

Phillips Carol

From: Jim Craven [jimcravenconsulting@gmail.com]
Sent: Tuesday, June 14, 2011 10:13 AM
To: LRO; Allanach Christopher; Rep Berger; Rep EyreBrewer; miller@pacwestcom.com; Rep Bailey
Subject: HB 3672-4 clarification or amendment -- RD tax credit

A small but important issue:

HB 3672-4 (dated June 14, 2011) From Jim Craven for TechAmerica

Request for fix or "on the record" clarification of Section 10 pertaining to R&D tax credit.

The bill does three things to the R&D tax credit

1. Reduces the individual company cap from \$2 million per year to \$1 million.
2. Extends the sunset to 1-1-2018
3. Clarifies that a deduction can't be taken for expenses equal to the amount of credit claimed.

Section 10 of the bill clarifies the effective date: (underline added):

"SECTION 10. The amendments to ORS 317.152 and 317.154 by sections 8 and 9 of this 2011 Act apply to tax years beginning on or after January 1, 2012, and to any tax year for which a return is subject to audit or adjustment by the Department of Revenue on or after the effective date of this 2011 Act, any tax year for which a return is the subject of an appeal on or after the effective date of this 2011 Act and any tax year for which a claim for refund may be made on or after the effective date of this 2011 Act.

The Department of Revenue says it is already their practice to disallow the double-dipping issue raised in item #3 above. They would like this clarification to apply to all open tax years. The language in section 10 *could* be read that the reduction in the credit cap applies to open tax years after the effective date of the act (~September 2011).

Two choices – fix or clarify on the record

FIX (new section 10):

The amendments to ORS 317.152 and 317.154 by section 8(4) and section 9(5) of this 2011 Act apply to tax years beginning on or after January 1, 2012. The amendment to ORS 317.152 by section 8(5) of this 2011 Act applies to tax year for which a return is subject to audit or adjustment by the Department of Revenue on or after the effective date of this 2011 Act, any tax year for which a return is the subject of an appeal on or after the effective date of this 2011 Act and any tax year for which a claim for refund may be made on or after the effective date of this 2011 Act.

CLARIFY FOR THE RECORD:

The change in the annual cap first applies to tax years beginning on or after January 1, 2012. The rest of the language in section 10 (referring to the double-dipping provision in subsection 5 of section 8) will become effective upon the effective date of this act.

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