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U.S. Tax Court: Poultry producer’s R&D credits allowed to extent sufficiently documented

The U.S. Tax Court yesterday issued a memorandum opinion analyzing what constitutes qualified research in the poultry industry. The court’s findings turned entirely on the quality of the taxpayer’s documentation.

Notably, the court also made three significant technical rulings: (1) that costs to raise a "pilot model" (here, chickens for testing) can be fully included as a qualified research expense (QRE); (2) that taxpayers need not claim wage expenses to claim supply expenses as QREs; and (3) that it would not permit the use of estimates for base period QREs without a sufficient factual basis, resulting in a lower credit rate. The case serves as a crucial reminder that contemporaneous documentation is paramount to claiming an R&D credit.

The case is*: George v. Commissioner*, T.C. Memo. 2026-10 (February 3, 2026). Read the Tax Court’s opinion

Summary

The case involved a large fully integrated poultry producer that claimed R&D credits for projects aimed at improving broiler[1] health. In addition to its findings on the specific projects, the court made three key rulings on the nature of QREs:

1) **Feed costs as supply QREs**: The court rejected the IRS’s argument that feed costs were ordinary production expenses. Instead, it applied the "pilot model" rules, reasoning that the broilers in the experimental flocks were produced to evaluate and resolve technical uncertainty. Therefore, their development costs—including feed—were QREs.

2) **Flexibility in QREs**: The court also rejected the argument that a failure to claim wage QREs[2] precludes a claim for supply QREs. It affirmed that taxpayers may choose to claim only a portion of their total QREs (e.g., only supplies) without invalidating their credit claim.

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[1] In the poultry industry, chickens are generally classified as either breeders or broilers. Breeders are hens that lay eggs that eventually hatch into broilers for commercial sale. Broilers are chickens raised for commercial processing and sale.

[2] In this case, the taxpayer did not claim wage QREs because it was determined that the process to calculate such amounts would not be worth the effort.

3) **Rejection of estimates for base period QREs**: The court refused to allow the taxpayer to estimate QREs for its base years. The taxpayer argued for an estimate based on a ratio derived from the credit years, but the court found this had no factual basis. It ruled that while the *Cohan* rule can permit the use of estimates, it cannot be applied without some credible evidence to ground it.[3] This failure to substantiate any base period QREs triggered the lower 6% credit rate under the alternative simplified credit rules.

The court then analyzed each of the taxpayer's projects:

- **Qualified research (credits allowed)**: A trial to test a new genetic broiler line was called the "cleanest example of the scientific method" due to its clear hypothesis, control group, and detailed data analysis. Other trials for a vaccine priming method and specific probiotics also qualified.
- **Non-qualified research (credits disallowed)**: Credits were disallowed when documentation was absent or contradicted the research claim. For example, a trial for a new drug dosage was disqualified because the taxpayer's own feed records showed the dosage never actually changed.

KPMG observation

The central lesson from *George v. Commissioner* is the critical importance of substantiation for all years, including the base period. While the court's rulings on the pilot model theory and flexibility in claiming QREs are helpful for taxpayers, these benefits can only be realized if the underlying activities are proven. Taxpayers must be able to prove, through contemporaneous documentation, what they did, when they did it, and how they systematically evaluated the results.

The court repeatedly relied on documents created in the normal course of business—such as feed recipes and production data—to either corroborate or contradict the taxpayer's claims. When these records were present, the credits were often allowed; when they were absent, the court ruled against the taxpayer, stating it "will not wing it with an estimate ungrounded in the record." Taxpayers claiming R&D credits need to keep their record-keeping practices robust enough to tell the full story of their innovation processes.

[3] See *Cohan v. Commissioner*, 39 F.2d 540 (2d Cir. 1930), which may generally be relied on for the use of estimates to determine the amount of an expenditure if precise amounts cannot be determined; however, taxpayers must still have credible evidence of the expenditures.