

ROUNDTABLE WHITE PAPER

WEDNESDAY, FEBRUARY 24TH, 2021 | 3:00-4:00PM ET

Q1 ROUNDTABLE
FEBRUARY 2021

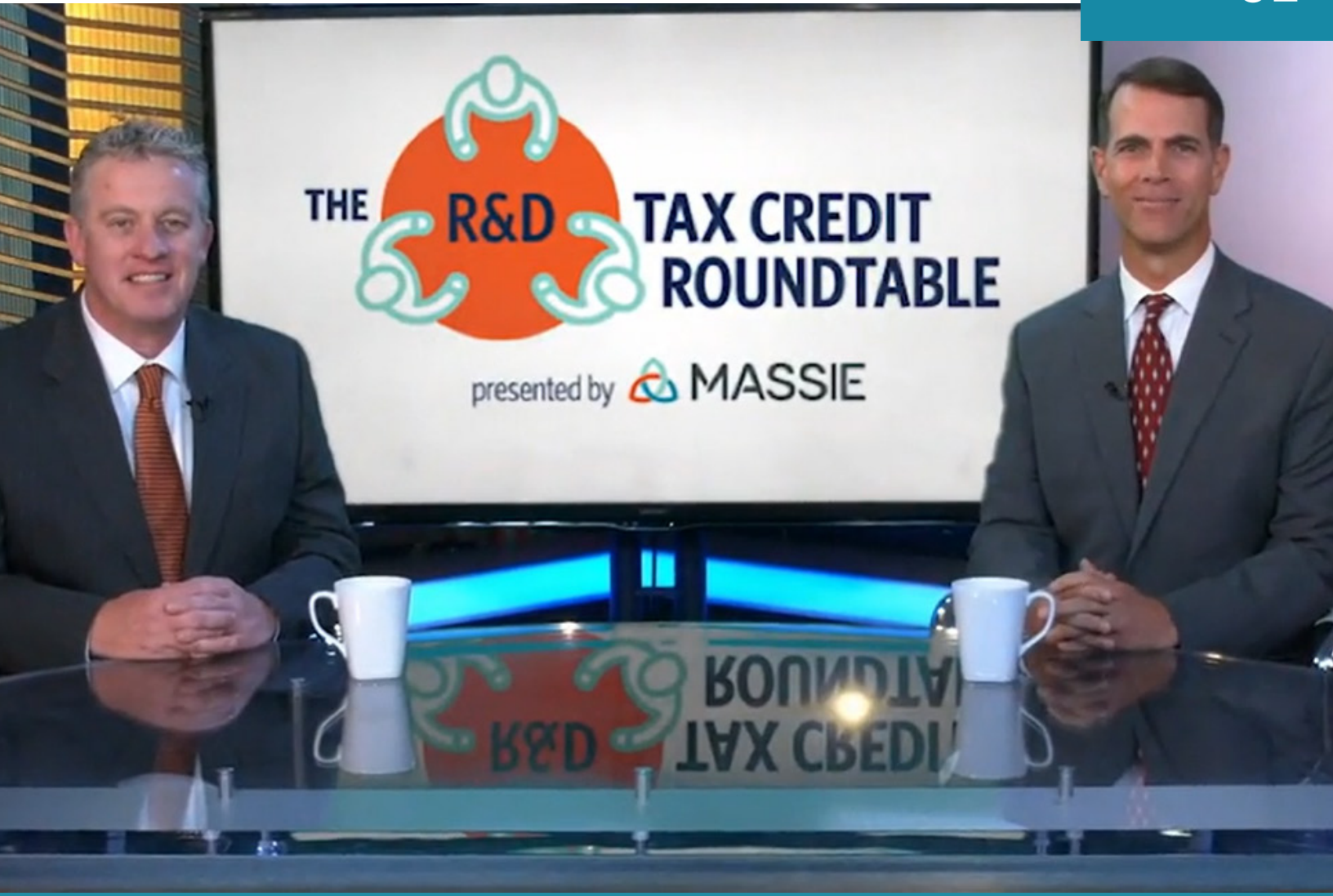
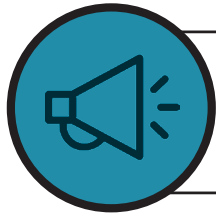


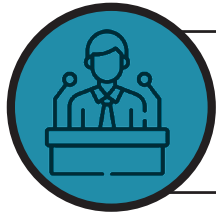
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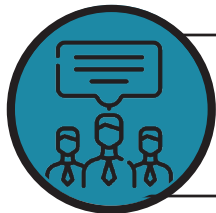
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D.C. Update and Additional Case Coverage

Jeff Moeller of Ivins Phillips Barker
Jason Massie of MASSIE R&D Tax Credits

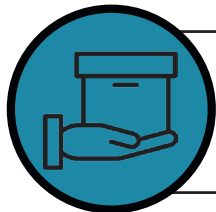
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Mega Millions Spotlight

Dan Mansfield of MASSIE R&D Tax Credits

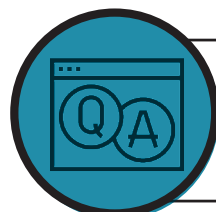
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Employee Retention Credit

Tanja Kurtz of MASSIE R&D Tax Credits

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Next Webinar

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Companies Who Attended

3M
Acxiom + IPG
Advanced Micro Devices, Inc.
AGCO Corporation
Albemarle Corporation
Alexion Pharmaceuticals Inc
Amazon
Arbor Pharmaceuticals
Ascensia Diabetes
ATI
Atlas Copco
ATPCO
Autodesk
Axcelis Technologies, Inc.
Baker Hughes
Balfour Beatty Management Inc.
Ball Corporation
Bandwidth
BASF Corporation
Beta Alpha Psi
BeyondTrust Corporation
bioMerieux, Inc.
Black Hills Corporation
BMC
Bridgestone
Brunswick
Builders FirstSource
Buzzi Unicem USA
C Spire
Cambrex Corporation
Cavco Industries, Inc.
Cerner
Church & Dwight
Circle K
Cisco
Clark Equipment Company
Cognizant Technology Solutions Corporation
CommScope, Inc.
Constellation Brands
Corteva
Cox
Cummins Inc
CVS Health Corporation
Daktronics, Inc.
Deere & Co
Deluxe Corporation
Dexcom
Digicert, Inc.
Doosan Bobcat North America
Doterra
Dow, Inc.
EA
Eastman Chemical Company
Encompass Health Corporation
Envision Healthcare
Equinox
Fossil
FUJIFILM Holdings America Corporation
Fulton
Genesys Telecommunications
Glidewell Laboratories
Globus Medical
Granite Telecommunications, LLC
Gulfstream Aerospace Corp
Hella
Henkel
IDEMIA
Infor
InterContinental Hotels Group (IHG)
Interface
International Vitamin Corporation
Ivins Phillips Barker
JBT Corporation
Johnson Outdoors
KARL STORZ Endoscopy-America, Inc.
Konecranes
Lam Research
Lantheus Medical Imaging, Inc.
LDC, LLC
Lear Corporation
Leggett & Platt, Incorporated
Legrand North America
Lockheed Martin Corporation
Louis Dreyfus Company
Luminex Corporation
MACOM Technology Solutions
Macy's
Magic Leap
Mailchimp
McCormick & Company, Inc.
MediaNews Group, Inc.
Medtronic
Meredith Corporation
Microchip
Micron Technology, Inc.
Midmark Corporation
Milliken & Co.
MKS Instruments Inc
Mohawk Industries, Inc.
MSCI
Mueller Industries, Inc.
Natus Medical Incorporated
NCR Corporation
Neenah Inc.
Nemak
Neurocrine
NewMarket
Nexteer Automotive
NextEra Energy
Norfolk Southern
Northrop Grumman
Nouryon Chemicals LLC
O&M
Oerlikon
Oerlikon Metco US
Old Dominion Freight Line, Inc.
Omnicell
OnSolve
Owens & Minor
Powell Industries
PPD
PulteGroup
Quadient Inc.
Reckitt Benckiser
Rehrig Pacific Company
Rich Products Corp.
S C Johnson & Son, Inc.
Sanofi
Sempra Energy
SMC Ltd
Smith Drug Company
Southwire Company
Stanley Black Decker Inc
Starkey
Steris Corp
Sun Life Financial
SurveyMonkey
Swedish Match USA
Schweitzer -Maudit International
Tate & Lyle Americas LLC
Teladoc Health, Inc
Thales
The Andersons Inc
The Coca-Cola Company
The Hartford
The Suddath Companies
The Toro Company
The Wonderful Company
TOKYO ELECTRON AMERICA INC
Transocean
TSI
Two Sigma Investments, LP
Udata Partners
Victaulic
Viking Yachts
Vonage America LLC.
Wells Fargo
Western Digital
Weyerhaeuser Company
Winter Construction
ZOLL Medical Corporation



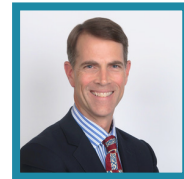
MASSIE Notes



Introductions and Announcements

Jason Massie and Peter Green
MASSIE R&D Tax Credits

- Peter Green and Jason Massie opened the Roundtable and introduced the agenda items and featured speakers
- MASSIE R&D Tax Credits would love to partner with your tax organization to deliver fresh and relevant content to your members in a fun and lively CPE accredited webinar. MASSIE has teamed up with Morgan Lewis and Duff & Phelps to offer a variety of content options. For more information please contact our Marketing Coordinator, Jillian Holmes, at jholmes@massietaxcredits.com



Jason Massie



Peter Green



D.C. Update

Jeff Moeller
Ivins Phillips Barker

- Key Points
 - Capitalization and 5-year amortization of section 174 expenses will take effect for taxable years beginning after December 31, 2021. Both Jeff and Jason believe that it may be tough to get a stand-alone tax bill enacted to address this issue. However, if COVID and relief measures start to die-down throughout the year then Congress may be able to focus on other domestic issues. Jeff recommends looking now at how to characterize expenses and weigh immediate deductions against possible loss of the research credit. Jason fears that many taxpayers will have to model the impacts of capitalization and we may not get relief until next year.
 - LB&I “Campaigns” against taxpayers with research credits has gotten a slow start out of the blocks. It does not look like it will be the return of the Tier system, thankfully. But little activity reported so far, so stay tuned.



Jeff Moeller



- Couple of interesting cases decided in the past two months.
- Tangel v. Commissioner, T.C. Memo 2021-1 (Jan 11, 2021) (J. Lauber). Custom machinery developer denied credit for lack of “substantial rights.” Contract terms were boilerplate and written on the customer’s paper and customer gained all rights related to machinery. Court did not believe taxpayer had retained substantial rights. Sad situation given that nobody got to claim a credit for research done related to the product. Jeff notes to “Check your contracts.” Jason advises for tax people to take this case to legal or procurement to help point out why tax should be involved in the planning for large contracts.
- Little Sandy Coal Co. v. Commissioner, T.C. Memo 2021-15 (Feb 11, 2021). Taxpayer developed 11 sea vessels with “design spiral” issues. Taxpayer relied on all or nothing approach from Trinity case. Court looked at two projects and determined that substantially all applies to activities, not physical elements of the business component. Qualified support and supervision are not part of the process of experimentation. Production of a prototype not itself qualified research (insufficient nexus; can be qualified support). First in class vessel not necessarily a pilot model. Both Jeff and Jason find this case troubling as court appeared to undo the taxpayer-friendly Trinity result.
- Ivins, Phillips & Barker | 1717 K Street, N.W., Suite 600, Washington, D.C. 20006 | 202-393-7600 (office) | jmoeller@ipbtax.com



Additional Case Coverage

Jason Massie
MASSIE R&D Tax Credits

- Tangel v. Commissioner - we saw Populous Holdings case a few years ago. Two different results with some minor factual differences.
- Little Sandy Coal Co. v. Commissioner - It’s easy to compare Siemer Milling to Little Sandy. Siemer Milling seemed short on evidence and did not appear to have great technical witnesses. Little Sandy had 1,700 exhibits and technical witnesses. The court seemed to place more weight on the testimony rather than the exhibits.
- Both Tangel and Little Sandy represent taxpayer losses. This is not a good start for the good guys in 2021. You need to plan now how to make sure these two cases don’t ensnare your credit into a controversy battle.



Jason Massie



MASSIE Notes



Mega Millions Spotlight

Dan Mansfield
MASSIE R&D Tax Credits



Dan Mansfield

- This segment is a four part series by Dan Mansfield on Best Practices for Large R&D Claims (\$20 million or more).
- Summary:
 - Number one of a four-part series on best practices for managing large (\$20m +) credit claims
 - Major components of process
 - Year End Review/Planning (1Q Roundtable)
 - SME Engagement (2Q Roundtable)
 - Execution (3Q Roundtable)
 - Wrap Up (4Q Roundtable)
- Tax Provision can be used to develop baseline for analysis and validation of actuals
- Three approaches to Provision
 - High level ... extrapolation of historical credit
 - Hybrid ... actual flexed against PY QRE %'s
 - Detail ... real time QRE data
- Comparing prior year actuals to current year actuals helps identify errors or QRE improvements
- Comparison also allows for feedback to the business ... SMEs can be the biggest champions
- Changes to the business can significantly impact the process
- Internal reorganizations are often problematic
 - New Departments
 - SME Turnover
 - New (recycled) Projects
 - Changing Business Units/Segments
- The ability to react to the changes depends upon cycle of survey (Annual, Quarterly, Monthly)



- Recommended to have Champions or Coordinators to help with process
 - Individuals located in the business
 - Not tax experts ... business experts
 - Liaisons between Tax and Business
- Important to set the survey process right
 - Minimizes SME frustration
 - Makes for a smoother survey process
 - Establishes credibility with the SME's and process
- Key Takeaways
 - Leverage provision and estimates to understand results
 - Look for trends, errors and opportunities
 - Business is constantly changing
 - Partnership between Business and Tax



Employee Retention Credit

Tanja Kurtz
MASSIE R&D Tax Credits



Tanja Kurtz

- Payroll tax credit that is refundable. There were changes that are favorable between 2021 and 2020. If you had PPP in 2020, you may go back and take the ERC credit as well. But you cannot get the credit on the same wages.
- In 2020, needed full or partial closure due to gov't shutdowns or experienced severe decline 50% or more in gross receipts. 2021, same rules but now gross receipts test is only 20% decline. Compare 2021 back to 2019. Aggregation rules to apply.
- Most significant change is credit value. 2020 it was up to \$10k in wages for all quarters. 2021, wage cap amended to be \$10k per quarter. So max credit goes from \$5k up to \$14k. Big change!
- 2020, large business defined as over 100 employees, and this was adjusted to 500 or more for 2021. Still can take credit if over 100 or over 500 but need to more closely look at the rules. Much easier to qualify if a smaller employer.



MASSIE Notes

- Lots of questions about furloughs or vacations. Need to review PTO policies.
- ERC impact on R&D credit: 2021 only- Denial of double benefit. Taxpayers claiming both ERC and R&D, as well as some other credits, are prohibited from taking both credits on the same wages. There are strategies because the wage base is not the same for ERC when compared to R&D. There are ways to maximize both credits. Please reach out to MASSIE to schedule a call with our team on this.
- Refer to Employee Retention Credit information presented on pages 9 and 10.



Next Webinar



R&D Tax Credit Best Practice Roundtable

Thursday, June 24th at 3pm ET

Complimentary | 1 CPE Credit

Sign up today, visit: massietaxcredits.com/roundtable/the-r-d-tax-credit-roundtable



EMPLOYEE RETENTION CREDIT



Employee Retention Credit (ERC)

The Internal Revenue Service urges employers to take advantage of the newly extended Employee Retention Credit, designed to make it easier for businesses that, despite challenges posed by COVID-19, choose to keep their employees on the payroll. This incentive is taken as a credit against a company's payroll taxes on their 941 filing.

Who Qualifies?

Employers that carry on a trade or business that meet either of the following criteria in either year:

2020 Qualifications

- Full or Partial closure due to government issued shutdown orders, limiting commerce, travel, or group meetings.
- Or
- Significant decline in Gross Receipts (50% or more as compared to the same quarter in 2019; eligibility ends when decline is less than 20%).

2021 Qualifications

- Full or Partial closure due to government issued shutdown orders, limiting commerce, travel, or group meetings.
- Or
- Significant decline in Gross Receipts (20% or more as compared to the same quarter in 2019).

Note: Under the CARES Act, businesses that elected to take PPP loans were not eligible to take the ERC credit. This provision was repealed retroactively with the passage of the Consolidation Appropriation Act of 2021.

How Much is the Credit Worth?

2020 Qualifications

- 50% of qualifying wages, per employee per quarter, up to \$10,000 when aggregated for all quarters.
- Maximum credit = \$5,000 per employee

2021 Qualifications

- 70% of qualifying wages, up to \$10,000 in wages per employee per quarter, up to two quarters.
- Maximum credit = \$28,000 per employee

Note: If the company qualifies for the credit in both 2020 and 2021, the credit could be as much as **\$33,000 per employee.**

What are Qualifying Wages?

2020 Qualifying Wages

Under 100 Employees:

- Wages paid to employees during the suspension of operations or period of significant Gross Receipts decline.

Over 100 Employees:

- Wages paid to employees while they are not performing services during the suspension of operations or period of significant Gross Receipts decline.

2021 Qualifying Wages

Under 500 Employees:

- Wages paid to employees during the suspension of operations or period of significant Gross Receipts decline.

Over 500 Employees:

- Wages paid to employees while they are not performing services during the suspension of operations or period of significant Gross Receipts decline.

Note: Qualified wages must exclude wages that were paid with PPP loan.

About MASSIE Tax Credits

For the past 16 years, MASSIE has been a leader in the tax credit industry specializing in R&D Tax Credits, Disaster Relief Tax Credits and COVID-19 Payroll Credits. Our team of tax professionals includes CPAs, Tax Attorneys, and Industry Experts.

We do the work for you, expertly prepared, with no money left on the table.

10+ YEARS

Locations around the US

Our project managers have extensive R&D Tax Credit experience

Our clients LOVE us and our people LOVE what they do.

ATLANTA | AUSTIN | CHICAGO | DENVER | GREENVILLE | LOS ANGELES | MOBILE | NEW YORK | TAMPA | SEATTLE

GET THE CREDIT YOU DESERVE

For more detailed information on how MASSIE can help maximize your tax credits we invite you to visit massietaxcredits.com/ERC. Or, better yet, give us a call and talk to one of our tax experts in person.

HOW TO REACH US

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