

Comments Solicited on Michigan Research Credit Draft Notice

March 5, 2025

The Michigan Department of Treasury released a **draft of a notice** regarding the new research and development credit. The notice provides preliminary guidance to taxpayers on eligibility for the credit, how to calculate the unadjusted credit and make a tentative claim, how Treasury will notify taxpayers if total claims exceed the \$100 million cap and must be prorated downward, and how taxpayers will claim the adjusted credit. The Department will accept comments on the draft through March 7, 2025. Please **click here** for Miller Canfield's prior discussion of the credit.

Pass-Through Entities: The draft explains that the credit is available for a pass-through entity if the entity is subject to Michigan income tax withholding. This means that an employer located in Michigan or an out-of-state employer having employees in Michigan should evaluate its entitlement to the credit.

Related Federal Tax Disputes: Expenses that qualify for the credit are defined by federal tax law. The definition has been disputed and litigated in federal tax courts for almost the last four decades. It is unclear how such federal changes would impact the Michigan credit.

Departing Members of a Unitary Business Group: The draft does not explain the effect on the credit if a member departs a unitary business group that claimed the research credit. For federal purposes, the research credit history of the departing member is its attribute that would follow it. The departure would affect calculation of the base amount.

Refundability: The draft reminds taxpayers that the credit is refundable but not assignable.

Comment Period: Comments on the draft are due by March 7. If you are considering a comment and wish to discuss it, please contact one of the authors of this alert by March 7.