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RESEARCH CREDIT

OBBA, THE RESEARCH CREDIT, AND SECTION 174

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The One Big Beautiful Bill Act of 2025 (OBBA) restored full expensing of domestic research or experimental expenditures ("R&E") in the year incurred, a significant win for businesses investing in innovation.

On 7/4/2025, President Trump signed the One Big Beautiful Bill Act of 2025 ("OBBA") into law, restoring full expensing of domestic research or experimental expenditures ("R&E") in the year incurred under new Internal Revenue Code ("IRC") **Section 174A**. The final law is applicable to tax years beginning after 12/31/2024. Under OBBA, foreign R&E expenditures will continue to be capitalized and amortized over a 15-year period. This difference between domestic and foreign R&E expenses reflects a continued policy focus on incentivizing U.S. based research and development activity.

OBBA effectively reverses the modifications to **Section 174** under the Tax Cuts and Jobs Act of 2017 ("TCJA") that significantly impacted the ability for taxpayers to immediately expense R&E costs. It required taxpayers to capitalize and amortize domestic R&E expenditures over a five-year period (or a 15-year period for foreign R&E costs) for tax years beginning after 12/31/2021.

On 8/28/2025, the IRS issued **Revenue Procedure 2025-28**, offering much needed guidance on how taxpayers should comply with the changes introduced by OBBA, specifically as they relate to **IRC Sections 174 and 280C**, which govern the tax treatment of R&E expenditures and are designed to

work together. Included in the revenue procedure are details on (1) how small businesses can elect to immediately deduct and recover research costs for tax years beginning after 12/31/2021 and before 1/1/2025 and (2) options for businesses to deduct their remaining unamortized R&E costs.

Rev. Proc. 2025-28 also allows small businesses to make a late election to apply the rules under **Section 280C** to tax years prior to 1/1/2025. Taxpayers should attach a statement to revoke a previous 280C election. Typically, this election must be made on a timely filed return. The ability to make a late election or revoke a previous election provides businesses with greater flexibility to determine their most beneficial tax position.

Key Provisions of OBBBA

Section 280C . Beginning with tax year 2025, taxpayers claiming the research and development ("R&D") tax credit will be required to either (1) claim the full R&D credit and reduce their **Section 174** R&E costs or (2) make a 280C election and claim the reduced R&D tax credit. The change under OBBBA effectively reinstates the pre-TCJA **Section 280C** requirements.

Section 174A . For domestic R&E expenditures, new Code **Section 174A** provides taxpayers with the option to fully deduct the costs in the year they were incurred or elect *to capitalize and amortize the expenditures ratably over a period selected by the taxpayer*, but not less than 60 months, beginning with the month in which the taxpayer first realizes benefits from the expenditures. Taxpayers are also provided with an optional 10-year write-off of otherwise deductible domestic R&E costs. The changes are treated as a change in accounting method applied on a cut-off basis for any domestic R&E expenditures paid or incurred in taxable years beginning after 12/31/2024.

The new law also provides for several other taxpayer friendly changes, including:

*The election for retroactive application of **Section 174A** by certain small businesses.* Small business taxpayers, with average annual gross receipts of \$31 million or less for the first taxable year beginning after 12/31/2024, are provided an election to apply the change retroactively for tax years beginning after 12/31/2021. Taxpayers can make this election on a timely filed original Federal income tax return, or on an AAR or amended tax return. A statement, in lieu of filing a Form 3115, must be attached to the amended return as provided under **Rev. Proc. 2025-28** , section 3.03(2).

If elected, taxpayers will be required to file amended returns for each taxable year affected by the election and will be treated as making a change in accounting method. This election on an amended return must be made by the earlier of 7/6/2026, or the expiration of the statute of limitations for each year.

Eligible small businesses were also provided with the option to retroactively apply **Section 174A** through using the automatic method change procedures provided in **Rev. Proc. 2025-28** , section 7.02(3)(c). This option allowed taxpayers to recover unamortized costs from tax years beginning after 12/31/2021, and before 1/1/2025, using an automatic accounting method change filed with the 2024 tax

return. Taxpayers using this method change were spared from filing amended returns for 2022 and 2023. Consistency with **Section 280C** elections was still required.

Rev. Proc. 2025-28 also provided guidance for qualified small businesses that already filed their 2024 return to take advantage of the retroactive application by using an accounting method change. The IRS granted an automatic six-month extension for taxpayers to file a superseding 2024 tax return to make a method change under the revenue procedure even if the taxpayer did not extend the tax return.

Acceleration of unamortized domestic R&E expenditures. All taxpayers are provided with an option to deduct their remaining unamortized domestic R&E costs from taxable years beginning after 12/31/2021, and before 1/1/2025, ratably over a one-taxable year or two-taxable year period. This change must be made for or beginning with the first taxable year beginning after 12/31/2024.

Taxpayers choosing this option will be treated as initiating a change in accounting method applied on a cut-off basis. **Rev. Proc. 2025-28** provides guidance for taxpayers to include a statement with the federal tax return in lieu of filing a Form 3115.

Foreign R&E costs. As mentioned, treatment of foreign R&E expenditures under OBBBA requires they continue to be capitalized and amortized over a 15-year period.

Conclusion

In summary, the reinstatement of full expensing for domestic R&E expenditures under OBBBA marks a significant win for businesses investing in innovation. By allowing immediate deductions for qualifying domestic R&E costs-and by providing flexible amortization options-businesses gain greater control over their cash flow, tax planning, and investment strategy. The ability to accelerate remaining amortization further enhances the financial benefits, particularly for smaller businesses.

However, careful consideration of the available elections and required accounting method changes is critical to fully leverage the new law. For companies with ongoing or planned R&E investments, these changes provide a renewed incentive to invest in U.S.-based research and development activities. These rules are favorable in allowing but not requiring the deduction of previously capitalized and unamortized R&E over one or two years. The result provides taxpayers the ability to avoid any unfavorable tax consequences and benefit financially while catalyzing U.S. innovation and investing in R&D once again.