

As Introduced

136th General Assembly

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H. B. No. 1026

Representative Daniels

To amend sections 5726.56 and 5751.51 of the 1
Revised Code to increase and expand the research 2
and development tax credit. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5726.56 and 5751.51 of the 4
Revised Code be amended to read as follows: 5

Sec. 5726.56. (A) As used in this section, "qualified 6
research expenses" has the same meaning as in section 41 of the 7
Internal Revenue Code. 8

(B) A taxpayer may ~~claim~~ apply to the tax commissioner for 9
a nonrefundable credit against the tax imposed under this 10
chapter. The application shall be made on forms prescribed by 11
the commissioner. The credit shall equal ~~to seven-fourteen~~ per 12
cent of the excess of (1) the qualified research expenses 13
incurred by the taxpayer in this state in a taxable year over 14
(2) the average annual qualified research expenses incurred by 15
the taxpayer in this state in the three previous taxable years. 16
For the purposes of this division, "qualified research expenses 17
incurred by the taxpayer" includes the qualified research 18
expenses incurred by all persons included in the annual report 19
of the taxpayer and by any insurance company subject to the tax 20

levied under section 5725.18 or Chapter 5729. of the Revised 21
Code that has more than fifty per cent of its ownership 22
interests directly or indirectly owned or controlled by a person 23
included in the annual report of the taxpayer, even though such 24
an insurance company is not subject to the tax imposed under 25
this chapter. The commissioner shall review and process 26
applications in the order in which they are received and shall 27
issue a tax credit certificate to the taxpayer identified with a 28
unique number and listing the amount of credit eligible to be 29
claimed or transferred. A taxpayer claiming a credit under this 30
section shall submit a copy of the certificate with the 31
taxpayer's return or report. 32

(C) A taxpayer issued a tax credit certificate under this 33
section shall claim the credit allowed under this section in the 34
order prescribed by section 5726.98 of the Revised Code. If the 35
amount of the credit exceeds the amount of tax otherwise due 36
after deducting all other credits preceding the credit in the 37
order prescribed in section 5726.98 of the Revised Code, the 38
excess may be carried forward for not more than ~~seven~~ twenty 39
ensuing tax years. The amount of the excess credit claimed in 40
any such year shall be deducted from the balance carried forward 41
to the next tax year. 42

(D) A taxpayer may claim against the tax imposed under 43
this chapter any unused portion of a credit authorized under 44
section 5733.351 of the Revised Code but only to the extent of 45
the remaining portion of the seven-year carry-forward period 46
authorized by that section. 47

(E) In the case of a taxpayer that includes more than one 48
person, each person in the financial institution group shall 49
separately calculate the credit ~~claimed~~ under this section using 50

the qualified research expenses incurred by that person on a 51
form prescribed by the tax commissioner, which shall be used by 52
the taxpayer to claim the credit. 53

A taxpayer may only claim the credit with respect to 54
persons included in the financial institution group as of the 55
thirty-first day of December of the taxable year in which the 56
qualified research expenses are incurred. A taxpayer may only 57
claim any excess credit carried forward under division (C) of 58
this section with respect to persons included in that group as 59
of the last day of the taxable year for which the return 60
claiming the credit is filed. 61

(F) A taxpayer that claims a credit under this section 62
shall retain records to substantiate the claim. Required records 63
include those relating to any expenses used in calculating the 64
credit and incurred in the current taxable year and in the three 65
preceding taxable years. 66

The taxpayer shall retain the required records until the 67
date that is four years after the due date for the return on 68
which the credit was claimed or four years after the date the 69
return was actually filed, whichever is later. 70

(G) The tax commissioner may audit a sample of the 71
taxpayer's qualified research expenses over a representative 72
period to ascertain the amount of tax credit the taxpayer may 73
claim under this section and may issue an assessment under 74
section 5726.20 of the Revised Code based on the audit. The 75
commissioner shall make a good faith effort to reach an 76
agreement with the taxpayer in selecting a representative 77
sample. The commissioner is not, however, precluded from 78
proceeding under this division if an agreement is not made. 79

(H) A person issued a certificate under division (B) of 80
this section may transfer the right to claim all or part of the 81
credit reflected on the certificate to another person by 82
notifying the commissioner, in writing, that the transferor is 83
transferring the right to claim all or part of the remaining 84
credit stated on the certificate. The transferor shall identify 85
in that notification the certificate's number, the name and the 86
tax identification number of the transferee, the amount of the 87
remaining credit transferred to the transferee, the tax against 88
which the credit will be claimed, and, if applicable, the amount 89
of remaining credit retained by the transferor. 90

The transferee may claim the amount of the credit received 91
under this division in the same manner and for the same taxable 92
years or tax periods as it may be claimed by a person under 93
division (C) of this section or division (B)(2) of section 94
5751.51 of the Revised Code, as applicable. Any person to which 95
a credit has been transferred under this division may transfer 96
the right to claim all or part of the transferred credit amount 97
to any other person, in the same manner prescribed by this 98
division for the initial transfer, including that any such 99
transfer be reported by the transferor to the tax commissioner 100
as described in this division. Transferring a credit under this 101
division does not extend the taxable years for which the credit 102
may be claimed or the number of years for which the unclaimed 103
credit amount may be carried forward. 104

Sec. 5751.51. (A) As used in this section, "qualified 105
research expenses" has the same meaning as in section 41 of the 106
Internal Revenue Code. 107

(B) (1) ~~For calendar years beginning on or after January 1,~~ 108
~~2008,~~ A taxpayer may apply to the tax commissioner for a 109

nonrefundable credit ~~may be claimed under this chapter equal to~~ 110
~~seven~~ against the tax imposed under this chapter. The 111
application shall be made on forms prescribed by the 112
commissioner. The credit shall equal fourteen per cent of the 113
excess of (a) qualified research expenses incurred in this state 114
by the taxpayer in the calendar year for which the credit is 115
claimed over (b) the taxpayer's average annual qualified 116
research expenses incurred in this state for the three preceding 117
calendar years. The commissioner shall review and process 118
applications in the order in which they are received and shall 119
issue a tax credit certificate to the taxpayer identified with a 120
unique number and listing the amount of credit eligible to be 121
claimed or transferred. A taxpayer claiming a credit under this 122
section shall submit a copy of the certificate with the 123
taxpayer's return or report. 124

(2) The taxpayer issued a tax credit certificate under 125
this section shall claim the credit allowed under division (B) 126
(1) of this section in the order required by section 5751.98 of 127
the Revised Code. A credit claimed in calendar year 2008 may not 128
be applied against the tax otherwise due under this chapter for 129
a tax period beginning before July 1, 2008. Any credit amount in 130
excess of the tax due under section 5751.03 of the Revised Code, 131
after allowing for any other credits that precede the credit 132
under this section in the order required under that section, may 133
be carried forward for ~~seven~~ twenty years, but the amount of the 134
excess credit claimed against the tax for any tax period shall 135
be deducted from the balance carried forward to the next tax 136
period. 137

(3) No credit shall be allowed under this chapter if the 138
credit was available against the tax imposed by section 5733.06 139
of the Revised Code, except to the extent the credit was not 140

applied against such tax. 141

(C) In the case of a taxpayer that is a consolidated 142
elected taxpayer or combined taxpayer, each person in the 143
taxpayer's group shall separately calculate the credit ~~claimed~~ 144
under this section using the qualified research expenses 145
incurred by that person on a form prescribed by the tax 146
commissioner, which shall be used by the taxpayer to claim the 147
credit. 148

Such a taxpayer may only claim the credit with respect to 149
persons included in the taxpayer's group as of the thirty-first 150
day of December of the calendar year in which the qualified 151
research expenses are incurred. Such a taxpayer may only claim 152
any excess credit carried forward under division (B) (2) of this 153
section with respect to persons included in that group as of the 154
last day of the tax period for which the return claiming the 155
credit is filed. 156

(D) A taxpayer that claims a credit under this section 157
shall retain records to substantiate the claim. Required records 158
include those relating to any expenses used in calculating the 159
credit and incurred in the current calendar year and in the 160
three preceding calendar years. 161

The taxpayer shall retain the required records until the 162
date that is four years after the due date for the return on 163
which the credit was claimed or four years after the date the 164
return was actually filed, whichever is later. 165

(E) The tax commissioner may audit a sample of the 166
taxpayer's qualified research expenses over a representative 167
period to ascertain the amount of tax credit the taxpayer may 168
claim under this section and may issue an assessment under 169

section 5751.09 of the Revised Code based on the audit. The 170
commissioner shall make a good faith effort to reach an 171
agreement with the taxpayer in selecting a representative 172
sample. The commissioner is not, however, precluded from 173
proceeding under this division if an agreement is not made. 174

(F) A person issued a certificate under division (B) (1) of 175
this section may transfer the right to claim all or part of the 176
credit reflected on the certificate to another person by 177
notifying the commissioner, in writing, that the transferor is 178
transferring the right to claim all or part of the remaining 179
credit stated on the certificate. The transferor shall identify 180
in that notification the certificate's number, the name and the 181
tax identification number of the transferee, the amount of the 182
remaining credit transferred to the transferee, the tax against 183
which the credit may be claimed, and, if applicable, the amount 184
of remaining credit retained by the transferor. 185

The transferee may claim the amount of the credit received 186
under this division in the same manner and for the same taxable 187
years or tax periods as it may be claimed by a person under 188
division (B) (2) of this section or division (C) of section 189
5726.56 of the Revised Code, as applicable. Any person to which 190
a credit has been transferred under this division may transfer 191
the right to claim all or part of the transferred credit amount 192
to any other person, in the same manner prescribed by this 193
division for the initial transfer, including that any such 194
transfer be reported by the transferor to the tax commissioner 195
as described in this division. Transferring a credit under this 196
division does not extend the tax periods for which the credit 197
may be claimed or the number of years for which the unclaimed 198
credit amount may be carried forward. 199

Section 2. That existing sections 5726.56 and 5751.51 of 200
the Revised Code are hereby repealed. 201

Section 3. The amendment by this act of section 5726.56 of 202
the Revised Code applies to taxable years ending on or after the 203
effective date of this section. 204

The amendment by this act of section 5751.51 of the 205
Revised Code applies to tax periods ending on or after the 206
effective date of this section. 207