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I am always in awe when I run across a company that could have used the Research and Development Credit and didn't. Now with the TCJA, the potential for these credits is astronomical. For example, let's say you have a company that designs video games, they aren't making a profit. As we all know a credit is a dollar for dollar credit against any tax liability. They may not think they can use the credit. However, with the TCJA, the credit can be carried forward. Further, the credit can be used to offset FICA Taxes, provided the company has less than \$5 million in gross receipts, and have no more than five years of gross receipts.

Now that I have your attention, let's see what industries qualify.

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- Forest Products
- Health Care (including cannabis)
- Life Sciences
- Manufacturing and Consumer Products (including cannabis)
- Professional Services
- Retail
- Technology
- Wineries and Vineyards

Companies that qualify is any company that may encounter and resolve technical challenges may qualify for the R&D Credit.

So let's get back to how this can be used for cannabis. Cultivators, and extractors are always looking for the highest THC content, and working to get the best strains of cannabis. However Section 280E gets in the way of any credits that can be taken.

The work around is that a second company is started offsite, that does the R&D for the cannabis company. It then sells the information back to the cannabis company. The R&D company isn't a Section 280E company because it is just selling information.

I am always ambiguous in my articles, because I would prefer not to compete with someone, but anytime you split off the functions of a cannabis business, it has to be done correctly, and can't masquerade as a Section 280E company.

Now back to other functions of the R&D Credit. I picked up a Video Game Designer because his CPA, didn't know about this powerful credit. They currently didn't have a profit, but the credit was used to offset FICA taxes, and can be carried forward 20 years. If this company was California based they could sell their state credit for about \$0.85 on the dollar to another company.

In order to prove the R&D Credit, as you can go back to open years and apply it, the

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Technology

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