

TEXAS STATE R&D TAX CREDIT

ELIGIBILITY

In general, taxpayers are eligible for the R&D Tax Credit if they have QREs as defined by IRC §41 in Texas during the tax period.

Taxpayers can claim the R&D Tax Credit to offset a portion of their franchise tax. Texas tax returns can be amended as far back as three years to claim the credit.

Taxpayers are ineligible to use the credit to offset franchise tax if they receive the tax exemption on purchases or leases of depreciable tangible property.

CALCULATING THE BENEFIT

The Franchise R&D Credit is claimed using Texas Form 05-178 and is effective for returns due starting January 1, 2014 (i.e. tax years ended 2013). The incentive is set to expire on December 31, 2026. Form 05-178 is submitted with the annual Texas State Franchise Tax Reports.

The credit is calculated using the Alternative Simplified Method (ASM), similar to the methodology used to calculate the Federal Alternative Simplified Credit. Using ASM, the credit is calculated as 5% of QREs in excess of the base period. The base period is calculated as 50% of the average QREs incurred during the period three tax periods.

If there is no base period available (e.g. first year with R&D expenditures), credit is calculated as 2.5% of

QREs in current year. Credit will be calculated as 2.5% until a base period is established.

UTILIZATION

The allowable franchise tax credit used in any one tax period, including any carry forward amount, may not exceed 50% of the taxpayer's franchise tax due for the period.

Any amount in excess of the credit limit may be carried forward for a maximum of 20 consecutive tax periods. Any outstanding carry forward may be utilized after the December 31, 2026 expiration date.

Credits cannot be assigned or transferred unless all the assets are transferred in the same transaction.

SUMMARY OF STATE CREDIT

- Form: **TX Form 05-178**
- Effective: **January 1, 2014**
- Expiration: **December 31, 2026**
- Calc Rate: **5% of QREs over base period**
- Base period: **50% of avg QREs of past 3 yrs**
- Calc Rate w/o base period: **2.5% of QREs**
- Amendment Period: **3 years**
- Carry-forward: **20 years**
- Offset: **50% of franchise tax**
- Refund: **None**

YR	TOTAL QREs	CREDIT CALCULATION	TX CREDIT
2019	\$750k	1) Base Amount: $[(650 + 500 + 400) / 3] \times 50\% = 258.3$ 2) $750 - 258.3 = 491.7$ 3) $491.7 \times 5\%$	\$24.6k
Prior Year Amounts			
2018	\$650k		
2017	\$500k		
2016	\$400k		

*ND alternative excess research and development expenses means the amount by which QREs incurred in ND exceed 50% of the average QREs incurred in ND for the 3 tax years preceding the tax year for which the credit is being claimed.