



Interim Guidance on Amortization of Specified Research or Experimental Expenditures under Section 174

UPDATE: On September 8, 2023, the Department of Treasury and the Internal Revenue Service (IRS) issued [Notice 2023-63](#) (linked) indicating an intent by the agency to issue proposed regulations related to the requirement in the 2017 TCJA that specified research or experimental (SRE) costs under section 174 be capitalized and amortized beginning in tax year 2022 pursuant to the TCJA of 2017 as discussed above. The notice also provides interim guidance that taxpayers may choose to rely on until such time that regulations are issued for tax years beginning after December 31, 2021, and ending after September 8, 2023, if they follow the guidance in its entirety and apply it consistently.

IRS taking the step to release the notice signals the agency's skepticism that the 118th Congress will come together to pass legislation delaying or repealing the 2017 law change that removed the ability of taxpayers to deduct research and development costs in the year incurred and established the new 5 and 15-year amortization requirements. AIA continues to advocate for that legislation to pass and remains hopeful in its inclusion in a possible end of year tax extender bill.

Generally, the notice and interim guidance have been well-received and provide much-needed clarification on some of the more complicated questions surrounding the changes made to section 174. The notice provides details, definitions, and examples as to what activities do and do not qualify as SRE, including those related to software development, both important issues to architecture firms with qualifying research costs. Among other things, it also provides details and examples of how to allocate costs for SRE purposes and requires that costs be allocated based on a cause-and-effect relationship of the costs and the activities (or another reasonable basis) and apply that method on a consistent basis for each cost.

However, there are still several important unanswered questions on issues impacting architecture firms and other taxpayers that need further clarification in the regulations before finalized. Specifically, for many firms the interplay of the new amortization of section 174 costs with those used to compute the research and development tax credit under section 41 continues to raise questions as to the broader definition under the guidance of research costs that must now be amortized under section 174 (whether a filer claims a tax credit or not), and the more narrow costs that may be claimed and taken in the year incurred as a tax credit under section 41.

The IRS has asked for general comments on the guidance and comments specific to several issue areas addressed in the guidance and to be addressed in the forthcoming proposed rule, which is expected to be issued sometime in the spring of 2024. Comments are due by November 24, 2023, and can be submitted electronically at www.regulations.gov under the portal for comments by searching IRS-2023-0040.

AIA encourages members to review the guidance and consult with your accountants and other tax professionals about how its provisions will impact your firm's tax liability and the requirement

to capitalize and amortize research development costs under section 174 and the ability to claim a tax credit under section 41. **AIA welcomes member input as we prepare general comments to IRS on the interim guidance and ask for further clarification on issues impacting architecture firms before the regulations are finalized. There are three virtual listening sessions scheduled. Please click on the date that works for you to register.**

- [Tuesday, October 31st 3-4:30pm EST](#)
- [Thursday, November 2nd 1-2:30pm EST](#)
- [Wednesday, November 8th 4-5:30pm EST](#)

If you cannot attend one of the listening sessions but would like to provide written feedback on the proposed guidance, please send it to Anne Law at annelaw@aia.org.