

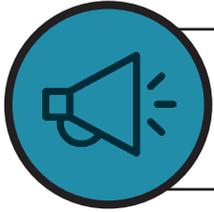
ROUNDTABLE WHITE PAPER

WEDNESDAY, MAY 20, 2020 | 3:00-4:00PM EST

Q2 ROUNDTABLE
MAY 2020



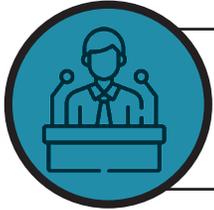
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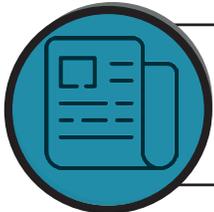
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D.C. Update and 174 Planning

Les Schneider
Ivins Phillips Barker

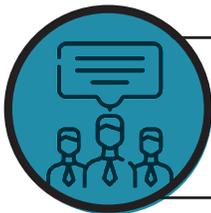
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How To Create a More Efficient Process and Reduce Big 4 Fees

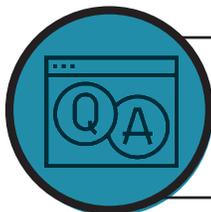
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Companies Who Attended

Abiomed, Inc
Acxiom + IPG
Alexion Pharmaceuticals Inc
Alorica
AMH
Analog Devices
Aptean Inc
ASML
ATI
Axcelis Technologies Inc
Bakkavor
Ball Corporation
Bandwidth Inc
Best Buy
Blackbaud
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Brunswick Corporation
BSAM
Buzzi Unicem USA
C Spire
Caterpillar Inc
Cavco
Ciena
Cisco
Clark Equipment Company
CommScope Inc
Constellation Brands
Core Scientific Inc
Corteva
Cummins Inc
Danfoss Power Solutions Company
Doosan Bobcat North America
Doterra International
Dow Inc
Eastman Chemical Company
EDF Renewables Inc
EMD Millipore
Fender Musical Instruments Corporation
Fremont Bank
Gigamon Inc
Granite Telecommunications LLC
Gulfstream Aerospace Corporation
H&M Shared Services Inc
Harley-Davidson
HCA
IDEMIA
IHG
Imerys
Infor
Intuit Inc
Johnson Outdoors
Karl Storz Endoscopy-America
Kinder Morgan Inc
Konecranes Inc
L.B. Foster Company
L3Harris Technologies Inc
Leggett & Platt Inc
Libbey Glass Inc
Lockheed Martin Corporation
Lowe's Companies Inc
MACOM Technology
Macy's
MEDHOST
Micron Technology Inc
Midmark Corporation
Mitsubishi Tanabe Pharma
Molina Healthcare Inc
Motion Industries Inc
Nemak
NewMarket
NextGen Healthcare
Northrop Grumman
Novartis
Nuance Communications
Old Dominion Freight Line Inc
PACCAR
Pacira Pharmaceuticals Inc
Parata Systems
Pioneer Natural Resources
Quadient Inc
RB
RBC
Red Gold
Renfro Corporation
Rich Products Corporation
Saft America Inc
Sempra Energy
Shaw Industries Group
Siemens Corporation
Sirius Computer Solutions Inc
Stanley Black & Decker Inc
Starkey Hearing Technologies
STERIS Corporation
Suddath
Swedish Match North America
Targa Resources
Tate & Lyle
TEL FSI
Teladoc Health Inc
The Wonderful Company
Transocean
Tribune Publishing Company
ULA
Victaulic
West Corporation
Western Alliance Bank
Western Digital 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 and 174 Planning

Les Schneider
Ivins Phillips Barker

- Biographical Sketch and Contact Information: Les Schneider
 - Mr. Schneider is one of the leading attorneys in the United States in the area of tax accounting and inventories. He is one of the managing partners in the Washington, D.C. law firm of Ivins, Phillips & Barker which represents a significant number of Fortune 500 Companies. Mr. Schneider has been ranked in the top band by attorney rating services and was named the outstanding tax lawyer in Washington, D.C. by Best Lawyers
 - Formerly, Mr. Schneider was the Special Assistant to the Assistant Secretary for Tax Policy at the Treasury Department. Earlier, he served as an Attorney-Adviser in the Treasury's Office of Tax Legislative Counsel. In addition, Mr. Schneider was an Adjunct Professor of Income Tax Accounting in the Graduate Tax Program at Georgetown University Law Center. Mr. Schneider graduated from Georgetown University Law Center, where he served as an editor of the Law Journal. He is a member of the Bars of the District of Columbia and Maryland and a certified public accountant. Mr. Schneider is the author of the three-volume treatise entitled Federal Income Taxation of Inventories which is published by Matthew Bender
 - Ivins, Phillips & Barker | 1717 K Street, N.W., Suite 600, Washington, D.C. 20006 | 202-393-7600 (office) | 301-785-0294 (mobile) | LSchneider@ipbtax.com



Les Schneider



- Idea One: Retroactively Reclassifying Costs as Section 174 Costs
 - Nature of Problem: It is frequently the case that a taxpayer determines enhanced eligibility for the “Research and Experimentation (R&E)” credit through a study that is performed after the tax return is filed in which the R&E credit was originally claimed. In that case, the taxpayer must file an amended tax return for the taxable year for which the credit is claimed. The taxpayer would also like to claim an enhanced section 174 deduction for costs that may have been capitalized or included in inventory in the original return
 - Potential Solution to the Problem: Section 7.01 of Rev. Proc. 2019-43 provides that a taxpayer may file a Form 3115, request for change in method of accounting, under the automatic consent procedures and begin deducting under section 174(a) costs previously capitalized or included in inventory. However, that accounting method change must be made under cut-off transition rules, so that the taxpayer neither gets the benefit of the change for prior years, nor does the taxpayer receive a beneficial catch-up adjustment under section 481(a)
 - What many taxpayers don’t realize is that the IRS National Office is of the opinion that such a change in treatment of section 174 expenses may be implemented on amended returns for prior open years at the same time that the R&E credit claim for refund is filed. While many revenue agents will disallow such claims on the grounds that they constitute unauthorized changes in method of accounting, the National Office will rule in favor of allowing such refund claims
- Idea Two: Capitalizing Section 174 Costs to Inventory to Avoid Unfavorable Sourcing
 - Nature of Problem: When a taxpayer deducts costs under section 174 and then must allocate such costs among categories of income for foreign tax credit limitation purposes under section 904, the allocation rules in Treas. Reg. § 1.861-17 apply. It is frequently the case that the allocation rules in Treas. Reg. § 1.861-17 produce adverse results for taxpayers because Treas. Reg. § 1.861-17 contains special allocation rules such as the so-called “exclusive apportionment” rule. In contrast, if a taxpayer were able to include section 174 costs in inventoriable costs, when those costs are deducted through cost of goods sold, the costs may be allocated under allocation rules outside of Treas. Reg. § 1.861-17 that are more favorable to the taxpayer
 - Unfortunately, the UNICAP regulations treat section 174 costs as period costs that are excluded from inventoriable costs. Is there any way around that rule?
 - Potential Solution to the Problem: The UNICAP regulations contain a provision that permits taxpayers to elect permissive capitalization of non-inventoriable costs. While there are provisions in the regulations suggesting that section 174 costs may not be capitalized to inventory, we have been successful in some cases in obtaining IRS permission to voluntarily capitalize section 174 costs to inventory
 - That type of election might defer the timing of the deduction of the section 174 costs until the inventory to which those costs are allocated is sold. However, depending on the taxpayer’s rate of inventory turnover, only a relatively small fraction of the section 174 costs might be deferred until the next year when the inventory is sold



MASSIE Notes

- Idea Three: Classifying Section 174 Costs as Administrative Expenses and Expensing the Costs Outside of Section 174
 - Nature of Problem: As noted in the previous idea, when a taxpayer deducts costs under section 174 and then must allocate such costs among categories of income for foreign tax credit limitation purposes under section 904, the allocation rules in Treas. Reg. § 1.861-17 apply, which may produce adverse results
 - If a taxpayer fails to treat otherwise eligible costs as section 174 costs, may the taxpayer deduct those costs as administrative costs? Does that treatment have an effect on the eligibility of such costs to be included in the R&E credit?
 - Potential Solution to the Problem: A taxpayer may argue that it is not obligated under section 174 to try to satisfy its burden of proof that its expense qualifies as R&E under section 174. In that case, the treatment of the expense is governed by general tax law principles. Under the INDOPCO regulations, R&E expenses do not produce the type of future benefit that would require the expenses to be capitalized. Thus, expenses that might qualify as section 174 costs might be deductible outside of section 174 if a taxpayer does not make a section 174 election
 - This idea may be risky if the taxpayer has substantial R&E credits. While there are arguments that a cost need not be classified as R&E for section 174 purposes in order to be eligible for the R&E credit, there is a risk that the IRS might try to disallow the credit



How To Create a More Efficient Process and Reduce Big 4 Fees

Jason Massie
MASSIE R&D Tax Credits



Jason Massie

- There are ways to increase your Return on Investment related to your R&D tax credit. You may not have focused on it in the past, but there are two elements of “work” associated with your credit: internal labor from the tax department, those in finance, accounting and payroll, and your SMEs, and external labor from your provider
- Sometimes you need to look at taking on more work internally in order to reduce external fees. Other times you can increase your Gross Value of the Credit by finding more QREs from acquisitions or other missed pockets of innovation
- You should also look at ways to sustain a larger piece of your credit possibly by gathering more or better documentation



RETURN ON INVESTMENT



$$\frac{\text{R\&D Tax Credit} - \text{Work (Labor)}}{\text{Gross Value of Credit} - \text{Audit Adjustments}} = \text{Net Value of Credit}$$

- During our time together everybody filled out a chart, with four topics of interest we call Functional Areas. We spent time creatively looking at each area as well as functional tracks

EXERCISE

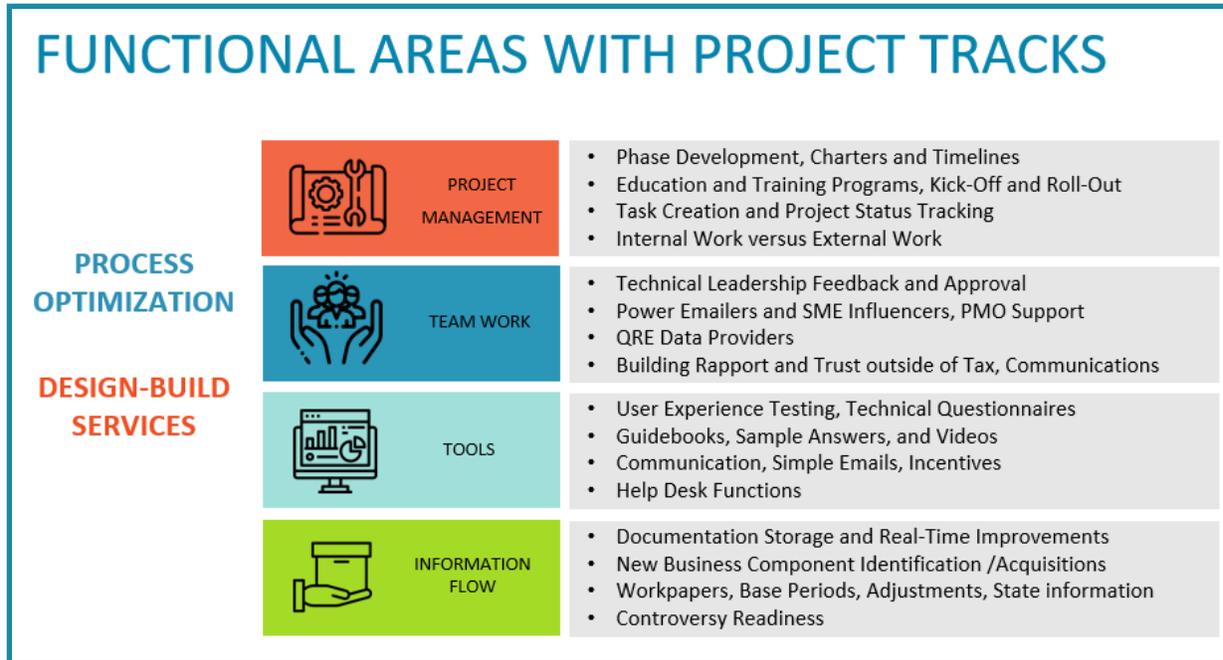


1. Is this Functional Area a Problem, Opportunity or Efficiency?
2. Can we make this “easier” for our Tax Department, SMEs, other Internal Teammates or our Big Four provider?
3. What can we improve over the next 6 months, 1 year, 3 years?
4. If we had unlimited resources, time or budget, what Functional Area would we like to address 1st, 2nd, 3rd (ranking)?



MASSIE Notes

- We encourage everybody to review these Functional Areas and Project Tracks to see whether you could make the area easier for you, your SMEs or the IRS, and then put a priority ranking next to each idea you marked
- How can you Increase project ROI by addressing problems, pursuing opportunities or creating efficiencies?



Next Webinar



HALF-DAY WEBINAR: FEDERAL TAX PLANNING AFTER THE IMPACT OF COVID-19

Wednesday, June 17th @ 12:00 - 4:00 PM EDT

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exact needs
for this year's
project

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execute project
under your
directive

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HOW TO REACH US

678.807.7228

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678.807.7228

info@massietaxcredits.com

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