



## Ohio Revised Code

### Section 5726.56 Research and development tax credit.

Effective: October 3, 2023

Legislation: House Bill 33

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(A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B) A taxpayer may claim a nonrefundable credit against the tax imposed under this chapter equal to seven per cent of the excess of (1) the qualified research expenses incurred by the taxpayer in this state in a taxable year over (2) the average annual qualified research expenses incurred by the taxpayer in this state in the three previous taxable years. For the purposes of this division, "qualified research expenses incurred by the taxpayer" includes the qualified research expenses incurred by all persons included in the annual report of the taxpayer and by any insurance company subject to the tax levied under section 5725.18 or Chapter 5729. of the Revised Code that has more than fifty per cent of its ownership interests directly or indirectly owned or controlled by a person included in the annual report of the taxpayer, even though such an insurance company is not subject to the tax imposed under this chapter.

(C) A taxpayer shall claim the credit allowed under this section in the order prescribed by section 5726.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess may be carried forward for not more than seven ensuing tax years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next tax year.

(D) A taxpayer may claim against the tax imposed under this chapter any unused portion of a credit authorized under section 5733.351 of the Revised Code but only to the extent of the remaining portion of the seven-year carry-forward period authorized by that section.

(E) In the case of a taxpayer that includes more than one person, each person in the financial institution group shall separately calculate the credit claimed under this section using the qualified research expenses incurred by that person on a form prescribed by the tax commissioner, which shall



be used by the taxpayer to claim the credit.

A taxpayer may only claim the credit with respect to persons included in the financial institution group as of the thirty-first day of December of the taxable year in which the qualified research expenses are incurred. A taxpayer may only claim any excess credit carried forward under division (C) of this section with respect to persons included in that group as of the last day of the taxable year for which the return claiming the credit is filed.

(F) A taxpayer that claims a credit under this section shall retain records to substantiate the claim. Required records include those relating to any expenses used in calculating the credit and incurred in the current taxable year and in the three preceding taxable years.

The taxpayer shall retain the required records until the date that is four years after the due date for the return on which the credit was claimed or four years after the date the return was actually filed, whichever is later.

(G) The tax commissioner may audit a sample of the taxpayer's qualified research expenses over a representative period to ascertain the amount of tax credit the taxpayer may claim under this section and may issue an assessment under section 5726.20 of the Revised Code based on the audit. The commissioner shall make a good faith effort to reach an agreement with the taxpayer in selecting a representative sample. The commissioner is not, however, precluded from proceeding under this division if an agreement is not made.