

# Have you received credit?

The latest updates on R&D and telephone tax credits **Interviewed by Elizabeth Grace Saunders**

**D**etailed tax law can seem like an intimidating way for the government to take more profits. But if you overlook the fine points, you could miss out on tax credits that actually reduce your tax burden.

“Corporate income tax has always been a complex area,” says Madeline Elias, tax principal with Berenfeld, Spritzer, Shechter & Sheer. “With all the new tax legislation and an increase in Internal Revenue Service (IRS) scrutiny, an increased awareness of the tax law is required.”

*Smart Business* learned from Elias about two key areas for tax reduction opportunity: the R&D credit and the federal telephone excise tax credit/refund.

## What is the R&D tax credit?

On Dec. 20, 2006, President George W. Bush signed the Tax Relief and Health Care Act of 2006. This act extends and enhances the research and development credit for expenses incurred in 2006 and 2007. The new enhancements make the credit, which has been part of tax law since 1981, more attractive and beneficial to taxpayers.

The 2006 act continues the definition of this tax credit as equal to 20 percent of the “incremental” research spending in excess of a base amount. The alternative incremental research credit (AIRC) method also continues but is modified to provide higher credits to encourage companies to spend more on research. The AIRC benefits taxpayers that have high fixed base percentage or new companies with an assigned fixed base percentage.

## What is the addition to the R&D tax credit?

Most importantly, it includes a new alternative simplified credit (ASC) that a taxpayer may use with the proper election. The basic ASC would be 12 percent of the taxpayer’s research spending in the current year in excess of 50 percent of the average research spending in the three preceding tax years.

## Why is this addition beneficial?

The new ASC is attractive for several reasons.



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1) The burden to obtain documentation or reconstruct information to compute the fixed base percentage from a base period is not required.

2) The credit may be larger than under the other methods for taxpayers with an increasing amount of research expense.

3) The research spending would not have to exceed the gross receipts threshold necessary under the AIRC method.

4) The ASC can provide a credit for taxpayers that are reducing their research spending compared to prior years.

## How can companies determine the best way to receive the R&D credit?

To identify the optimal regime for your company, you need to calculate each credit and compare the results with the help of an expert corporate tax adviser. The research credit has complex computations due to various regulations, affiliate group rules and industry specifications. Many states with permanent credits generally conform to the federal rules, but some of these states may not adopt the act’s changes. Therefore, proper calculations and judgments are required for tax return preparation as well as for financial statement implications.

## What is the federal telephone excise tax credit/refund?

On May 25, 2006, the U.S. Treasury Department announced it was conceding the legal dispute over the federal excise tax on long-distance telephone service. The IRS will follow the holdings of various cases that held that a telephonic communication for which there is a toll charge that varies with elapsed transmission time and not distance (time-only service) is not taxable toll telephone service.

The Department of Justice will issue refunds of tax on applicable long-distance service. Refund claims will cover all excise tax paid by the taxpayer on long-distance service billed between Feb. 28, 2003 and Aug. 1, 2006.

## How can corporate taxpayers calculate their telephone credit?

When calculating their refund, corporate taxpayers can only count expenditures made directly to the telephone companies and not those paid by another taxpayer. However, the paying taxpayer may claim the refund and the other taxpayer may have the opportunity to negotiate for a portion of the refund.

Taxpayers may use one of two refund calculations. (1) calculate the actual amount of long-distance federal excise tax paid based on the phone records for the 41-month period or (2) use a formula based on the April and September 2006 telephone records. The formula is meant to provide business taxpayers a less burdensome option for claiming a refund.

## Why should companies make sure to take advantage of these two credit opportunities?

These opportunities can directly reduce your 2006 corporate tax expense on a dollar-for-dollar basis.

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