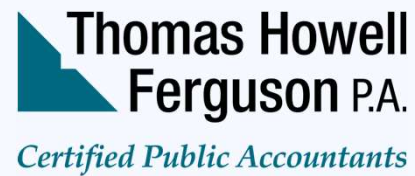


# The Tax Impact

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## THE TAX IMPACT

Insurance industry hot topics:

- Section 174 regulations
- Tax Sharing Agreements
- Other items

## SECTION 174

- Specified Research & Experimental expenditures (SRE)
- Before the TCJA amendments
- For tax years beginning Jan. 1, 2022
- Notice 2023-63 published on September 8, 2023

## SECTION 174

- Capitalization and amortization of SRE expenditures
- Scope of Section 174
- Software development
- Research under contract
- Disposition, retirement, or abandonment of property
- Long-term contracts
- Cost-sharing regulations

## SECTION 174

- Requirement to capitalize and amortize
- Definition of SRE expenditures
- Identification and allocation of SRE expenditures
- Costs that are incident to SRE activities:
  - Labor Costs
  - Materials and supplies costs
  - Cost recovery allowances
  - Patent costs
  - Certain operation and management costs
  - Travel Costs
  - Costs NOT treated as SRE

## SECTION 174

- Software Development
- Activities treated as software development:
  - Planning
  - Designing
  - Building a model
  - Writing source code
  - Testing
- Activities NOT treated as software development

## SECTION 174

- Research Performed under contract
- Disposition, retirement, or abandonment of property
- Transactions in which corporation ceases to exist
- Interplay with Section 41 R&D credits

## TAX SHARING AGREEMENTS

- Tax Sharing Agreement – a contract allowing a parent company with subsidiaries to file a consolidated tax return that satisfies the tax liability of all entities together.
- Consolidated tax return
- Appoint an agent
- Who is included
- How and when tax settlement occurs



# TAX SHARING AGREEMENTS

## PERCENTAGE METHOD

Adjust consolidated group members in real time when an attribute generated by a member is absorbed by another, even if the entity generating the attribute could not use the on a separate company basis.

Parent	0	0
Sub 1	(5M)	(1M)
Ins. sub	<u>10M</u>	<u>2M</u>
CONS TI	5M	tax 1M

## WAIT AND SEE METHOD

Adjusts members based on what they would have incurred on a stand-alone basis. A member is not compensated for the use of their attributes until they would have been able to utilize them.

Parent	0	0
Sub 1	(5M)	0
Ins. sub	<u>10M</u>	<u>1M</u>
CONS TI	5M	1M

# TAX SHARING AGREEMENTS

- Example 1

Cons total	Parent	Sub 1	Sub 2	Ins Co 1	Ins Co 2
(65M)	2M	8M	20M	(15M)	(80M)
5M	1M	5M	9M	10M	(20M)

## OTHER ITEMS

- Financial reporting of Employee Retention Credit
  - IRS announcement
  
- Section 832(c)(5) abnormal losses

# Questions?

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