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GYF VIRTUAL CPE DAY 2020

Presented by:

**Don Johnston, Shawn Firster,
Michael Weber and David Kerin**
GYF Tax Services Group

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Non-Traditional Tax Saving Strategies, Opportunities & Risks



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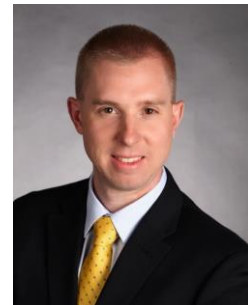


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INTRODUCTION

Topics for This Session

- Pennsylvania Education Improvement Tax Credits (EITCs)
- Interest Charge Domestic International Sales Corporation (IC-DISC)
- Utilitizing Research & Development (R&D) Credits
- Community Development Tax Incentives
- Sales Tax Update



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PA EITCs & IC-DISCs



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PA EDUCATION IMPROVEMENT TAX CREDITS

Benefits of EITCs

- 90% PA tax credit for “contributions” made to a qualifying education institution
 - [Scholarship Organizations](#)
 - [Educational Improvement Organizations](#)
 - [Pre-Kindergarten Scholarship Organizations](#)
- Combined with a federal charitable contribution, the benefit can produce tax savings of 93.7% of the amount contributed
 - *A \$10,000 contribution would cost the taxpayer only \$630*



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PA EDUCATION IMPROVEMENT TAX CREDITS

Qualifying and Applying for EITCs

- Taxpayers must have some Pennsylvania-sourced income to qualify
- Investing through a Special Purpose Entity (SPE) is the easiest way to apply
- The “old” way of applying rarely works, as most funds are taken by SPEs



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PA EDUCATION IMPROVEMENT TAX CREDITS

Benefits of EITCs

- This planning strategy is a home run for taxpayers who are already contributing to a Pennsylvania-based qualifying education institution
- The use of EITCs has become more valuable as a result of the reduction in the SALT federal tax deduction



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INTEREST CHARGE DOMESTIC INTERNATIONAL SALES CORP

Benefits of IC-DISCs

- Strategy for U.S.-based businesses that ship products to foreign countries
- Carefully managed, can result in significant tax savings
 - *Tax rate delta between ordinary income tax rates and the reduced dividend tax rates can produce up to a 17% savings (37% - 20%)*
 - *Savings are less if the business is eligible for Section 199A*
- Works best for pass-through entities (partnerships and S corps), as the commission expense and the dividend income are ultimately reported on the same return
- Risk lies in using the wrong advisors to monitor and run your IC-DISC



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UTILIZING THE R&D CREDIT

Non-Traditional Tax Saving Strategies, Opportunities & Risks



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UTILIZING THE R&D CREDIT

What is the Research & Development (R&D) Credit?

- Intended to incentivize innovation and to help retain technical jobs in the United States
- Introduced in 1981, and made permanent in 2015 (PATH Act)
- Significantly overlooked and underutilized tax saving opportunity



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UTILIZING THE R&D CREDIT

Four-Part Test to Qualify for the (R&D) Credit

1. Permitted Purpose – new product/process or improves existing functionality
2. Technological in Nature – technologies and principles based on hard sciences (e.g., engineering, physics, computer science, chemistry)
3. Elimination of Uncertainty – in capability, method or appropriateness of design
4. Process of Experimentation – (e.g., simulations, modeling, trial and error)



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UTILIZING THE R&D CREDIT

Qualified Research Expenses

- Wages
 - *Direct support and supervision*
- Supplies & Materials
- Contract Research
 - *Certain percentage of contracted expenses (e.g., consultants, test labs, etc.)*
- Rental/Lease Cost of Computers



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UTILIZING THE R&D CREDIT

Ineligible Expenditures

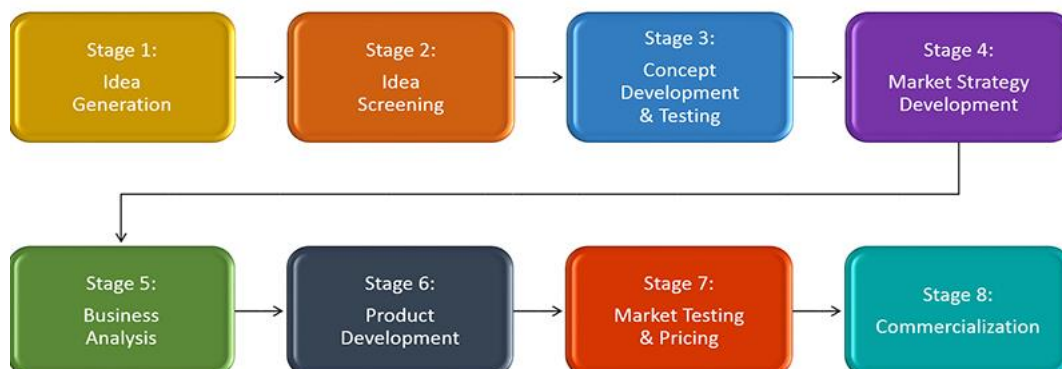
- Social sciences or arts
- Activities conducted outside of the United States
- Software developed for internal use
- Post-production research
- Research funded by another person or entity
- Surveys/studies



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UTILIZING THE R&D CREDIT

R&D Cycle





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UTILIZING THE R&D CREDIT

Methods of Calculation

- Regular Research Credit (RRC) Method
- Alternative Simplified Credit (ASC) Method
 - *Determination of 3-year base (at 14%) or,*
 - *Current year (at 6%)*



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UTILIZING THE R&D CREDIT

Example: no prior-year expenditures

Qualified Research Expenditures (QREs)	\$ 100,000
NO P/Y QREs = (no base year)	- 0
Subtotal	<u>100,000</u>
Credit % with no base year	<u>6%</u>
R&D Tax Credit	<u><u>\$ 6,000</u></u>



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UTILIZING THE R&D CREDIT

Example: with prior-year expenditures

Qualified Research Expenditures (QREs)	\$ 100,000
P/Y QREs = Y1 (\$20K), Y2 (\$40K), Y3 (\$60K)	
<i>\$120K/3 years = \$40,000/year; x 50% = \$20,000</i>	- 20,000
Subtotal	80,000
Credit % with base year	14%
R&D Tax Credit	\$ 11,200



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UTILIZING THE R&D CREDIT

Recent Developments and Changes

- Protecting Americans from Tax Hikes (PATH) Act of 2015
 - *Credit made permanent; small and mid-size businesses and eligible startups*
- Tax Cuts and Jobs Act of 2017 (TCJA)
 - *Reduced corporate rate and repealed AMT*
- Coronavirus Aid, Relief, and Economic Security (CARES) Act
 - *Payroll tax deferral and offset; NOL carry-backs may create R&D carry-forward*



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COMMUNITY DEVELOPMENT TAX INCENTIVES



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COMMUNITY DEVELOPMENT TAX INCENTIVES

Opportunity Zone Program

- What and where are Opportunity Zones?
 - *Designated low-income or economically distressed communities in states, Washington D.C. and U.S. territories*
 - <https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx>
- Who can participate in the program?
 - *Almost any taxpayer that recognize capital gains for federal income tax purposes*



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COMMUNITY DEVELOPMENT TAX INCENTIVES

Opportunity Zone Program

- 3 “Steps” and Associated Tax Benefits
 - *Realize and reinvest capital gain(s) into Opportunity Fund*
 - *Opportunity Zone investment via Opportunity Fund*
 - *Exit the Opportunity Fund*
- Importance of Compliance



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COMMUNITY DEVELOPMENT TAX INCENTIVES

Historic Tax Credit (HTC) Program

- What properties are “historic”
- Qualified Rehabilitation Expenditures (QREs)
- Utilization of the credits
- State tax benefits available



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COMMUNITY DEVELOPMENT TAX INCENTIVES

Section 179D Energy Incentive

- What properties best qualify?
- Calculation of the deduction
- Expiration and reinstatement



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SALES TAX MATTERS



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SALES TAX MATTERS

Transaction-Related Items

- Buyer/seller escrow
- VDA process
- Importance of compliance



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SALES TAX MATTERS

Pennsylvania Common Exemptions

- Constructions activities
- Manufacturing
- Non-Profit
- Resale



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SALES TAX MATTERS

Process of Utilizing Exemptions

- Certificates
- Accepting certificates
- Applying for refunds



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Questions?



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