

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200822007**

Release Date: 5/30/2008

Index Number: 41.00-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:5

PLR-134352-07

Date: February 28, 2008

LEGEND

Company F =

Company G =

Company H =

Year X =

Year Y =

Year Z =

Dear _____ :

This is in reply to a letter dated July 26, 2007, and subsequent correspondence, submitted by Company H and its authorized representatives requesting permission to revoke Company F's election to use the alternative incremental research credit (AIRC) under § 41(c)(4) of the Internal Revenue Code for the Year X taxable year.

In Year X, Company F was a calendar year taxpayer that used the accrual method of accounting. For tax years prior to Year X, Company F had calculated the § 41 research credit using the regular method under § 41(a) and the § 41(c)(3)(B) rules for start-up companies to determine the fixed-base percentage. During Year X, Company F acquired Company G. For purposes of filing the combined Company F and Company G return for Year X, Company F determined, taking into account Company F's acquisition of Company G, that the AIRC method under § 41(c)(4) would be more beneficial to Company F than the method used in years prior to Year X to claim the § 41 research credit. Accordingly, Company F attached a Form 6765, Credit for Increasing Research Expenses, to its Year X return, electing to use the AIRC method to claim § 41 research credits.

In Year Y, following a successful hostile takeover bid, Company H acquired a controlling interest in Company F. In Year Z, Company F merged with and into Company H, with Company H continuing as the surviving company. Sometime after Year Y, an officer for Company H determined that had Company F calculated the § 41 research credit for Year X using the regular fixed-based percentage rules under § 41(c)(3)(A) and Company G's base-period qualified research expenditures and gross receipts rather than the § 41(c)(3)(B) rules for start-up companies, more research credit would have been available to include on Company F's return for Year X than the amount calculated using the AIRC method.

Company F, through its successor in interest Company H, has requested permission to revoke its election to use the § 41(c)(4) AIRC method for the Year X 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 an election under § 41(c)(4)(A) applies to the taxable year for which it is made and all succeeding taxable years unless revoked with the consent of the Secretary.

Based solely on the facts submitted and representations made, we decline to grant permission to Company F to revoke its election to determine its research credit under the AIRC rules of § 41(c)(4) for qualified research expenses paid or incurred during Company F's Year X taxable year.

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.

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

In accordance with the power of attorney on file, a copy of this letter is being sent to your authorized representatives.

Sincerely,

/s/
Christopher J. Wilson
Senior Counsel, Branch 5
Office of Associate Chief Counsel
(Passthroughs and Special
Industries)

Enclosures (2): Copy of this letter
 Copy for § 6110 purposes