

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 750

INTRODUCER: Senator Gruters

SUBJECT: Research and Development Tax Credit

DATE: March 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	McKay	CM	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 750 amends s. 220.196, F.S., to increase the annual limit on research and development (R&D) tax credits on corporate income taxes to \$35 million from \$9 million. The bill also deletes the \$16.5 million limit provided in calendar year 2018 for expenses incurred in 2017 calendar year. The increased limit of \$35 million will apply to the taxable year beginning January 1, 2019, and to all the taxable years thereafter.

The bill takes effect July 1, 2019.

II. Present Situation:

Federal Tax Credit

The U.S. Research and Experimentation Tax Credit was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.¹ For the 2013 federal tax year, 16,624 companies claimed \$11.3 billion in R&D tax credits, including \$177.1 million claimed via “pass-through” entities.² At \$97.8 billion, manufacturing companies claimed the largest portion of research tax credits.³ Under federal law, qualified research expenditures include in-house research expenses and contract research expenses paid by the taxpayer in carrying on any trade or business of the taxpayer.⁴

¹ Francisco Moris, “The U.S. Research and Experimentation Tax Credit in the 1990s”, National Science Foundation Report (July 2005). Retrieved at <http://www.nsf.gov/statistics/infbrief/nsf05316/> and Congressional Budget Office, “The Prospects for Economic Recovery” (February 1982) 87-93. Retrieved at <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf>. (last visited on March 1, 2019).

² Internal Revenue Service, Statistics of Income Division, <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 1, 2019).

³ Internal Revenue Service, Statistics of Income Division, <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 1, 2019).

⁴ 26 U.S.C. s. 41(b)(1)

Florida Tax Credit

Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses.⁵ A business is eligible for the tax credit if it:

- Has qualified research expenses in Florida in the taxable year exceeding the base amount;⁶
- Claims, and is allowed, a research credit for such qualified expenses under federal law for the same taxable year; and
- Is in a qualified targeted industry,⁷ such as manufacturing, life sciences, information technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials sciences, or nanotechnology.⁸

The tax credit is 10 percent of the difference between the current tax year's R&D expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.⁹ The state tax credit taken in any taxable year may not exceed 50 percent of the company's remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to five years following the year in which the qualified research expenses were incurred.¹⁰

The maximum amount of research and development credits that may be approved by the Department of Revenue (DOR) during any calendar year is \$9 million. Applications for the credit may be filed with the DOR during March for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are allocated on a prorated basis.¹¹

The statutory cap was raised to \$16.5 million for expenses incurred during the 2017 calendar year.¹² The credits were allocated in 2018 as follows:¹³

- The DOR received 169 applications, requesting a total of \$68,067,382 in credit;
- 145 applications were approved with each applicant receiving an allocation of the available \$16.5 million in credit. Each applicant received approximately 25.17 percent (0.2517) of the amount of credit determined in their application. These 145 applications requested a total of \$65,560,879 in credit; and

⁵ Section 220.196(1)(c), F.S., defines "qualified research expenses" as research expenses qualifying for the credit under federal law for in house research expenses incurred in Florida or contract research expenses incurred in Florida.

⁶ "Base amount" means the average of the business' qualified research expenses in Florida allowed under 26 U.S.C. s. 41 for the preceding 4 taxable years, see ch. 220.196(1)(a), F.S.

⁷ The Department of Economic Opportunity (DEO) certifies whether a business is a qualified target industry business, pursuant to s. 220.196(2)(a)3., F.S.

⁸ See s. 220.196(2)(a), F.S.

⁹ See s. 220.196(2)(b), F.S.

¹⁰ See s. 220.196(2)(d), F.S.

¹¹ See s. 220.196(2)(e), F.S.

¹² Ch. 2017-36, s. 33, Laws of Fla.

¹³ Department of Revenue, *Research and Development Tax Credit for Florida Corporate Income Tax*, May 22, 2018, <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf> (last visited March 1, 2019).

- Twenty-three (23) applications were denied for various reasons, including duplicate applications and applications resulting in zero credit requested. These 23 applications requested a total of \$2,506,503 in credit.¹⁴

The statutory cap of \$9 million for expenses incurred in the 2016 calendar year was allocated in 2017 as follows:

- The DOR received 146 applications, requesting a total of \$54,915,138 in credit;
- One hundred thirty-seven (137) applications were approved with each applicant receiving an allocation of the available \$9 million in credit. Each applicant received approximately 16.67 percent (0.1667) of the amount of credit determined in their application. These 137 applications requested a total of \$53,986,728 in credit; and
- Nine (9) applications were denied for various reasons, including duplicate applications and application figures resulting in zero credit requested. These nine applications requested a total of \$928,410 in credit.¹⁵

The statutory cap was raised to \$23 million for expenses incurred in the 2015 calendar year¹⁶ was allocated in 2016 as follows:

- The DOR received 131 applications, requesting a total of \$52,481,052 in credit;
- One hundred eighteen (118) applications were approved with each applicant receiving an allocation of the available \$23 million in credit. Each applicant received approximately 46 percent (0.46) of the amount of credit determined in their application. These 118 applications requested a total of \$50,447,562 in credit; and
- Thirteen (13) applications were denied for various reasons, including withdrawal by the taxpayer, duplicate applications, application figures resulting in a zero credit requested, and failure to include a certification letter from the DEO. These 13 applications requested a total of \$2,003,490 in credit.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 220.196(2)(e), F.S., to increase the combined amount of R&D tax credits that may be issued during any calendar year from \$9 million to \$35 million. The bill also removes the provision that increased the annual limit to \$16.5 million for the 2018 calendar year.

Section 2 stipulates that the amendment of s. 220.196(2)(e), F.S., will apply to the taxable year beginning January 1, 2019, and thereafter.

Section 3 provides an effective date of July 1, 2019.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Ch. 2015-221, s. 21, Laws of Fla.

¹⁷ Department of Revenue, *Research and Development Tax Credit for Florida Corporate Income Tax*, May 22, 2018, <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf> (last visited March 1, 2019).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increases the combined corporate income tax savings from \$9 million to \$35 million annually.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet met regarding SB 750.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 220.196 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
