WEST VIRGINIA CODE CHAPTER 11 ARTICLE 13R

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§11-13R-1. Short title.

This article may be cited as the "West Virginia Strategic Research and Development Tax Credit Act".

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§11-13R-2. Legislative finding and purpose.

The Legislature finds that the encouragement of research and development in this state is in the public interest and promotes economic growth and development and the general welfare of the people of this state. In order to encourage research and development in this state and thereby increase employment and economic development, there is hereby provided a strategic research and development tax credit.

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§11-13R-3. Definitions.

(a) General. -- When used in this article or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section unless a different meaning is clearly required by either the context in which the term is used or by specific definition in this article.

(b) Terms defined. --

(1) "Base amount" means:

(A) The average annual combined qualified research and development expenditure for the three taxable years immediately preceding the taxable year for which a credit is claimed under this article;

(B) For a taxpayer that has filed a tax return under article twenty-three of this chapter for fewer than three but at least one prior taxable year, determined on the basis of all filings by the taxpayer's controlled group, the base amount is the average annual combined qualified research and development expenditure for the number of immediately preceding taxable years, other than short taxable years, during which the taxpayer has filed a tax return under article twenty-three of this chapter; or

(C) For a taxpayer that has not filed a tax return under article twenty-three of this chapter for at least one taxable year, determined on the basis of all filings by the taxpayer's controlled group, the base amount is zero.

(2) "Commissioner" and "Tax Commissioner" are used interchangeably herein and mean the Tax Commissioner of the State of West Virginia or his or her delegate.

(3) "Controlled group" means a controlled group as defined by section 1563 of the Internal Revenue Code of 1986, as amended.

(4) "Corporation" means any corporation, limited liability company, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(5) "Delegate" in the phrase "or his or her delegate," when used in reference to the Tax Commissioner, means any officer or employee of the State Tax Division of the Department of Tax and Revenue duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article.

(6) "Eligible taxpayer" means any person that is subject to the tax imposed by article twenty-three or article twenty-four of this chapter that is engaged in qualified research and development that has paid or incurred investment in qualified research and development

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credit property or that has paid or incurred qualified research and development expenses as defined in section four of this article. In the case of a sole proprietorship subject to neither the tax imposed by article twenty-three nor the tax imposed by article twenty-four, the term "eligible taxpayer" means any sole proprietor who is subject to the tax imposed by article twenty-one of this chapter and who is engaged in qualified research and development that has paid or incurred investment in qualified research and development credit property or that has paid or incurred qualified research and development expenses as defined in section four of this article.

(7) "Partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner" includes a member in such a syndicate, group, pool, joint venture or other organization.

(8) "Person" includes any natural person, corporation, limited liability company or partnership.

(9) "Qualified research and development credit property" means depreciable property purchased for the conduct of qualified research and development.

(10) "Research and development" means systematic scientific, engineering or technological study and investigation in a field of knowledge in the physical, computer or software sciences often involving the formulation of hypotheses and experimentation for the purpose of revealing new facts, theories or principles or increasing scientific knowledge which may reveal the basis for new or enhanced products, equipment or manufacturing processes.

(A) Research and development includes, but is not limited to, design, refinement and testing of prototypes of new or improved products or equipment or the design, refinement and testing of manufacturing processes before commercial sales relating thereto have begun. For purposes of this section, commercial sales includes, but is not limited to, sales of prototypes or sales for market testing.

(B) Research and development does not include:

(i) Market research;

(ii) Sales research;

(iii) Efficiency surveys;

(iv) Consumer surveys;

(v) Product market testing;

(vi) Product testing by product consumers or through consumer surveys for evaluation of

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consumer product performance or consumer product usability;

(vii) The ordinary testing or inspection of materials or products for quality control;

(viii) Management studies;

(ix) Advertising;

(x) Promotions;

(xi) The acquisition of another's patent, model, production or process or investigation or evaluation of the value or investment potential related thereto;

(xii) Research in connection with literary, historical or similar activities;

(xiii) Research in the social sciences, economics, humanities or psychology and other nontechnical activities; and

(xiv) The providing of sales services or any other service, whether technical service or nontechnical service.

(11) "Related person" means:

(A) A corporation, limited liability company, partnership, association or trust controlled by the taxpayer;

(B) An individual, corporation, limited liability company, partnership, association or trust that is in control of the taxpayer;

(C) A corporation, limited liability company, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this article, "control", with respect to a corporation, means ownership, directly or indirectly, of stock possessing fifty percent or more of the total combined voting power of all classes of the stock of the corporation entitled to vote. "Control", with respect to a trust, means ownership, directly or indirectly, of fifty percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust is determined in accordance with the rules for constructive ownership of stock provided in section 267(c) of the United States Internal Revenue Code of 1986, as amended, other than paragraph (3) of that section. (12) "Taxpayer" means any person subject to the tax imposed by article twenty-three or twenty-four of this chapter or both. In the case of a sole proprietorship subject to neither the tax imposed by article twenty-three nor the tax imposed

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by article twenty-four, the term "taxpayer" means any sole proprietor who is subject to the tax imposed by article twenty-one of this chapter. (13) "This code" means the Code of West Virginia, 1931, as amended.

(14) "This state" means the State of West Virginia.

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§11-13R-4. Annual combined qualified research and development expenditure, qualified research and development expenses.

(a) General. -- The annual combined qualified research and development expenditure is the sum of the applicable percentage of the cost of depreciable property purchased for the conduct of a qualified research and development activity, which is placed in service or use in this state during the taxable year, plus the amount of qualified research and development expenses (as defined in this section) deducted by the eligible taxpayer, for federal income tax purposes for the taxable year.

(b) Applicable percentage of the cost of depreciable property. -- For the purpose of subsection (a), the applicable percentage of the cost of depreciable property is determined under the following table:

If useful life is: The applicable percentage is:

Less than 4 years 33 1/3

4 years or more but less than 6 years 66 2/3

6 years or more 100

The useful life of any property for purposes of this section is determined by those methods as the Tax Commissioner may require as of the date the property is first placed in service or use in this state by the taxpayer.

(c) Placed in service or use. -- For purposes of the credit allowed by this article, property is considered placed in service or use in the earlier of the following taxable years:

(1) The taxable year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to the property begins; or

(2) The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

(d) Cost of property. -- For purposes of subsection (a) of this section, the cost of each property purchased for the conduct of a qualified research and development activity is determined under the following rules:

(1) Trade-ins. -- Cost does not include the value of property given in trade or exchange for the property purchased for conduct of the research and development activity.

(2) Damaged, destroyed or stolen property. -- If property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, then the cost of replacement property does not include any insurance proceeds received in compensation for the loss.

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(3) Rental property. -- The cost of property acquired by lease for a term of ten years or longer shall be one hundred percent of the rent reserved for the primary term of the lease, not to exceed twenty years.

(4) Property purchased for multiple use. -- The cost of property purchased for multiple business use, including direct use in the conduct of a qualified research and development activity, together with some other business or activity not eligible under this section, shall be apportioned between such activities. The amount apportioned to the conduct of the qualified research and development activity is considered to be eligible investment subject to the conditions and limitations of this section.

(5) Self-constructed property. -- In the case of self-constructed property, the cost thereof is the amount properly charged to the capital account for depreciation in accordance with federal income tax law.

(e) Qualified research and development expenses. -- For purposes of this section:

(1) "Qualified research and development expenses" means the sum of in-house and contract research and development expenses for qualified research and development allocated to this state, which are paid or incurred by the eligible taxpayer during the taxable year. In no event does "qualified research and development expenses" include:

(A) Any expense that must be capitalized and depreciated for federal income tax purposes, or any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent or quality of any deposit of coal, limestone or other natural resource, including oil and natural gas; or

(B) Any wage or salary expense for wages or salary reported on form W-2 for federal income tax purposes on which the personal income tax is imposed under article twenty-one of this chapter, and against which tax the credit allowed under this article is applied.

(2) "In-house research and development expenses" means:

(A) Wages paid or incurred to an employee for qualified services performed in this state by the employee;

(B) Amounts paid or incurred for supplies used in the conduct of qualified research and development in this state; or

(C) Amounts paid or incurred to another person for the right to use personal property in the conduct of qualified research and development in this state.

(3) "Qualified services" means services consisting of:

(A) Engaging in qualified research and development;

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(B) Engaging in the direct supervision or direct support of qualified research and development; or

(C) If substantially all of the services performed by an individual for the taxpayer during the taxable year consist of services meeting the requirements of paragraph (A) or (B) of this subdivision, the term "qualified services" means all services performed by the individual for the taxable year.

(4) "Supplies" means any tangible property other than:

(A) Land or improvements to land; or

(B) Property of a character subject to depreciation for federal income tax purposes.

(5) "Wages" has the meaning given to that term by section 3401(a) of the Internal Revenue Code of 1986, as amended. In the case of self-employed individuals and owner-employees (within the meaning of section 401(c)(1) of the Internal Revenue Code), the term "wages" includes the earned income (as defined in section 401(c)(2) of the Internal Revenue Code) of the employee. The term "wages" shall not include any amount taken into account in determining the federal targeted jobs credit under section 51(a) of the Internal Revenue Code.

(6) "Contract research and development expenses" means:

(A) In general, sixty-five percent of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research and development; and

(B) If any contract research and development expenses paid or incurred during any taxable year are attributable to qualified research and development to be conducted after the close of the taxable year, that amount is treated as paid or incurred during the taxable year during which the qualified research and development is conducted.

(7) "Qualified research and development" means research and development that occurs in West Virginia.

(8) Excluded property. -- Any property owned or leased by the taxpayer, the cost of which was the basis of a credit against tax taken under any other article of this chapter, does not qualify as property purchased for the conduct of a qualified research and development activity for purposes of this article.

(9) Excluded expense. -- Any expense paid or incurred by the taxpayer, which was the basis of a credit against tax taken under any other article of this chapter, does not qualify as a qualified research and development expense for purposes of this article.

(f) Research and development by colleges, universities and certain research and development organizations. -- In general, sixty-five percent of the amount paid or incurred by

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a taxpayer to a research institution as defined in this section for research and development to be performed by the research institution is treated as contract research and development expenses. The preceding sentence applies only if the amount is paid or incurred pursuant to a written research and development agreement between the taxpayer and the research institution.

For purposes of this section, the term "research institution" means any nonprofit educational organization which is an institution of higher education (as defined in section 3304(f) of the Internal Revenue Code of 1986, as amended), a West Virginia institution of higher education subject to the jurisdiction of a board described in article two-a, chapter eighteen-b of this code, or any other nonprofit organization exempt from federal income taxes which is organized and operated primarily to conduct scientific research and is not a private foundation for federal income tax purposes.

(g) Standards for determining qualified research and development expenses. -- In prescribing standards for determining which research and development expenses are considered to be qualified research and development expenses for purposes of this section, the Tax Commissioner may consider: (1) The place where the services are performed; (2) the residence or business location of the person or persons performing the services; (3) the place where research and development supplies are consumed; and (4) other factors that the Tax Commissioner believes relevant in determining whether or not the research and development expenses were made for qualified research and development, and depreciable property was purchased and used for qualified research and development, during the taxable year.

(h) Depreciable property. -- Purchases of depreciable property for the conduct of qualified research qualify as part of the annual combined qualified research and development expenditure for purposes of this article only if:

(1) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under section 267 or 707(b) of the United States Internal Revenue Code of 1986, as amended;

(2) The property is not acquired from a related person or by one component member of a controlled group from another component member of the same controlled group. The Tax Commissioner may waive this requirement if the property was acquired from a related party for its then fair market value; and

(3) The basis of the property for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(A) In whole or in part by reference to the federal adjusted basis of such property in the hands of the person from whom it was acquired; or

(B) Under section 1014(e) of the United States Internal Revenue Code of 1986, as amended.

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§11-13R-5. Amount of credit allowed.

The allowable credit is the greater of:

(1) Three percent of the annual combined qualified research and development expenditure; or

(2) Ten percent of the excess of the annual combined qualified research and development expenditure over the base amount.

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§11-13R-6. Application of credit.

(a) Credit allowed. -- Beginning in the year that the annual combined qualified research and development expenditure is paid or incurred, eligible taxpayers and owners of eligible taxpayers described in subsections (d) and (f) of this section are allowed a credit against the taxes imposed by articles twenty-three, twenty-four and twenty-one of this chapter, in that order, as specified in this section.

(b) Business franchise tax. -- The credit is first applied to reduce the taxes imposed by article twenty-three of this chapter for the taxable year, determined after application of the credits against tax provided in section seventeen of said article, but before application of any other allowable credits against tax.

(c) Corporation net income taxes. -- After application of subsection (b) of this section, any unused credit is next applied to reduce the taxes imposed by article twenty-four of this chapter for the taxable year, determined before application of allowable credits against tax.

(d) If the eligible taxpayer is a limited liability company, small business corporation or a partnership, then any unused credit after application of subsections (b) and (c) of this section is allowed as a credit against the taxes imposed by article twenty-four of this chapter on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by article twenty-four of this chapter that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(1) Small business corporations, limited liability companies, partnerships and other unincorporated organizations shall allocate the credit allowed by this article among their members in the same manner as profits and losses are allocated for the taxable year.

(2) No credit is allowed under this article against any withholding tax imposed by, or payable under, article twenty-one of this chapter.

(e) Personal income tax taxes. -- After application of subsections (b), (c) and (d) of this section, any unused credit is next applied to reduce the taxes imposed by article twenty-one of this chapter for the taxable year determined before application of allowable credits against tax of the eligible taxpayer.

(f) If the eligible taxpayer is a limited liability company, small business corporation or a partnership, then any unused credit after application of subsections (b), (c), (d) and (e) of this section is allowed as a credit against the taxes imposed by article twenty-one of this chapter on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by article twenty-one of this chapter that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

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(1) Small business corporations, limited liability companies, partnerships and other unincorporated organizations shall allocate the credit allowed by this article among their members in the same manner as profits and losses are allocated for the taxable year.

(2) No credit is allowed under this article against any withholding tax imposed by, or payable under, article twenty-one of this chapter.

(g) The total amount of tax credit that may be used in any taxable year by any eligible taxpayer in combination with the owners of the eligible taxpayer under subsections (d) and (f) of this section, and including any refundable credit claimed under subsection (i) of this section, may not exceed $2 million.

(h) Unused credit carry forward. –– Except to the extent excess credit is refunded as provided in subsection (i) of this section, if the credit allowed under this article in any taxable year exceeds the sum of the taxes enumerated in subsections (b), (c), (d), (e) and (f) of this section for that taxable year, the eligible taxpayer and owners of eligible taxpayers described in subsections (d) and (f) of this section may apply the excess as a credit against those taxes, in the order and manner stated in this section, for succeeding taxable years until the earlier of the following:

(1) The full amount of the excess credit is used; or

(2) The expiration of the tenth taxable year after the taxable year in which the annual combined qualified research and development expenditure was paid or incurred. Credit remaining thereafter is forfeited.

(i) Refundable credit for "small qualified research and development company". –– If the eligible taxpayer, including the controlled group, if a member of a controlled group, has gross revenues of not more than $20 million and a payroll of not more than $2,500,000, and the credit allowed under this article in any taxable year exceeds the sum of taxes enumerated in subsections (b), (c), (d), (e) and (f) of this section for that taxable year, the eligible taxpayer and owners of the eligible taxpayers described in subsections (d) and (f) of this section may claim for that year the excess amount as a refundable credit, not to exceed $100,000 per taxpayer, including owners and the controlled group, if applicable: Provided, That not more than $1 million of the unused credits described in this subsection may be approved for refundable credit by the Tax Commissioner during any fiscal year. Priority for approval of refundable credit is determined based on the filing date of the claim for refund with earlier claims having priority over later claims.

(j) Application for certification. -- No credit is allowed or may be applied under this article until the person seeking to claim the credit has filed a written application for certification of the proposed research and development program or project with the Tax Commissioner and has received certification of the research and development program or project from the Tax Commissioner pursuant to that written application. The certification of the program or project must be received by the eligible taxpayer from the Tax Commissioner prior to any

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credit being claimed or allowed for any annual combined qualified research and development expenditure for any research activity or project. This application shall be filed, in the form prescribed by the Tax Commissioner, no later than the last day for filing the tax returns, determined by including any authorized extension of time for filing the return, required under article twenty-one or twenty-four of this chapter for the taxable year in which the property to which the credit relates is placed in service or use, or the qualified research and development expenses to which the credit relates are incurred by the taxpayer, and all information required by the form shall be provided by the taxpayer.

(1) In the case of owners of eligible taxpayers described in subsection (d) or (f) of this section, the application for certification filed under this section by the limited liability company, small business corporation or partnership owned by the person is considered to be filed on behalf of the owner and no separate filing of the application is required of the owner.

(2) Form of application. -- The application for certification must be filed in the form as the Tax Commissioner prescribes and shall contain the information as the Tax Commissioner requires to determine whether the project should be certified as eligible for credit under this article.

(3) Time period covered by certification. -- The application may request certification of the research and development program for one taxable year or multiple taxable years, as applicable, based on the nature and character of the program or project plan for the particular research and development project or activity.

(4) Requirements for application. -- The application shall specifically set forth a written research and development program plan generally describing the nature of the research and development to be undertaken, the number and types of jobs, if any, created by the applicant as a direct result of the research and development program and the average wages and benefits paid to those employees, the projected time period over which the research and development shall be carried out, the period of time for which the applicant seeks certification of the program or project and other information as the Tax Commissioner requires.

(5) Certification. -- The Tax Commissioner may issue certification of a research and development program or project if it appears to the Tax Commissioner that the applicant intends to engage in a bona fide research and development activity, as described in this article, and will otherwise comply with the requirements of this article and all rules and requirements applicable thereto.

(6) Time period covered by certification. -- The Tax Commissioner may issue certification for the period of time for which the eligible taxpayer seeks certification or a different period of time, within the discretion of the Tax Commissioner. In his or her discretion, the Tax Commissioner may require that a separate application be filed for each tax year in which qualified research and development activity is to be undertaken or in which qualified

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research and development property is to be placed in service or use.

(7) Failure to file. -- The failure to timely file the application for certification of a research and development program or project under this section results in forfeiture of one hundred percent of the annual credit otherwise allowable under this article. This penalty applies annually until the application is filed.

(8) Research and development undertaken without certification. -- If a person has filed an application for certification of a research and development program or project and has failed to receive certification of the plan or program from the Tax Commissioner, no credit is allowed under this article for the research and development activity or investment relating thereto.

(9) Failure to comply with terms of certification. -- If a person has filed an application for certification of a research and development program or project and has received certification of the plan or program from the Tax Commissioner, but fails to conform to the terms of the certification, no credit is allowed under this article for the research and development activity or for investment in the research and development activity by the eligible taxpayer. This restriction may be waived by the Tax Commissioner upon a finding that the research and development undertaken was within the requirements of this article and that there was no intent to defraud the state or willful neglect in the applicant's failure to conform to the terms of the certification.

(10) Failure to comply with certification time restrictions. -- If a person has filed an application for certification of a research and development program or project and has received certification of the plan or program from the Tax Commissioner, but fails to conform to the time periods specified therein for the certified research and development program or project, or fails to renew the certification so as to cover ongoing or subsequent research and development activity, the research and development activity is out of compliance with the terms of the certification and no credit is allowed under this article for, or relating to, the research and development activity by any person or taxpayer. This restriction may be waived by the Tax Commissioner upon a finding that the research and development thus undertaken was within the requirements of this article and that there was no intent to defraud the state or willful neglect in the applicant's failure to conform to the terms of the certification.

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§11-13R-7. Forfeiture of unused tax credits; redetermination of credit allowed.

(a) Disposition of property or cessation of use. -- If during any taxable year, property with respect to which a tax credit has been allowed under this article:

(1) Is disposed of prior to the end of its useful life, as determined under section four of this article; or

(2) Ceases to be used in a qualified research and development activity of the taxpayer in this state prior to the end of its useful life, as determined under section four of this article, then the unused portion of the credit allowed for such property is forfeited for the taxable year and all ensuing years. Except when the property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, the taxpayer shall redetermine the amount of credit allowed in all earlier years by reducing the applicable percentage of cost of such property allowed under section four of this article, to correspond with the percentage of cost allowable for the period of time that the property was actually used in the qualified research and development activity of the taxpayer. The taxpayer shall then file a reconciliation statement with its annual return filed under article twenty-three of this chapter, for the year in which the forfeiture occurs and pay any additional taxes owed due to reduction of the amount of credit allowable for such earlier years, plus interest and any applicable penalties.

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§11-13R-8. Transfer of qualified research and development investment to successors.

(a) Mere change in form of business. -- Property may not be treated as disposed of under section seven of this article, by reason of a mere change in the form of conducting the business as long as the property is retained in a business in this state for use in qualified research and development, and the taxpayer retains a controlling interest in the successor business. In this event, the successor business is allowed to claim the amount of credit still available with respect to the property transferred, and the taxpayer (transferor) may not be required to redetermine the amount of credit allowed in earlier years.

(b) Transfer or sale to successor. -- Property may not be treated as disposed of under section seven of this article by reason of any transfer or sale to a successor business which continues to use the property in qualified research and development. Upon transfer or sale, the successor shall acquire the amount of credit that remains available under this article for each subsequent taxable year, and the taxpayer (transferor) may not be required to redetermine the amount of credit allowed in earlier years.

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§11-13R-9. Identification of investment credit property.

(a) Every taxpayer who claims credit under this article shall maintain sufficient records to establish the following facts for each item of qualified research and development property:

(1) Its identity;

(2) Its actual or reasonably determined cost;

(3) Its straight-line depreciation life;

(4) The month and taxable year in which it was placed in service;

(5) The amount of credit taken; and

(6) The date it was disposed of or otherwise ceased to be qualified research and development property.

(b) Every taxpayer who claims credit under this article shall also maintain sufficient records to establish the number and types of new jobs, if any, created, the wages and benefits paid to employees filling the new jobs and the duration of each job.

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§11-13R-10. Failure to keep records of qualified research and development credit property.

A taxpayer who does not keep the records required for identification of qualified research and development credit property, is subject to the following rules:

(1) A taxpayer is treated as having disposed of, during the taxable year, any qualified research and development credit property which the taxpayer cannot establish was still on hand and used in qualified research and development activity at the end of that year.

(2) If a taxpayer cannot establish when qualified research and development credit property reported for purposes of claiming this credit returned during the taxable year was placed in service, the taxpayer is treated as having placed it in service in the most recent prior year in which similar property was placed in service, unless the taxpayer can establish that the property placed in service in the most recent year is still on hand and used in qualified research and development activity at the end of that year. In that event, the taxpayer will be treated as having placed the returned property in service in the next most recent year.

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§11-13R-11. Tax credit review and accountability.

(a) Beginning on February 1, 2006, and on February 1 every third year thereafter, the commissioner shall submit to the Governor, the President of the Senate and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of the credit allowed under this article during the most recent three-year period for which information is available. The criteria to be evaluated includes, but is not limited to, for each year of the three-year period:

(1) The numbers of taxpayers claiming the credit;

(2) The net number, type and duration of new jobs created by all taxpayers claiming the credit and wages and benefits paid;

(3) The cost of the credit;

(4) The cost of the credit per new job created;

(5) Comparison of employment trends for the industry and for taxpayers within the industry that claim the credit; and

(6) The amount of excess credit refunded to small qualified research and development companies pursuant to subsection (i), section six of this article.

(b) Taxpayers claiming the credit shall provide information as the Tax Commissioner requires to prepare the report: Provided, That the information shall be subject to the confidentiality and disclosure provisions of sections five-d and five-s, article ten of this chapter.

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§11-13R-12. Effective date.

The provisions of this article become effective on January 1, 2003, and apply only to qualified investment made on or after that date, except that the amendments to this article enacted in two thousand four shall become effective for taxable years beginning on or after July 1, 2004, and apply only to unused credit attributable to qualified investment made on or after that date and prior to January 1, 2008.

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§11-13R-13. Expiration of tax credit.

The Strategic Research and Development Tax Credit Act terminates on January 1, 2014, and no credit is available to any taxpayer for any qualified investment or expenditure made on or after that date. Taxpayers which have gained entitlement to the credit pursuant to qualified investment or expenditure prior to January 1, 2014, retain that entitlement and may apply the credit pursuant to the requirements and limitations of this article.

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