

However, this amount does not exceed 3 percent of the taxpayer's adjusted gross income for the taxable year and is thus not allowable as a deduction under section 213.

*Example 2.* Assume the same facts as in *Example 1*. It is not proper for the taxpayer first to determine his deductible medical expenses of \$2,000 (\$5,000—[\$100,000×3 percent]) under section 213 and then claim the \$3,000 balance as employment-related expenses for purposes of section 44A. This is because the \$3,000 balance has been treated as a medical expense in computing the amount deductible under section 213.

*Example 3.* In 1982, a calendar year taxpayer incurs and pays \$12,000 of employment-related expenses during the taxable year for the care of his child. These expenses are incurred for services performed in the taxpayer's household, and they also qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is \$18,000. The taxpayer takes \$2,400 of such expenses into account under section 44A. The balance, or \$9,600, he treats as medical expenses for purposes of section 213. The allowable deduction under section 213 for the expenses is limited to the excess of the balance of \$9,600 over \$540 (3 percent of the taxpayer's adjusted gross income of \$18,000), or \$9,060.

(Secs. 44A(g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1565, 26 U.S.C. 44A(g); 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7643, 44 FR 50335, Aug. 28, 1979, as amended by T.D. 7951, 49 FR 18092, Apr. 27, 1984]

#### § 1.44B-1 Credit for employment of certain new employees.

(a) *In general*—(1) *Targeted jobs credit.* Under section 44B a taxpayer may elect to claim a credit for wages (as defined in section 51(c) paid or incurred to members of a targeted group (as defined in section 51(d)). Generally, to qualify for the credit, the wages must be paid or incurred to members of a targeted group first hired after September 26, 1978. However, wages paid or incurred to a vocational rehabilitation referral (as defined in section 51(d)(2)) hired before September 27, 1978, may qualify for the credit if a credit under section 44B (as in effect prior to enactment of the Revenue Act of 1978) was claimed for the individual by the taxpayer for a taxable year beginning before January 1, 1979. The amount of the credit shall be determined under section 51. Section 280C(b) (relating to the requirement that the deduction for

wages be reduced by the amount of the credit) and the regulations thereunder will not apply to taxpayers who do not elect to claim the credit.

(2) *New jobs credit.* Under section 44B (as in effect prior to enactment of the Revenue Act of 1978) a taxpayer may elect to claim as a credit the amount determined under sections 51, 52, and 53 (as in effect prior to enactment of the Revenue Act of 1978). Section 280C(b) (relating to the requirement that the deduction for wages be reduced by the amount of the credit) and the regulations thereunder will not apply to taxpayers who do not elect to claim the credit.

(b) *Time and manner of making election.* The election to claim the targeted jobs credit and the new jobs credit is made by claiming the credit on an original return, or on an amended return, at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for the taxable year (determined without regard to extensions). The election may be revoked within the above-described 3-year period by filing an amended return on which the credit is not claimed.

(c) *Election by partnership, electing small business corporation, and members of a controlled group.* In the case of a partnership, the election shall be made by the partnership. In the case of an electing small business corporation (as defined in section 1371(a)), the election shall be made by the corporation. In the case of a controlled group of corporations (within the meaning of section 52(a) and the regulations issued thereunder) not filing a consolidated return under section 1501, the election shall be made by each member of the group. In the case of an affiliated group filing a consolidated return under section 1501, the election shall be made by the group.

(Secs. 44B, 381, and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2834, 26 U.S.C. 44B; 91 Stat. 148, 26 U.S.C. 381(c)(26); 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7921, 48 FR 52904, Nov. 23, 1983]

## § 1.41-0A

### RESEARCH CREDIT—FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1990

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[T.D. 8930, 66 FR 295, Jan. 3, 2001]

#### § 1.41-3A Base period research expense.

(a) *Number of years in base period.* The term “base period” generally means the 3 taxable years immediately preceding the year for which a credit is being determined (“determination year”). However, if the first taxable year of the taxpayer ending after June 30, 1981, ends in 1981 or 1982, then with respect to that taxable year the term “base period” means the immediately preceding taxable year. If the second taxable year of the taxpayer ending after June 30, 1981, ends in 1982 or 1983, then with respect to that taxable year the term “base period” means the 2 immediately preceding taxable years.

(b) *New taxpayers.* If, with respect to any determination year, the taxpayer has not been in existence for the number of preceding taxable years that are included under paragraph (a) of this section in the base period for that year, then for purposes of paragraph (c)(1) of this section (relating to the determination of average qualified research expenses during the base period), the taxpayer shall be treated as—

(1) Having been in existence for that number of additional 12-month taxable years that is necessary to complete the base period specified in paragraph (a) of this section, and

(2) Having had qualified research expenses of zero in each of those additional years.

(c) *Definition of base period research expenses.* For any determination year, the term “base period research expenses” means the greater of—

(1) The average qualified research expenses for taxable years during the base period, or

(2) Fifty percent of the qualified research expenses for the determination year.

(d) *Special rules for short taxable years—*(1) *Short determination year.* If the determination year for which a research credit is being taken is a short taxable year, the amount taken into account under paragraph (c)(1) of this