

§ 1.41-0 Table of contents.

This section lists the paragraphs contained in §§ 1.41-1 through 1.41-8 as follows:

§ 1.41-1 Credit for increasing research activities.

- (a) Amount of credit.
- (b) Introduction to regulations under section 41.

§ 1.41-2 Qualified research expenses.

- (a) Trade or business requirement.
 - (1) In general.
 - (2) New business.
 - (3) Research performed for others.
 - (i) Taxpayer not entitled to results.
 - (ii) Taxpayer entitled to results.
 - (4) Partnerships.
 - (i) In general.
 - (ii) Special rule for certain partnerships and joint ventures.
 - (b) Supplies and personal property used in the conduct of qualified research.
 - (1) In general.
 - (2) Certain utility charges.
 - (i) In general.
 - (ii) Extraordinary expenditures.
 - (3) Right to use personal property.
 - (4) Use of personal property in taxable years beginning after December 31, 1985.
 - (c) Qualified services.
 - (1) Engaging in qualified research.
 - (2) Direct supervision.
 - (3) Direct support.
 - (d) Wages paid for qualified services.
 - (1) In general.
 - (2) "Substantially all."
 - (e) Contract research expenses.
 - (1) In general.
 - (2) Performance of qualified research.
 - (3) "On behalf of."
 - (4) Prepaid amounts.
 - (5) Examples.

§ 1.41-3 Base amount for taxable years beginning on or after January 3, 2001.

- (a) New taxpayers.
- (b) Special rules for short taxable years.
 - (1) Short credit year.
 - (2) Short taxable year preceding credit year.
 - (3) Short taxable year in determining fixed-base percentage.
- (c) Definition of gross receipts.
 - (1) In general.
 - (2) Amounts excluded.
 - (3) Foreign corporations.
 - (d) Consistency requirement.
 - (1) In general.
 - (2) Illustrations.
 - (e) Effective date.

§ 1.41-4 Qualified research for expenditures paid or incurred on or after January 3, 2001.

- (a) Qualified research.
 - (1) General rule.
 - (2) Requirements of section 41(d)(1).
 - (3) Undertaken for the purpose of discovering information.

- (i) In general.
- (ii) Common knowledge.
- (iii) Means of discovery.
- (iv) Patent safe harbor.
- (v) Rebuttable presumption.
- (4) Technological in nature.
- (5) Process of experimentation.
- (6) Substantially all requirement.
- (7) Use of computers and information technology.
- (8) Illustrations.
- (b) Application of requirements for qualified research.
 - (1) In general.
 - (2) Shrinking-back rule.
 - (3) Illustration.
- (c) Excluded activities.
 - (1) In general.
 - (2) Research after commercial production.
 - (i) In general.
 - (ii) Certain additional activities related to the business component.
 - (iii) Activities related to production process or technique.
 - (iv) Clinical testing.
 - (3) Adaptation of existing business components.
 - (4) Duplication of existing business component.
 - (5) Surveys, studies, research relating to management functions, etc.
 - (6) Internal-use computer software.
 - (i) General rule.
 - (ii) Requirements.
 - (iii) Primarily for internal use.
 - (iv) Software used in the provision of services.
 - (A) Computer services.
 - (B) Noncomputer services.
 - (v) Exception for certain software used in providing noncomputer services.
 - (vi) High threshold of innovation test.
 - (vii) Application of high threshold of innovation test.
 - (viii) Illustrations.
 - (ix) Effective dates.
- (7) Activities outside the United States, Puerto Rico, and other possessions.
 - (i) In general.
 - (ii) Apportionment of in-house research expenses.
 - (iii) Apportionment of contract research expenses.
 - (8) Research in the social sciences, etc.
 - (9) Research funded by any grant, contract, or otherwise.
 - (10) Illustrations.
 - (d) Documentation.
 - (e) Effective dates.

*§ 1.41-5 Basic research for taxable years beginning after December 31, 1986. [Reserved]**§ 1.41-6 Aggregation of expenditures.*

- (a) Controlled group of corporations; trades or businesses under common control.
 - (1) In general.
 - (2) Definition of trade or business.
 - (3) Determination of common control.

Internal Revenue Service, Treasury

§ 1.41-2

- (4) Examples.
- (b) Minimum base period research expenses.
- (c) Tax accounting periods used.
 - (1) In general.
 - (2) Special rule where timing of research is manipulated.
- (d) Membership during taxable year in more than one group.
- (e) Intra-group transactions.
 - (1) In general.
 - (2) In-house research expenses.
 - (3) Contract research expenses.
 - (4) Lease payments.
 - (5) Payment for supplies.
- § 1.41-7 *Special rules.*
 - (a) Allocations.
 - (1) Corporation making an election under subchapter S.
 - (i) Pass-through, for taxable years beginning after December 31, 1982, in the case of an S corporation.
 - (ii) Pass-through, for taxable years beginning before January 1, 1983, in the case of a subchapter S corporation.
 - (2) Pass-through in the case of an estate or trust.
 - (3) Pass-through in the case of a partnership.
 - (i) In general.
 - (ii) Certain expenditures by joint ventures.
 - (4) Year in which taken into account.
 - (5) Credit allowed subject to limitation.
 - (b) Adjustments for certain acquisitions and dispositions—Meaning of terms.
 - (c) Special rule for pass-through of credit.
 - (d) Carryback and carryover of unused credits.
- § 1.41-8 *Special rules for taxable years ending on or after January 3, 2001.*
 - (a) Alternative incremental credit.
 - (1) In general.
 - (2) Time and manner of election.
 - (3) Revocation.
 - (4) Effective date.

[T.D. 8930, 65 FR 287, Jan. 3, 2001]

§ 1.41-1 Credit for increasing research activities.

- (a) *Amount of credit.* The amount of a taxpayer's credit is determined under section 41(a). For taxable years beginning after June 30, 1996, and at the election of the taxpayer, the portion of the credit determined under section 41(a)(1) may be calculated using the alternative incremental credit set forth in section 41(c)(4).
- (b) *Introduction to regulations under section 41.* (1) Sections 1.41-2 through 1.41-8 and 1.41-3A through 1.41-5A address only certain provisions of section 41. The following table identifies the

provisions of section 41 that are addressed, and lists each provision with the section of the regulations in which it is covered.

Section of the regulation	Section of the Internal Revenue Code
§ 1.41-2	41(b).
§ 1.41-3	41(c).
§ 1.41-4	41(d).
§ 1.41-5	41(e).
§ 1.41-6	41(f).
§ 1.41-7	41(f).
	41(g).
§ 1.41-8	41(c).
§ 1.41-3A	41(c) (taxable years beginning before January 1, 1990).
§ 1.41-4A	41(d) (taxable years beginning before January 1, 1986).
§ 1.41-5A	41(e) (taxable years beginning before January 1, 1987).

(2) Section 1.41-3A also addresses the special rule in section 221(d)(2) of the Economic Recovery Tax Act of 1981 relating to taxable years overlapping the effective dates of section 41. Section 41 was formerly designated as sections 30 and 44F. Sections 1.41-0 through 1.41-8 and 1.41-0A through 1.41-5A refer to these sections as section 41 for conformity purposes. Whether section 41, former section 30, or former section 44F applies to a particular expenditure depends upon when the expenditure was paid or incurred.

[T.D. 8930, 65 FR 288, Jan. 3, 2001]

§ 1.41-2 Qualified Research Expenses.

- (a) *Trade or business requirement—(1) In general.* An in-house research expense of the taxpayer or a contract research expense of the taxpayer is a qualified research expense only if the expense is paid or incurred by the taxpayer in carrying on a trade or business of the taxpayer. The phrase “in carrying on a trade or business” has the same meaning for purposes of section 41(b)(1) as it has for purposes of section 162; thus, expenses paid or incurred in connection with a trade or business within the meaning of section 174(a) (relating to the deduction for research and experimental expenses) are not necessarily paid or incurred in carrying on a trade or business for purposes of section 41. A research expense must relate to a particular trade or