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WNTS Insight*

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Research tax credit extended for two years in financial rescue legislation

President Bush has signed into law the financial rescue-tax extenders bill (H.R. 1424) cleared earlier today by the House. The bill, as enacted, includes a provision that retroactively extends the research tax credit. Specifically, the legislation:

- Extends the research credit retroactively to January 1, 2008, for two years;
- Modifies the Alternative Simplified Credit ("ASC") by increasing the rate from 12% to 14% for taxable years ending in 2009 (taxable years ending(ed) in 2008 remain at 12%);
- Terminates the Alternative Incremental Research Credit ("AIRC") for taxable years beginning after December 31, 2008.

The applicable statutory language is attached below.

TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS

SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009” in paragraph (1)(B).

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) (relating to special rule) is amended by striking “after December 31, 2007” and inserting “after December 31, 2009”.

(b) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—Section 41(h) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

“(2) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—No election under subsection (c)(4) shall apply to taxable years beginning after December 31, 2008.”.

(c) MODIFICATION OF ALTERNATIVE SIMPLIFIED CREDIT.—Paragraph (5)(A) of section 41(c) (relating to election of alternative simplified credit) is amended by striking “12 percent” and inserting “14 percent (12 percent in the case of taxable years ending before January 1, 2009)”.

(d) TECHNICAL CORRECTION.—Paragraph (3) of section 41(h) is amended to read as follows:

“(2) COMPUTATION FOR TAXABLE YEAR IN WHICH CREDIT TERMINATES.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year—

“(A) the amount determined under subsection (c)(1)(B) with respect to such taxable year shall be the amount which bears the same ratio to such amount (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year, and

“(B) for purposes of subsection (c)(5), the average qualified research expenses for the preceding 3 taxable years shall be the amount which bears the same ratio to such average qualified research expenses (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) EXTENSION.—The amendments made by subsection (a) shall apply to amounts paid or incurred after December 31, 2007.

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