THE R&D TAX CREDIT ROUNDTABLE

presented by MASSIE

EXECUTIVE SUMMARY

DATE: Wednesday, July 19, 2017
TIME: 3:00pm-4:00pm EST

ATTENDEES: AT&T, Walmart, Siemens, HCA, Bayer, NCR, Northrop Grumman, Medtronic, Commscope, Superior Essex, Kellogg's, Oracle, Stanley Black & Decker, Hormel, Monsanto, Adtran, Jet Blue, Lockheed Martin, Cohu, Duke Energy, Nilfisk, Intercept, MSCI, Domtar, Blackbaud, AGCO, Mission Pharmacal, Liaison Technology, Schlumberger, Paccar, Caterpillar

SPEAKERS: Jason Massie and Peter Green of MASSIE R&D Tax Credits, Alpharetta, GA
Matthew Lerner of Sidley Austin, Washington, D.C.
Eva Laurence of AT&T, San Antonio, TX

AGENDA:

1. INTRODUCTIONS AND INDUSTRY OVERVIEW

   Peter Green and Jason Massie
   Massie R&D Tax Credits, Alpharetta, GA

2. WASHINGTON UPDATE- SPECIAL REPORT

   Matthew Lerner
   Sidley Austin LLP, Washington, D.C.

3. MEMBER SPOTLIGHT

   Eva Laurence
   AT&T, San Antonio, TX

4. MEMBER BEST PRACTICES

   Open Forum led by Peter Green and Jason Massie
   Massie R&D Tax Credits, Alpharetta, GA

- Peter Green opened the Roundtable Meeting and introduced our featured speakers and attendees.

- Jason Massie noted that Bloomberg BNA was having the annual R&D Tax Credit Symposium in Washington, D.C. on September 18th and members can find a link to sign-up on the www.massietaxcredits.com website. MASSIE will be hosting dinners for Roundtable Members the night before the Symposium, September 17th, which is a Sunday night for those coming into DC early, and another dinner on the 18th after the event has concluded for those unable to attend the previous night. MASSIE will be sending out invites to the dinners to Roundtable Members soon, so save the dates!

Note: MASSIE is not associated with the Bloomberg event, but Peter Green and Jason Massie are on the faculty of the symposium covering Best Practice topics.

COMING EVENTS

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ROUNDTABLE DINNERS

Sunday, September 17, 7:30 p.m.

OR

Monday, September 18, 7:00 p.m.

- Jason Massie was the first presenter for the Roundtable.

- Jason travels around the country speaking to TEI groups, consulting on R&D studies, and studying best practices of some of the largest taxpayers in the country. What he has noticed is that some taxpayers are not properly preparing for potential IRS or state examinations.

- His advice:
  1. Don't think a prior year study will be accepted by the exam team for a current audit.
  2. Be sure to document as many projects/business components as possible because each IRS exam team is different in terms of what they will review.
  3. The IRS is swearing in SMEs during interviews and taxpayers are not preparing the interviewees for the types of questions being asked.

- Next up was Matt Lerner from Sidley Austin in Washington, D.C.

- On the legislative front, Matt confirmed that it doesn't appear any tax reform being discussed will impact the R&D tax credit which is good news. He did state that the IRS appears to be auditing more R&D tax credit claims, continuing to use MITRE for internal use software exams. The most troubling thing, however, is that the IRS is starting to conduct more "formal" SME witness interviews. Jason had alluded to this earlier, but Matt went into more detail about procedurally how these are handled, what taxpayers should do, and how to prepare SMEs for the interviews.

- His advice:
  1. If you can get the exam team to accept the SME providing written answers to IRS questions, then try to go this route to avoid surprises that can come from live testimony sworn under oath.
  2. If interviews are certain, negotiate up front the number of interviews, length, scope, and whether recorded or transcribed.
  3. Decide carefully who will be your witness, remind them that they can take breaks if needed, and always tell them to be honest no matter what.

- Jason reiterated after Matt's presentation that this was all very scary, and that taxpayers need to realize that we've only heard about this happening in a few cases. But the point is that everybody needs to be aware of what is going on and if interviews are requested you need to be on guard for everything.

- Jason followed with a slide dealing with suggestions on how to make your SME more comfortable during the study. Following some of these tips will put your SME at ease, provide them with more information, and ultimately make their interview a better experience.

MASSIE BEST PRACTICE TIP

New Interview Methods require New SME Procedures.

We are advising our clients to consider:

AAA Education Sessions (Attend, Acknowledge, Accept)

Recommend you have all new hire SMEs attend the first year, and have all-hands attend any time you implement new process, or every three years.

Guidebooks

Prior to having an SME interview, survey, or other information gathering, send them more information about Code and Reg requirements, exactly what you need them to do, and how they can help you.

Time Allocation Templates

Rather than just providing an R&D % for each person, consider whether SMEs more comfortable using a template.

- The last speaker was Eva Laurence, from AT&T in San Antonio, TX.

- Eva discussed the challenges in dealing with a company that has over 246k employees, acquires over 5 patents a day, and has 5 innovation centers throughout the country. Eva explained that AT&T has seen it all from CAP to MITRE, to acquisitions and dispositions, to time tracking and allocations, to interviews or surveys.

- Key takeaways:
  1. They call it Research and Experimentation and use the word Innovation, rather than R&D. Some scientists, engineers, IT people don't believe they do "traditional R&D."
  2. They use higher level SVPs, EVPs and others in leadership to push R&D tax credit study information to the lower levels, asking them to participate and creating a level of importance of the project.
  3. They have a very organized folder structure and process in how surveys are rolled out so they aren't rushed, and the detailed project workplan, timeline, and outline are also organized into work streams.
  4. They work closely with their PMO office to schedule meetings, and gather facts and documentation.
  5. They maintain a list of stakeholders and update it frequently to ensure executive sponsorship for the study.
  6. They send 'thank you' messages and ecards to supervisors and participants to let them know their time was appreciated.
  7. They work hard to make sure information in the public eye is gathered - such as white papers, articles re: organizational or product announcements.

- At this point we ran out of time as we are sure Eva and her project team who were also on the call, could have gone on more about the great process they have and the struggles they endure from being such a large and dynamic company.

- Peter closed the meeting reminding members to sign up for the Bloomberg event in September and to participate in one of the 2 MASSIE dinners being offered. He also commented that the next Roundtable meeting will be in November.