

Seattle Rule 5-069

Life Science Research deduction

(1) Introduction. This rule explains Seattle's business license tax deduction requirements with regard to Life Science Research deductions.

(2) Definitions.

(a) **Research and Development Activities** - means activities performed to discover technological information, and technical and non-routine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the federal food and drug administration under chapter 21 in the Code of Federal Regulations, as amended. The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies not related to development, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(b) **"Support" for research and development**-means compensation and support including funding for overhead expenses, such as costs for facilities, equipment and administrative work. Should "support" expenses apply to both research and development activities and non-research and development activities, the taxpayer must provide backup documentation that verifies the proportion applicable solely to research and development.

(c) **Life Science** - means scientific research whose primary purpose is to understand human biology or pathology, or to improve human health, or to identify appropriate treatment (including ethical and policy aspects) of human disease, including basic research in non-human models (including in silica models).

(3) **Deduction.** In computing tax liability under Seattle Municipal Code chapter 5.45, there may be deducted from gross proceeds of sales, contracts and sub-awards amounts received as compensation for or to support life sciences research and development. This deduction shall expire five years after the effective date of ordinance 123877, codified by Chapter 5, unless extended by City Council by ordinance. The City Council will consider such an extension after evaluating both the fiscal and policy impacts of the deduction.

(a) The Life Science R&D deduction is allowed only for amounts in which the following conditions are met:

(i) The amount received is included in gross income of the business;

(ii) The deduction is limited to actual amounts expended or to be expended for Life Science Research and development and support for research and development. In a mixed use award, only those amounts expended or to be expended for qualified Life Science research and development and support for research and development can be deducted. In the event the entire award is required to be recognized as gross income in one tax period, and the award expenditures occur in multiple tax periods, as long as the award expenditures will qualify as life science R&D expenditures, this deduction may be claimed in the period in which the entire award is recognized as gross income.

Example A: 123, a Life science research entity receives an award from the federal government. The award is to be used exclusively for qualified research and development and also includes a provision for activities in support of qualified research activities. The award qualifies for the deduction.

Example B: Facts same as example A except that the award only requires 123 to perform qualified research and development activities on 60% of the award. In this case, only 60 percent of the award will qualify for the deduction. Alternatively, the award will not qualify as a deduction under this section.

Example C: Facts same as A. 123 receive a \$5 million dollar qualified Life Science R&D award from the federal government. The award is received in November of Year 1. The entire award is required to be recognized as gross

income in year 1 for Seattle B&O tax purposes. The entire award may be claimed as a qualified Life Science deduction in year 1.

(iii) The source of the funds must be a governmental entity which includes the United States, State of Washington, local or municipal government or any instrumentality thereof. A government award to a sub recipient qualifies as an amount received from a governmental entity.

Example 1: Company ABC, a private research company, receives a contract from xyz, a nonprofit research institution. Xyz's source of funding for the contract with ABC is the Federal government. ABC's contract with xyz would qualify as a source of funding from a governmental entity because the source of funding is the Federal government. This is an example of a qualified subrecipient of government funds.

Example 2: ABC Company, a private research company, receives a contract from TTech, a private university. Because a private university does not qualify as a governmental entity, ABC's contract with TTech would not qualify as a source of funding from a governmental entity.

Example 3: Company ZZZ, a qualified nonprofit entity, receives a contract to perform research services for company YYY. Company YYY is a for profit pharmaceutical company. This contract does not qualify for the Life Science R&D deduction because it is not an amount received from a qualified governmental entity.

(iv) Annual report per section 4 of this rule is timely filed.

(4) Annual reporting requirement for Life Science R&D deduction.

Every person claiming a Life Science R&D deduction under SMC 5.45.100 W must file a complete annual survey with the department.

(a) Except as provided in (b) of this subsection, the survey is due by April 30th of the year following any calendar year in which a person becomes eligible to claim the Life Science R&D deduction under this section.

(b) The department may extend the due date for timely filing of annual surveys under this section.

Subject to the conditions in this subsection, a taxpayer who fails to file an annual survey required under subsection (a) of this section by the due date of the report or survey is entitled to an extension of the due date. A request for an extension under this subsection (b) must be made in writing to the department.

(i) To qualify for an extension under this subsection (b), a taxpayer must have filed all surveys, if any, due in prior years under subsection (a) of this section by their respective due dates, beginning with annual reports and surveys due in calendar year 2013.

(ii) An extension under this subsection is for ninety days from the original due date of the annual report or survey.

(iii) No taxpayer may be granted more than one ninety-day extension under this subsection.

(iv) Each taxpayer claiming this deduction will be provided one

(c) The survey must include the amount of the Life Science R&D deduction claimed for the calendar year covered by the survey. For a person that claimed a deduction provided in SMC 5.45.100 W, the survey must include the amount of tax deduction under this section in the prior calendar year for each award of qualified Life Science research and development for which a deduction was claimed.

(d) For persons claiming the deduction provided under SMC 5.45.100 W, the survey must also include the qualified research and development expenditures during the calendar year for which the deduction was claimed, the taxable amount during the calendar year for which the deduction was claimed, the number of new products or research projects by general classification, the number of trademarks, patents, and copyrights associated with the research and development activities for which the deduction was claimed, and whether the tax preference has been assigned.

(e) For persons claiming the tax deduction in SMC 5.45.100 W, the survey must also include, for each award, the general areas or categories of research and development conducted which will fall within the definition of "Life Sciences."

(5) All information collected under this section is deemed taxpayer information under SMC 5.55.200.

(6)(a) Except as otherwise provided by law, if a person claims a Life Science R&D tax deduction but fails to submit a complete annual survey by the due date of the survey or any extension under this rule, the department must declare the amount of the tax deduction claimed for the previous calendar year to be immediately due. The Director will provide a one-time waiver of the survey filing deadline contained in this section provided the taxpayer seeking a waiver is claiming the Life Science deduction for the first time and, upon notification from the Director regarding the failure to file the survey, the taxpayer files the required survey within 30 days.

(b) The department must assess interest, but not penalties, on the amounts due under this subsection. The interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid. Amounts due under this subsection are not subject to the confidentiality provisions of SMC 5.55.200 and may be disclosed to the public upon request.

(7) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the Council Central Staff 54 months after the effective date of the ordinance to ensure sufficient time for legislative action on any proposed extension.

(8) For the purposes of this section:

(a) "Department" means City of Seattle Department of Finance and Administrative Services

Effective date: September 17, 2012

DIRECTOR'S CERTIFICATION

I, Glen Lee, Finance Director of the City of Seattle, do hereby certify under penalty of perjury of law, that the within and foregoing is a true and correct copy as adopted by the City of Seattle, Department of Finance and Administrative Services

DATED this 17 day of September 2012.

CITY OF SEATTLE,

A Washington municipality

By: _____

Glen Lee, Finance Director

Department of Finance and Administrative Services

