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KBKG TAX INSIGHT: ABA URGES IRS FOR PROPOSED REGULATIONS FOR R&D

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The [American Bar Association](#) (ABA) is calling on the [Internal Revenue Service](#) (IRS) to issue regulations regarding new tax filing procedures required by taxpayers to comply with a [Chief Counsel Memorandum](#) issued by the IRS on October 15, 2021. Effective January 10, 2022, these new procedures significantly expand the documentation required to accompany the filing of amended tax returns claiming [research & development \(R&D\) tax credits](#).

Last week, the ABA sent a letter to the IRS emphasizing the increased documentation burden on taxpayers to comply with the new procedures, including:

1. Listing all the qualified business components,
2. The qualified activities performed,
3. The individuals performing these activities, and
4. The information each individual sought to discover through the performance of qualified research.

This is a major shift in procedure, as a two-page [IRS Form 6765](#) was previously required to claim R&D credits on amended returns.

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The ABA stressed that taxpayers' compliance with the IRS' new procedure would result in higher tax preparation costs and could dissuade many taxpayers from claiming credits to which they are entitled. Since a Chief Counsel Memorandum is not authoritative guidance, the call for the Treasury Department to issue proposed regulations around these new filing procedures may be a way to ensure the interests of both the IRS and the taxpayer are addressed.

The Paperwork Reduction Act of 1995 requires the IRS to consider the cost-benefit to the taxpayer with complying with filing procedures. Proposed regulations may be the best way forward to ensure that the rights of the taxpayer are protected while providing the IRS the specificity it requires to ensure claims are properly filed.

In the meantime, taxpayers who want to file refund claims for the R&D credit will need to ensure their tax forms documentation is in order by addressing each of the requirements outlined in the Chief Counsel Memorandum. [KBKG's R&D Tax Credit Services](#) team is ready to help your clients calculate, document, and sustain their R&D credits for their amended claims and into the future.



About the Author



Michael Maroney – Director [Midwest](#)

Michael Maroney is a Director with KBKG at our [Chicago, IL office](#). He advises clients on tax matters related to federal and state [R&D tax credits](#). He has advised numerous Fortune 1000 clients across a variety of industries. He has successfully defended his client's R&D claims before the IRS and state taxing authorities. He has been an instructor on these topics for numerous CPA and industry associations and has authored articles related to federal and state R&D tax credits. » [Full Bio](#)