Final regulations issued for election of reduced research credit

The Internal Revenue Service released final regulations effective July 27, 2011, that simplify how taxpayers may make the election to claim the reduced research credit. Under section 280C(c)(3), a taxpayer may elect to claim the section 41 research credit (either the regular credit or the alternative simplified credit) at a reduced rate in lieu of being required to reduce its section 174 deductions by the amount of research credit determined for the taxable year.

URL: http://newsletters.usdbriefs.com/2011/Tax/TNV/a110729_5suppA.pdf

The final regulations generally adopt proposed regulations that were issued in 2009. They allow the section 280C(c)(3) election to be to be made on a Form 6765, Credit for Increasing Research Activities, filed with the original return if the taxpayer clearly indicates its intent to make such election, regardless of whether any research credits are claimed on that original return. An election, once made, is irrevocable for that taxable year. An election cannot be made on an amended return.

Additionally, the final regulations provide that each member of a controlled group or a trade or business which is treated under common control with other trades or businesses may make an election under section 280C(c)(3) after the group credit is computed and allocated. An example has been added to the final regulations showing that members of a controlled group may separately make an election under section 280C(c)(3) on their original returns without reporting any credit. For consolidated groups, however, the final regulations clarify that only the common parent may make the election. An attachment to Form 6765, identifying all members of the consolidated group for which the election is made, is generally sufficient to indicate the intent of the common parent.

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