Silicon Valley
TAX DIRECTORS GROUP

2121 41st Avenue
Suite 301
Capitola, CA 95010
PHONE 831.465.8204
FACIMILE 831.465.9384

www.svtdg.org
info@svtdg.org

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New GAAP-based Research Credit Safe Harbor Should Significantly Reduce Compliance and Audit Resources

A collaboration of the Silicon Valley Tax Directors Group, PWC, and the IRS

Silicon Valley — Friday, September 22, 2017 — Today the Large Business and International Division of the IRS issued a new directive aimed at significantly reducing the compliance and examination time associated with filing and claiming the Credit for Increasing Research Activities ("R&D credit"). Almost since its enactment into law, the R&D credit has consumed a great deal of taxpayer and IRS resources because ideal records to support the credit claimed do not usually mesh with the scientific processes used when new technologies are created. By permitting the use of an optional safe harbor, taxpayers can compute and support their credits by using a new simplified book-basis method.

New Template Removes Uncertainty from the Calculation

The new safe harbor template released today starts with audited GAAP R&D figures, and removes pieces that clearly do not qualify; such as R&D incurred abroad and funded research. A few other prescribed adjustments narrow the book figures down to wages, supplies and contract research. Next, the taxpayer's employees are stratified into reporting levels, and all who do not have direct reports qualify at an amount equal to 95% of W-2 wages, regardless of title. Those who have one level of direct reports also qualify at 95%, regardless of title. All other levels qualify at an amount equal to 10% times the amounts described in the preceding two sentences. Once contractors are reviewed to determine that their research was performed for the benefit of the taxpayer, payments to them also qualify at these same percentage amounts.

Safe Harbor Availability

The new safe harbor can be used immediately, and as a tool to resolve any open tax years. Further, when the IRS assesses the audit risk of an R&D credit claimed on a tax return, if the new safe harbor is 90% or more of the credit claimed, the Service has directed its examination teams not to audit the credit at all. Of course, auditing the figures on the template is always a possibility.

The Silicon Valley Tax Directors Group is committed to helping to create long-term tax policies that allow the U.S. high technology industry to continue to be innovative and compete in the global marketplace. This IRS Directive, which was developed in conjunction with PwC should help to alleviate much of the document collection, survey taking, and interviewing associated with claiming and defending the R&D credit for taxpayers nationwide.

For more information:

Silicon Valley Tax Directors Group
Barry Slivinsky, co-chair
barrys@adobe.com
www.svtdg.org

PWC
Jeffery P. Jones, R&D Services Leader
jeffery.p.jones@pwc.com
www.pwc.com