



SPONSOR: Rep. B. Short & Sen. Venables  
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Williams, Wilson; Sens. Lavelle, Sokola

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE BILL NO. 318

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE RESEARCH AND DEVELOPMENT TAX CREDIT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 30, § 2070(b) of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underlining as follows:

3 (b) Credit Calculation.

4 (1) General Rule. -- Subject to the limitation of § 2075 of this title on overall credits and the limitation described in  
5 subsection (c) of this section, a taxpayer may elect a Delaware research and development tax credit for the taxable  
6 year equal to: (1) 10% of the excess of the taxpayer's total Delaware qualified research and development expenses  
7 for the taxable year over the taxpayer's Delaware base amount, or (2) 50% of Delaware's apportioned share of  
8 taxpayer's federal research and development tax credit calculated using the alternative incremental credit method  
9 under § 41(c)(4) of the Internal Revenue Code of 1986 [26 U.S.C. § 41(c)(4)], using federal definitions and  
10 methodology. Delaware's apportioned share of the federal credit shall be the amount of the alternative incremental  
11 credit the taxpayer can claim under § 41(c)(4) [26 U.S.C. § 41(c)(4)], multiplied by a percentage equal to the ratio  
12 of the taxpayer's Delaware qualified research and development expenses for the taxable year to the taxpayer's total  
13 qualified research and development expenses for the taxable year. A ~~F~~ taxpayer's Delaware research and  
14 development tax credit determination election shall be an annual election, and shall be independent of taxpayer's  
15 federal research and development tax credit determination.

16 (2) Alternative Calculation for Small Businesses. – In the case of a small business, paragraph (1) of this subsection  
17 shall be applied by substituting “20%” for “10%” and by substituting “100%” for “50%”. For the purposes of this  
18 subsection, “small business” means any taxpayer with average annual gross receipts, as determined by  
19 §41(c)(1)(B) of the Internal Revenue Code of 1986 [26 U.S.C. 41(c)(1)(b)], not in excess of \$20,000,000.  
20 Taxpayers making use of the alternative calculation provided in this paragraph must conform to the definition of

21           “small business” set forth herein without regard to the method by which the taxpayer calculates its federal research  
22           and development tax credit.

23           Section 2. This Act shall be in effect for tax periods beginning after December 31, 2013.

#### SYNOPSIS

This Act doubles the research and development tax credit available to smaller businesses while keeping in place the annual cap of \$5 million for the credit as a whole. Currently, all businesses are entitled to a state tax credit that is equal to half of the corresponding federal tax credit for R&D activity occurring in Delaware. Under this Act, businesses with less than \$20 million average annual gross receipts for the most recent four years are entitled to a credit equal to 100% of the corresponding federal credit.