

IRS News Release

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For Small Business Startups, IRS Explains New Option for Claiming Research Credit; Option Still Available for Those That Already Filed

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WASHINGTON –The Internal Revenue Service today issued interim guidance explaining how eligible small businesses can take advantage of a new option enabling them to apply part or all of their research credit against their payroll tax liability, instead of their income tax liability. Before 2016, taxpayers could only take the research credit against their income tax liability.

Notice 2017-23, posted today on IRS.gov, provides guidance on a new provision included in the Protecting Americans From Tax Hikes (PATH) Act enacted in December 2015. This new option will be available for the first time to any eligible small business filing its 2016 federal income tax return this tax season. Those who already filed still have time to choose this option.

The option to elect the new payroll tax credit may especially benefit any eligible startup that has little or no income tax liability. To qualify for the new option for the current tax-year, a business must have gross receipts of less than \$5 million and could not have had gross receipts prior to 2012.

An eligible small business with qualifying research expenses can choose to apply up to \$250,000 of its research credit against its payroll tax liability. An eligible small business chooses this option by filling out [Form 6765](#), Credit for Increasing Research Activities, and attaching it to a timely-filed business income tax return. But under a special rule for tax-year 2016, a small business that failed to choose this option and still wishes to do so, can still make the election by filing an amended return by Dec. 31, 2017. See the notice for further details.

After choosing this option, a small business claims the payroll tax credit by filling out [Form 8974](#), Qualified Small Business Payroll Tax Credit for Increasing Research Activities. This form must be attached to its payroll tax return, for example [Form 941](#), Employer's Quarterly Federal Tax Return. Further details on how and when to claim the credit are in the notice.

The notice provides interim guidance on controlled groups, the definition of gross receipts, and other issues. The notice also requests public comment on various payroll tax credit issues to be addressed in future guidance. See the notice for details on how and when to submit comments. For more information on the research credit itself, see the instructions to Form 6765.