers should note that their business name and amount of R&D credit allowed will be submitted as part of the legislative report on the effectiveness of the credit program.

The qualification criteria for the Michigan R&D credit is based on the federal R&D credit (IRC Section 41), and the computational method used for the Michigan R&D credit is similar to the Alternative Simplified Credit described in IRC Section 41(c)(4). As such, taxpayers performing R&D in Michigan and currently claiming the federal R&D credit should be able to use information gathered from their federal R&D credit computation to identify qualifying R&D expenses, and compute the tentative credit, for Michigan purposes.

Endnotes

¹ See newly added MCL Section 206.677.

² See newly added MCL Section 206.716.

³ "Qualifying R&D expenses" for purposes of Michigan's R&D credit includes qualifying R&D expenses, as defined in IRC Section 41(b), for research conducted in Michigan. The term does not include such expenses for research conducted outside the state.

⁴ The "base amount" is "the average annual amount of qualifying [R&D] expenses during the [three] calendar years immediately preceding the calendar year ending with or within the tax year for which a credit is being claimed ... " or, if the taxpayer has less than three years of qualifying R&D expense, the average amount of the expenses based on the number of years in which the qualifying R&D expenses were incurred. Taxpayers with no prior qualifying R&D expenses will have a base amount of zero.

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