

Research Credit Audits: Updates and Considerations

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In this installment of *Practically Speaking: Tax Controversy*, the authors provide an update on recent developments concerning the section 41 research credit along with considerations for the future.

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In recent years, the IRS has intensified scrutiny of section 41 research credit claims. Amidst significant operational and strategic changes at the IRS, taxpayers claiming the research credit are navigating a unique and evolving reporting and enforcement landscape. It is critical for taxpayers and tax professionals to stay informed of developments affecting reporting and defending credit claims. This article focuses on key developments affecting research credit reporting and enforcement initiatives, including recent revisions to Form 6765, "Credit for Increasing

Research Activities," and case law updates, as well as examination observations and considerations.¹

I. Section 41 Background

Section 41 encourages businesses to invest in technological development by offering a tax credit for increasing their research activities. Under the traditional computation method, the credit is generally 20 percent of the taxpayer's qualified

¹For our previous articles on this subject, see Andrew R. Roberson et al., "Recent Developments in Research Credit Audits and Compliance," *Tax Notes Federal*, Apr. 7, 2025, p. 135; Roberson, Donatello, and Rachael Moore, "Navigating the Shifting Landscape of Research Credit Audits," *Tax Notes Federal*, Jan. 22, 2024, p. 667.

research expenditures (QREs) for the tax year over a base amount.²

QREs consist of four items: (1) in-house research expenses paid to employees for performing qualified services, (2) the cost of supplies used in carrying out qualified research, (3) certain contract research expenses paid to third parties, and (4) rental or lease of computers.³

Qualified services involve engaging in qualified research activities that meet a four-part test: (1) the permitted purpose test, (2) the technological in nature test, (3) the elimination of uncertainty test, and (4) the process of experimentation test.⁴

If an activity meets these four tests, it is treated as qualified research unless it falls within one of eight excluded categories: (1) research after commercial production; (2) adaptation of existing business components; (3) duplication of existing business components; (4) surveys, studies, and similar activities; (5) internal-use computer software (subject to exceptions in the regulations); (6) research performed outside the United States; (7) research in the social sciences, arts, or humanities; and (8) funded research.⁵

Neither section 41 nor the underlying regulations require specific forms of records to substantiate the research credit. Rather, taxpayers must “retain records in sufficiently usable form and detail to substantiate that the expenditures claimed are eligible for the credit.”⁶

For taxpayers claiming the research credit, it is important to understand these principal elements in addition to ongoing developments regarding claiming the credit on Form 6765, takeaways from recent court cases, and examination trends.

II. Recent Developments

Over the past year, the IRS has experienced significant transformation — marked by changes in leadership, sweeping workforce reductions, and funding cuts — coupled with the implementation of changes mandated by the One Big Beautiful Bill Act (P.L. 119-21).

In 2025 the IRS lost approximately 27 percent of its workforce through reductions in force and voluntary resignations.⁷ Reductions spanned multiple areas.⁸ For example, the IRS lost approximately 26 percent of revenue agents (who conduct audits) and 27 percent of tax examiners (who review and process tax returns).⁹ IRS Appeals similarly lost approximately 28 percent of its workforce.¹⁰ Of particular relevance here, in March 2025 ProPublica reported that the jobs of 120 out of roughly 260 Large Business and International Division engineers were eliminated.¹¹ This data corresponds with what we are seeing in examinations. Specifically, we’ve seen increased turnover among senior IRS engineers, with more examinations now led by relatively junior engineers who often have limited technical experience in the taxpayer’s particular industry. Taxpayers should accordingly anticipate spending more time educating IRS engineers about the technical aspects of their specific industry.

Challenges from reductions in force have been further compounded by significant turnover in senior leadership, affecting planning, coordination, and execution of the agency’s objectives.¹²

Further, the nearly \$80 billion of Inflation Reduction Act funding intended to be deployed

² An alternative simplified method is also available to calculate the research credit. Section 41(c)(4).

³ Section 41(b)(1) and (2).

⁴ Sections 41(b)(2)(B) and (d); reg. section 1.41-4.

⁵ Section 41(d)(4).

⁶ Reg. section 1.41-4(d) (taxpayers and the IRS may agree to guidelines for the retention of specific records to substantiate the research credit); *see also* section 6001 (requiring taxpayers to keep records in compliance with the rules and regulations prescribed by the IRS); reg. section 1.6001-1(a) (requiring taxpayers to “keep such permanent books of accounts or records . . . as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown” on a tax return).

⁷ National Taxpayer Advocate, “2025 Annual Report to Congress,” at Figure 1.1.2, “IRS Personnel Losses by BOD/Function (as of Dec. 18, 2025)” (Jan. 26, 2026).

⁸ *Id.*

⁹ Treasury Inspector General for Tax Administration, “Semiannual Report to Congress Fall 2025.”

¹⁰ *Supra* note 7, at Figure 1.1.2.

¹¹ Andy Kroll, “How DOGE’s Cuts to the IRS Threaten to Cost More Than DOGE Will Ever Save,” ProPublica, Mar. 5, 2025.

¹² *Supra* note 7, at vii.

over a 10-year period to the IRS was reduced to \$37.6 billion, with further recissions proposed.¹³ These budget cuts have directly affected how the IRS is conducting examinations. For example, the IRS canceled hundreds of contracts with significant potential cost savings.¹⁴ Among the federal contractors impacted is MITRE Corp., an independent technology and research and development company that provides support to the IRS.¹⁵ The IRS has historically referred examinations involving internal-use software QREs to MITRE,¹⁶ but is currently not doing so because contracts were canceled last spring.

Amidst these monumental changes, the IRS continues to shift its enforcement strategies and priorities. While we continue to see the IRS maintain focus on high-dollar, complex issues like the research credit, the agency is relying on tools such as artificial intelligence and alternative dispute resolution (ADR) to resolve tax disputes more efficiently while grappling with resource constraints. In addition to developments in the enforcement area, taxpayers claiming the research credit should stay abreast of recent revisions to Form 6765 and the challenges these revisions create, particularly with statistical sampling. We examine these items below.

A. Form 6765 Revisions

On February 6, the IRS released the final version of updated instructions for Form 6765, designed to better align the credit reporting process with changes made by the OBBBA as well as enhanced reporting requirements.¹⁷ Key revisions include:

- *Guidance on domestic research and experimental expenditures.* The revised instructions

¹³ Of the approximately \$80 billion of Inflation Reduction Act funding appropriated to the IRS, approximately \$45 billion had been earmarked for enforcement.

¹⁴ TIGTA, “The IRS Cancelled Contracts Potentially Saving Hundreds of Millions of Dollars, but the Impact on Taxpayer Service Remains Unknown,” Rep. No. 2026-ISO-015 (Mar. 25, 2026).

¹⁵ MITRE’s website states that it is a not-for-profit organization operating six federally funded R&D centers providing technical expertise, stability, and continuity to government agency sponsors. MITRE, “R&D Centers” (last visited Apr. 20, 2026).

¹⁶ Internal Revenue Manual 4.48.1.2 (Sept. 23, 2020).

¹⁷ IRS, “Instructions for Form 6765” (rev. Dec. 2025). These changes were part of a broader revision of the form for tax years beginning on or after January 1, 2024, which introduced a new requirement for taxpayers to report qualified research expenses on a business component basis.

include guidance regarding domestic R&E expenditures to reflect changes from the OBBBA under section 174A. Specifically, the revised instructions explain the treatment of section 174A expenditures, including deduction or capitalization considerations, and how section 174A amounts interact with the section 280C reduced credit election.

- *Definition of QREs.* The revised instructions update the definition of QREs to reference the section 174A requirement and more closely align with statutory language under section 41(d).
- *Section G: business component information.* The revisions refine section G, which requires detailed reporting of business components, to: (1) reference the qualified small business definition under section 41(h)(3) (instead of sections 41(h)(1) and 41(h)(2)); (2) clarify that the application of the \$50 million gross receipts threshold is for the previous three tax years; (3) update language regarding the principal business activity codes to reference the “top-level return” instead of Form 1120, “U.S. Corporation Income Tax Return”; and (4) include additional regulatory citations for wage and contract research expense reporting.

Section G is optional for all tax years beginning before 2026. For tax year 2026 and beyond, section G will be required, with exceptions for certain filers.

- *Amended returns — valid claim guidance reference removed.* In the “Research Credit Claims on Amended Returns” section, the revised instructions remove references to the specific IRS requirements under FAA 20214101F for refund claims. The new instructions now state that taxpayers should follow the general “required information for a valid research credit claim for refund procedures.”
- *“Special Rules.”* The revised instructions modify the “Special Rules” section to now include a reference to reg. section 1.41-6, in addition to reg. section 1.41-7 (which had previously only been referenced).

While these revisions largely reinforce existing IRS directives regarding the OBBBA treatment of domestic R&E expenditures, they also require enhanced documentation and disclosures. Taxpayers claiming the research credit should carefully review these revisions and prepare accordingly, particularly as business component reporting becomes mandatory for most taxpayers.

B. Tax Court Update

We highlight two important cases: *George*,¹⁸ recently decided by the Tax Court, and *J.G. Boswell*,¹⁹ which is pending before the Tax Court. While both cases are factually centered on the agricultural industry, they impart important takeaways for taxpayers generally and may carry broader-reaching impacts.

1. *George*.

In *George*, the Tax Court reinforced the critical role of substantiation for all years, including the base years. The case centered on a poultry producer's research trials to improve the health of its broilers (chickens raised for commercial sale), with the court allowing the taxpayer to claim credits only for expenses that were substantiated by contemporaneous documentation.

The Tax Court's ruling provided several technical clarifications. First, the court held that the cost of feed for the experimental flocks of chickens could be treated as a QRE under the "pilot model" rules because the feed was a "necessary expenditure" in developing the pilot model broilers that were produced to resolve technical uncertainty.²⁰ Second, the court held that taxpayers are allowed to include supply costs as QREs even if they choose not to claim corresponding qualified wage expenses.²¹ In other words, claiming only a portion of their total QREs (or certain types of QREs) does not preclude a

taxpayer from claiming the research credit. Third, the court found that the taxpayer lacked sufficient records to substantiate its base period QREs. Without sufficient records to make informed estimates, the Tax Court lowered the credit rate to 6 percent under the alternative simplified credit rules.²² Finally, the court held that the practice of collecting large amounts of data throughout the standard production process does not automatically transform the activities related to research trials into routine data collection.

While the Tax Court's analysis applied to on-farm poultry trials, the implications extend well beyond agricultural producers, putting all industries on notice that record-keeping is the foundation of a defensible research credit position. The key takeaways for taxpayers are practical. Taxpayers must maintain contemporaneous project-level documentation, including substantiation for base periods. Furthermore, retroactive studies should meet the same substantiation requirements as current-year studies.

2. *J.G. Boswell*.

In *J.G. Boswell*, the primary issue before the Tax Court was whether supply and labor costs claimed as QREs were related to research designed to improve the taxpayer's commercial product or research seeking a better process for producing the taxpayer's existing product.

The taxpayer, a group of agricultural companies that grow cotton, tomatoes, and other crops, claimed QREs and a corresponding section 41 research credit related to improving crop quality and yield. Relying on *Union Carbide*,²³ the IRS disallowed the majority of the taxpayer's credit, arguing that the expenses were related to research trials pertaining to a production process rather than a product.²⁴ The parties also disagree

²² *Id.* at 81. While the Tax Court acknowledged that the taxpayers may rely on *Cohan v. Commissioner*, 39 F.2d 540 (2d Cir. 1930), to estimate expenses if precise amounts cannot be determined, taxpayers must still have sufficient evidence to make an informed estimate.

²³ *Union Carbide Corp. v. Commissioner*, T.C. Memo. 2009-50, *aff'd*, 697 F.3d 104 (2d Cir. 2012).

²⁴ *J.G. Boswell*, T.C. No. 2408-19, at 2-3. If research is deemed to be process research, the parties dispute which costs qualify as QREs. The IRS argues that only incremental costs above normal production expenses should qualify. The taxpayer contends that the plain text of the law allows for all costs incurred in the conduct of qualified research, including supplies that would have been used in standard production.

¹⁸ *George v. Commissioner*, T.C. Memo. 2026-10.

¹⁹ *J.G. Boswell v. Commissioner*, No. 2408-19 (T.C. 2026).

²⁰ *George*, T.C. Memo. 2026-10, at 57.

²¹ *Id.* at 50.

over whether the experimental crops and research trials were “pilot models” representing the products ultimately sold to customers.²⁵

In 2022 the Tax Court denied cross-motions for summary judgment, holding that a trial was necessary to (1) distinguish which of the taxpayer’s research trials sought to improve a product or sought to improve production process alone, and (2) determine the amount of QREs in each instance.²⁶ The court rejected the IRS’s attempt to use *Union Carbide* to categorically exclude from QREs all costs that a taxpayer would have incurred during standard production, even when the research was aimed at improving the product, not the process alone.²⁷ The court emphasized that this broad exclusion is not mandated by reg. section 1.41-2.²⁸

In November 2025 the case went to trial, and the parties filed opening briefs in March²⁹ and answering briefs in April.³⁰ Both the taxpayer and the IRS cited *George* in their opening briefs. In contrasting the facts at hand with *George*, the IRS argued that, unlike the chickens, the “product” is not the plant or crop itself but the final good that is sold (for example, cotton lint or tomato paste), and since the plant is not sold, research to improve it is considered process research.³¹ Relying heavily on *Union Carbide*, the IRS claimed that much of what the taxpayer called “research” is in substance commercial production.³²

The taxpayer, on the other hand, cited *George* for the proposition that research trials comparing the performance of different plant varieties are product related and that research trials and the process-related expenses are research expenses under the pilot model regulations.³³

The taxpayer argued that the IRS incorrectly limited the term “product” to something sold, asserting that the statute provides a two-part, disjunctive test: A business component can be something held for sale or something used in the taxpayer’s business.³⁴ Because the taxpayer uses the plants in its agricultural business, the plants themselves qualify as a product business component even though the plants are not sold as a standalone item.³⁵ The taxpayer argued that the IRS’s reliance on *Union Carbide* is misplaced, as the taxpayer’s trials were conceptually, physically, and operationally separate from commercial production and focused on improving the plant(the product), not just the process.³⁶

In April 2026 the National Association of Manufacturers and the American Chemistry Counsel filed an amici curiae brief supporting the taxpayer, highlighting the case’s broad implications for the U.S. manufacturing industry.³⁷ The National Association of Manufacturers and the American Chemistry Counsel argued that the Tax Court should reject an application of *Union Carbide* and rely on the plain text of the statute, which makes no exception for “ordinary” production costs, and urged the Tax Court to make its own best reading of the statute.³⁸

J.G. Boswell highlights potential risk areas for taxpayers, particularly in industries where research is closely integrated with production. Similar to the key messaging in *George*, this case underscores the need for contemporaneous documentation establishing how research activities lead to the creation of a new or improved product, not just a more efficient method of producing an existing one. The decision may also carry implications regarding the *Union Carbide* precedent, as well as an application of the pilot model regulations.

²⁵ *Id.* at 7.

²⁶ *Id.* at 8.

²⁷ *Id.* at 7.

²⁸ *Id.*

²⁹ Petitioner’s Opening Posttrial Brief, *J.G. Boswell*, No. 2408-19 (T.C. Mar. 9, 2026); Opening Brief for Respondent, *J.G. Boswell*, No. 2408-19 (T.C. Mar. 9, 2026).

³⁰ Petitioner’s Answering Posttrial Brief, *J.G. Boswell*, No. 2408-19 (T.C. Apr. 23, 2026); Answering Brief for Respondent, *J.G. Boswell*, No. 2408-19 (T.C. Apr. 23, 2026).

³¹ Opening Brief for Respondent, *supra* note 29, at 39.

³² Answering Brief for Respondent, *supra* note 30, at 19-20.

³³ Petitioner’s Opening Posttrial Brief, *supra* note 29, at 80, 82.

³⁴ Petitioner’s Answering Posttrial Brief, *supra* note 30, at 53-57.

³⁵ *Id.* at 58.

³⁶ *Id.* at 51.

³⁷ Brief of National Association of Manufacturers and the American Chemistry Council as Amici Curiae in Support of Petitioner, *J.G. Boswell*, No. 2408-19 (T.C. Apr. 6, 2026).

³⁸ *Id.* at 13.

III. Enforcement Considerations and Insights

Despite the workforce reductions and leadership struggles that are expected to continue to affect the IRS, we have not seen a meaningful change in the volume of examinations. The agency is focused on examining complex taxpayers, and the research credit remains a hotspot. To continue meeting its enforcement objectives in the wake of significantly reduced staff, the IRS is turning to tech modernization and dispute resolution tools.

A. AI Usage by the IRS and Taxpayers

With a reduced workforce, the IRS is increasingly relying on data analytics and AI to identify patterns of noncompliance as well as taxpayers for examination, and the R&D credit is no exception.³⁹ The increased implementation and continued use of AI allows IRS examination teams to increase focus on the technical issues of the audit.

For several years, the IRS has employed pattern and anomaly detection to identify potential areas of taxpayer noncompliance.⁴⁰ We expect the IRS to continue to apply those same AI analytics to Form 6765, seeking to identify potential risk areas, such as research credits spiking year over year without a corresponding change in revenue or headcount when the ratio of QREs to total wages or revenue is outside industry norms. Another risk area might be research credits appearing for the first time in a mature business with no apparent change in operations or products. While detection of those situations may not automatically trigger an examination, it helps flag and prioritize which returns should be further examined.

Based on recent examination experience, it appears that revenue agents are also gaining access to AI programs to assist with drafting routine documents such as information document requests and examination reports, as well as data

analysis. Taxpayers should expect more detailed and specific IDRs drafted with the assistance of AI data analyses.

Additionally, taxpayers should be prepared to address their own AI usage in the examination process if AI was leveraged in claiming the research credit. While the IRS has not formally published an R&D-specific AI documentation policy, we are seeing some themes emerging from examinations:

- Standards have not changed: Origin aside, the IRS's standards for content needed to substantiate R&D claims remain as high as ever. Taxpayers are responsible for proving that research activities meet the four-part standard under section 41 and for providing verifiable contemporaneous documentation.
- Heightened skepticism of generic AI-generated summaries: Agents and engineers are looking for recycled or boilerplate language across multiple projects or years that does not match the taxpayer's actual development process, overly broad narratives or generic descriptions lacking specifics, and inconsistencies between narratives and contemporaneous records. The IRS's audit techniques guide for the R&D credit specifically identifies the growing trend of taxpayers submitting prepackaged materials to support their research credit claims and says that these submissions generally fail to substantiate the claim.⁴¹ AI-generated text can amplify these failures if used as a shortcut rather than grounded in real evidence. Exam teams are becoming more attentive to whether documentation appears to have been created long after the activities were performed, with no evidence it existed at the time, as well as inconsistencies between AI-enhanced summaries and the underlying technical record.

AI can provide significant value to the research credit substantiation process when used

³⁹ IRS, "Internal Revenue Service Inflation Reduction Act Strategic Operating Plan" (Apr. 5, 2023). See also IRM 10.24.1.3.2, 10.24.1.4.2.

⁴⁰ Government Accountability Office, "Artificial Intelligence: IRS Actions Needed to Address Skills Gaps, Information Quality, and Strategic Management," GAO-26-107522 (Mar. 2026); TIGTA, "Governance Efforts Should Be Accelerated to Ensure the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence," Evaluation No. 2025-IE-R003 (Nov. 12, 2024).

⁴¹ IRS, "Audit Techniques Guide: Credit for Increasing the Research Activities (i.e. Research Tax Credit) IRC Section 41," at "Prepackaged Submissions" (last updated July 1, 2025).

correctly, but it should not be relied on without meaningful human oversight. To be audit ready, taxpayers should implement proper internal controls, including establishing policies around how AI is used and ensuring AI-generated content is reviewed and corrected by subject-matter experts for technical accuracy and reconciliation with source data. As reinforced in the *George* case, contemporaneous documentation is important — AI-generated outputs alone won't suffice.

B. Statistical Sampling

Taxpayers encounter recurring challenges with the use of statistical sampling in section 41 research credit examinations, and those challenges have become more pronounced as IRS examination teams increasingly rely on sampling to handle large, complex claims.

For the many taxpayers managing thousands of projects, employees, and cost records, statistical sampling is the only practical method for establishing a nexus between qualified research activities and related expenditures. Taxpayers accordingly often rely on statistical sampling — including interviews and employee surveys — to quantify and substantiate research credits, consistent with the requirements of reg. section 1.41-4 and section 6001, as well as Rev. Proc. 2001-42, 2001-2 C.B. 212.⁴² The IRS, however, frequently challenges statistical sampling methods in examinations.

Challenges with statistical sampling are now expected to be further compounded with the revised Form 6765 reporting requirements. According to the revised instructions to Form 6765, taxpayers that use statistical sampling must satisfy reporting requirements for all business components regardless of which business components are sampled from the population. In addition to the reporting requirements, taxpayers must also attach their statistical sampling plan to the form. Revised Form 6765's business component reporting requirements essentially undermine the purpose of statistical sampling by requiring taxpayers to report all business

components when not all business components were included for statistical sampling purposes.

The IRS is aware of these challenges, as taxpayers have requested reliance guidance explicitly supporting the use of statistical sampling for research credit purposes.⁴³ Issuing formal guidance that explicitly permits the use of statistical sampling and confirms that existing business records are sufficient for substantiation would be far more efficient than the IRS's current, resource-intensive practice of addressing issues through individual examinations.

Taxpayers should expect guidance to be forthcoming. In March the IRS indicated that it intends to revise Form 6765 to address conflicting guidance on the use of statistical sampling, with a senior IRS official acknowledging: "I don't think the way the instructions for Form 6765 are drafted now is the right way" to do statistical sampling. "You shouldn't have to go outside your sample to identify things that you didn't look at because they weren't selected as part of the sample population," the official said.⁴⁴

C. Assessment Statutes of Limitation

With the IRS's major reductions in force, taxpayers are experiencing significant delays with moving cases through the appeals process. In addition to relying on AI to make the examination process more efficient, IRS exam teams are actively using ADR programs to resolve tax disputes.⁴⁵ The IRS has focused on revitalizing ADR programs in recent years, and these programs provide meaningful opportunities for taxpayers claiming the research credit — both in

⁴³ American Bar Association Section of Taxation, Letter from Megan L. Brackney, "Comments on the Research Credit Under Section 41" (Sept. 15, 2025).

⁴⁴ See Mary Katherine Browne, "IRS to Update Research Credit Form Rules for Stat Sampling," *Tax Notes Federal*, Mar. 23, 2026, p. 2079 (speaking at a Tax Executives Institute conference on Mar. 17, 2026, IRS senior adviser David Hudson said taxpayers and tax professionals should expect changes to Form 6765 to address statistical sampling issues).

⁴⁵ For more detail on ADR options, including the potential applicability in the research credit area, see Roberson et al., "Dispute Prevention and Resolution Options: Prefiling Update," *Tax Notes Federal*, Nov. 17, 2025, p. 1125; Roberson, Douglas W. O'Donnell, and Kathleen Agbayani, "Dispute Prevention and Resolution Options: Postfiling Update," *Tax Notes Federal*, Oct. 27, 2025, p. 651; Roberson, Donatello, and Kevin R. Harkins, "Dispute Prevention and Resolution Options — Which Is Right for You?" *Tax Notes Federal*, May 5, 2025, p. 849.

⁴² Rev. Proc. 2001-42, 2001-2 C.B. 212, outlines the requirements for taxpayers relying on statistical sampling.

dispute prevention (prefiling) and dispute resolution (post-filing) postures.

On the prefiling side, prefiling agreements (PFAs) can serve as a particularly helpful tool to obtain prefiling certainty regarding the research credit, especially recurring high-dollar claims, as a PFA can cover the current tax year and up to four future years. In mid-2025 the IRS revamped its PFA program and announced key enhancements, such as a redesigned PFA landing page with usage statistics, a streamlined application process, and a new list of likely suitable PFA issues, including the research credit.⁴⁶ While the eligibility requirements to obtain PFAs have not changed, these updates reflect the IRS's commitment to help taxpayers address complex issues before returns are filed and minimize often protracted and intensive post-filing disputes.

Industry groups and taxpayers with similar issues may also want to consider the industry issue resolution program in the prefiling context. Although the IRS has not recently issued guidance on this program, it is suitable for research credit issues, and taxpayers may want to consider it as a prefiling tool.

The compliance assurance process offers similar benefits for eligible large corporate taxpayers to voluntarily undertake a real-time audit on a prefiling basis.⁴⁷ As taxpayers interact with the IRS in real time, they can address R&D credit positions as they are being developed, including discussions around documentation expectations, sampling approaches, and the design of internal controls associated with the credit. While participation in the compliance assurance process can eliminate or greatly shorten post-filing audits, resource constraints may affect the ability to obtain a timely resolution, particularly for complex cases.

On the post-filing side, we are observing an uptick in IRS exam teams actively pushing dispute resolution tools, particularly fast-track settlement (FTS). FTS is intended to settle specific issues when the taxpayer and the IRS's positions

are fully developed, but the parties are deadlocked on specific factual or limited technical issues. Given changes announced in 2025 to allow FTS to be used for one or more issues,⁴⁸ taxpayers are using it more frequently. We expect to see that trend continue, particularly as the IRS is increasingly keen to use it.

Taxpayers also have the opportunity to request post-Appeals mediation, which offers an additional avenue to resolve a case when a resolution cannot be successfully reached in Appeals.⁴⁹ Post-Appeals mediation was historically not available to taxpayers that had used FTS, but the IRS eliminated that rule in 2025.⁵⁰ Under the new post-Appeals mediation pilot procedures, the mediator assigned to the case is an IRS Appeals officer with no previous involvement in the case.⁵¹

While we are seeing taxpayers reach successful outcomes using these tools — especially during this time of constrained resources at the IRS — we continue to stress the importance of maintaining a thorough credit documentation process. A successful, expedited resolution in FTS does not guarantee a lighter touch when it comes to documenting the credit in future tax periods.

Overall, the revitalized ADR framework gives taxpayers a more robust toolkit to manage section 41 risk across the lifecycle of a claim, allowing them to preclear issues through PFAs or the compliance assurance process, efficiently resolve disputes via FTS, and avoid litigation over more stubborn issues through post-Appeals mediation.

IV. Conclusion

In this environment of heightened scrutiny, constrained IRS resources, and evolving procedures, taxpayers claiming the research credit face both increased enforcement risk and meaningful opportunity to resolve potential disputes. As the Tax Court has underscored, contemporaneous documentation is a key

⁴⁶ IR-2025-69 (June 17, 2025).

⁴⁷ IRS, "Compliance Assurance Process" (Aug. 22, 2025). Compliance assurance process applicants must complete a detailed research credit questionnaire as part of their submission package.

⁴⁸ See IR-2025-14 (Jan. 15, 2025); Announcement 2025-6, 2025-5 IRB 526.

⁴⁹ Announcement 2025-6.

⁵⁰ *Id.*

⁵¹ Treasury, AP-08-0925-0017 (Sept. 11, 2025).

component of a defensible credit claim. This remains especially true as the IRS increasingly integrates the use of AI into the examination process and enhanced reporting becomes required on Form 6765, potentially exposing taxpayers to greater audit risk. Additionally, taxpayers should consider proactively leveraging ADR programs to gain certainty and efficiently resolve disputes.⁵² ■

⁵² The foregoing information is not intended to be “written advice concerning one or more federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser. This article represents the views of the authors only and does not necessarily represent the views or professional advice of KPMG LLP.

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