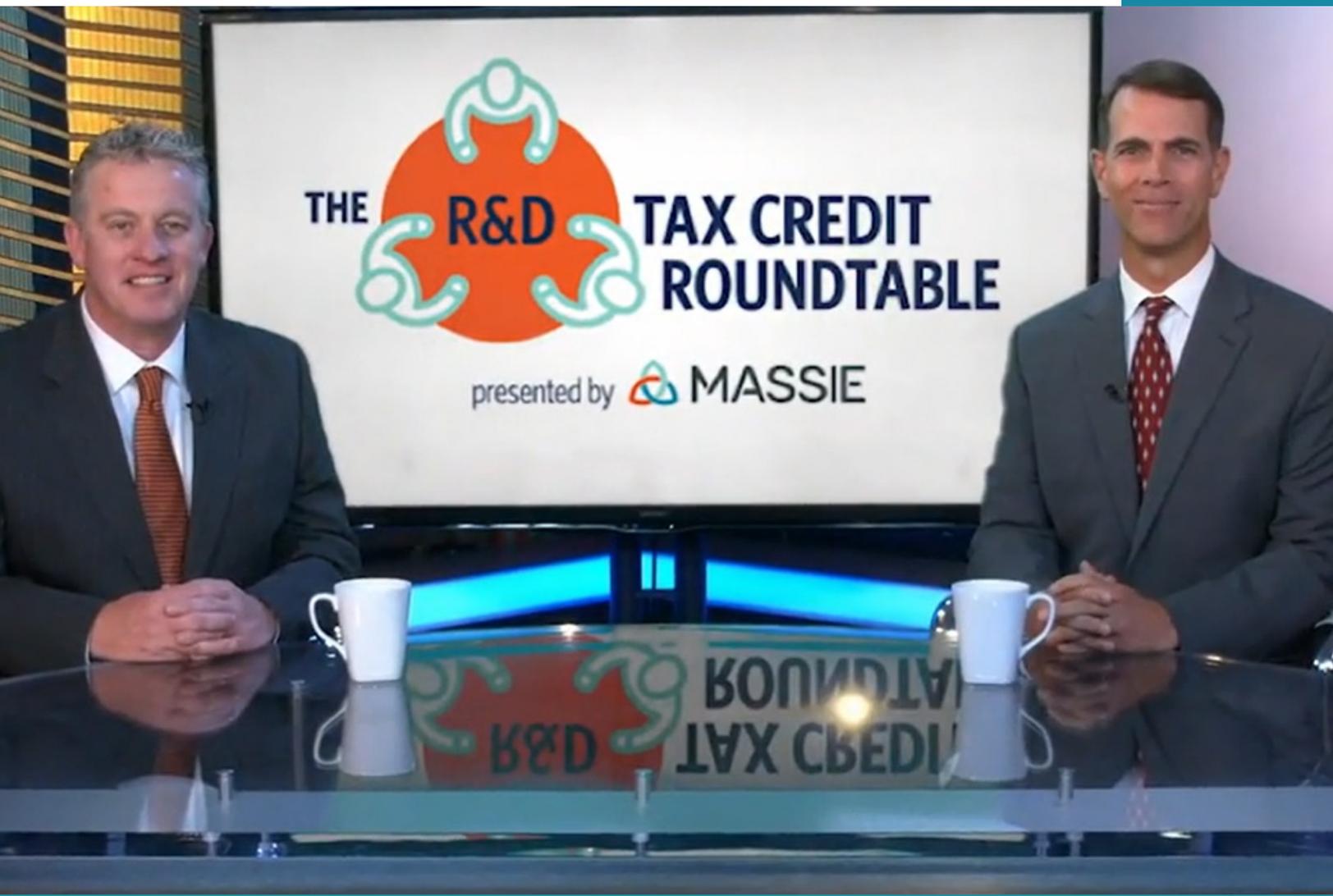


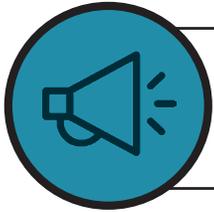
# ROUNDTABLE WHITE PAPER

THURSDAY, FEBRUARY 23RD, 2023 | 3 - 4 PM ET

Q1 ROUNDTABLE  
FEBRUARY 2023



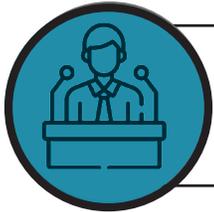
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*Jason Massie and Peter Green, MASSIE R&D Tax Credits*

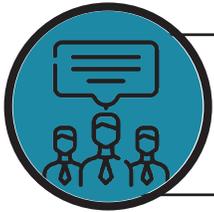
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## Washington DC Update

*Alex Sadler, Morgan Lewis*

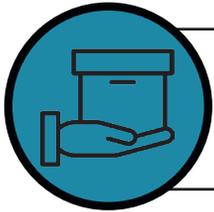
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## Speaker Spotlight

*174 Panel - Peter De Nicola, Robert Howren, Blake Udall, Katrina Welch*

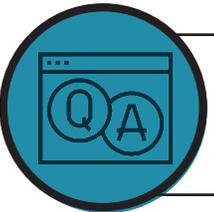
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## 174 Considerations

*Jason Massie & Paige Riordon, MASSIE R&D Tax Credits*

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## Upcoming R&D Best Practice Roundtable

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# Companies Who Attended

Abiomed  
ACCO Brands Corp  
Accushield  
ACI  
Acxiom + IPG  
Aerojet Rocketdyne  
AGCO  
Air products  
Albany International Corp  
Alcon Laboratories  
Alexion Pharmaceuticals Inc  
Alteryx  
Amazon  
American Express  
Applied Medical  
Arkema  
Assurant  
Aviagen  
Avnet  
B Braun Medical  
Ball Corporation  
Bandwidth  
Baxter International  
Biohaven  
Blackbaud  
Bottomline Technologies  
Broadcom  
Brown-Forman Corporation  
Brunswick  
BTS Tax Solutions  
Buckle  
Cambrex  
Canon USA  
Capital One  
Carvana  
Caterpillar Global Mining Amer  
ChampionX Corporation  
Charter Communications  
CIRCOR International  
Colonial Pipeline  
Constellation Brands  
Crane Holdings  
CUNA Mutual Group  
Curo Group Holdings Corp  
Curtis Instruments,  
Danfoss Power Solutions  
Deluxe Corporation  
DigitalOcean  
DoubleVerify  
Draft Kings  
DUCOMMUN  
ELANCO  
Encompass Health Corporation  
Feucht Financial  
Fujifilm Holdings

GE Appliances  
Gigamon  
Grifols  
Gulfstream Aerospace Corp  
Harley-Davidson  
Hella Corporate Center USA  
Henkel  
High Industries  
Hill  
Hills Pet Nutrition  
Horizon Therapeutics  
Hunt Oil Company  
IKEA  
Infinite Electronics  
Informatica  
Insmed  
Integra Lifesciences  
Integralife.com  
Interior Logic Group  
Interpublic Group of Companies  
J&J  
Jabil Inc.  
Jack Henry  
Jaggaer  
John Bean Technologies Corporation  
Kinder Morgan Inc  
Kofax  
Leidos  
Lhoist  
LiveRamp  
Lowe's Companies  
Macy's  
Mars  
Martin Marietta  
Mativ Holdings Inc.  
McCormick & Company  
MDU Resources Group  
Medtronic  
MGM Studios  
Michael Gregory Consulting  
Milliken & Company  
Mitsubishi Chemical America  
Mmit  
MOD Pizza  
Mohawk Industries  
Momentive  
Navistar  
Nemak  
NextGen Healthcare  
OC Tanner  
Old Dominion Freight Line  
Optiver  
Oshkosh Corporation  
Owens & Minor  
Oxford Industries

Oxy  
Performance Food Group  
Pinterest  
PMI Global Services  
PNC Bank  
Powell Industries,  
Quadient  
Quaker Houghton  
RealPage Inc  
Rockwell Automation  
Roivant Sciences Inc  
Safelite Group  
Salesforce  
Sanofi  
Sealed Air Corporation  
Shaw Industries Group  
Siemens Energy, Inc.  
Simmons Prepared Foods  
Sitecore Ireland Ltd.  
SM Energy  
Snap-on Incorporated  
Stanley Black & Decker  
Sun Life Financial  
SurveyMonkey Inc.  
The Coca-Cola Company  
Two Sigma Investments  
UCB Inc  
UHG  
UHS  
UPS  
Ureco USA  
Valmont Industries  
Varonis  
Veeco Instruments  
Veolia  
Verint Systems  
Vertex Pharmaceuticals  
Viasat  
Vmware  
Volvo Car USA  
Wabash National Corporation  
Walmart  
Warner Bros. Discovery  
Watts Water Technologies  
WD-40 Company  
West Pharmaceutical Services  
WNC  
Yext  
ZENDESK  
Zodiac Pool Solutions  
Zurich



# MASSIE Notes



## Introductions and Announcements

Jason Massie and Peter Green, *MASSIE R&D Tax Credits*

- Welcome to the first Roundtable of the year.
- We had close to 500 people sign up for this event. This is the largest attendance we've ever had at a Roundtable; thank you all for joining us.
- Just last week, MASSIE visited Houston to speak at a TEI session there.
- In early March, MASSIE will be hosting a 4-hour long virtual session for TEI Portland, our "Roundtable on the Road."
- MASSIE is a 2023 Platinum TEI Sponsor. In mid-March, MASSIE will be speaking at the TEI Midyear Conference in Washington, D.C.
- Please let us know if you'd like to attend dinner with Jason and Peter during the TEI Midyear Conference.
- If you would like Peter and Jason to speak to your TEI group, please contact Ilona at [ilyubashevsky@massietaxcredits.com](mailto:ilyubashevsky@massietaxcredits.com).



Jason Massie



Peter Green



## Washington DC Update

Alex Sadler, Morgan Lewis

- 174 remains very cloudy at this time.
- The IRS released Rev. Proc. 2023-11 earlier this year. This contains guidance on how to change the accounting method for expenditures relevant to 174 treatments.
- Rev. Proc. 2023-11 dictates that the taxpayer may, in the first year in which amended section 174 is effective, file a statement with their original return in lieu of a Form 3115.
- If the election is made after the first year in which this amended section of 174 is effective, the taxpayer must file a Form 3115 with a modified Section 481(a) adjustment to account for specific R&E expenditures occurring after 12/31/2021.
- Rev. Proc. 2023-11 supersedes Rev. Proc. 2023-8, whereby audit protection will now only be provided for the taxpayer if the election is made during the first year.
- Substantive guidance is being considered; it is listed on the Treasury's site as an issue they are looking to address. However, the timing of when this guidance will be provided is still murky.



Alex Sadler



- The IRS's guidance plan strongly encourages taxpayers to submit their comments and questions to be considered.
- Many other countries currently offer research credits to their taxpayers; the US and Belgium are now the only two that require amortization for R&D expensing. In order to stay competitive in the world market, Congress will have to take this into consideration.
- There are three main issues we are currently seeing most frequently. The first relates to contractors doing research on behalf of a customer under cost-type contracts. The question here is whether or not the contractor may claim the R&D credit for their research under these dollar-for-dollar contracts. In situations like this, the contractor should not claim the research expense, as the liability is held solely by the customer. That being said, there is still much gray matter here, and the answer may vary by situation.
- The second issue we see most commonly relates to the conformity amendments to Section 280C(c). Before TCJA, this was a fairly simple matter: the taxpayer takes the deductions and reduces them by the amount of the credit. However, under TCJA, taxpayers can benefit from both the tax credit and a deduction. Since being able to take both the credit and deduction does not make the most sense, we believe it may have been a mistake on the part of the IRS. This is something we expect to play itself out in dispute.
- Lastly, the third issue we see is quantifying specified R&E expenditures. How should taxpayers quantify specified R&E expenditures under the new requirements? R&E activities under 174 are broader than qualified research under section 41. There is no requirement for the process of experimentation under section 174, which means the activities can be more broadly encompassed. It may be beneficial for companies to take a project-based approach when looking at what activities could roll up into 174.
- The IRS has issued a draft revision to Form 6765 as of January 31, 2023. Under this revision, there are new requirements for claiming a refund or credit on an amended return; there is a new section for Research Credit Claims on Amended Returns.
- Under this new section, there are five categories of additional information amended return taxpayers now need to provide. These five items are the same as those listed on the research credit directive issued in October 2021. Taxpayers must give greater itemized detail for each business component. This could become cumbersome for larger companies.
- Schedule UTP descriptions per the August 2022 update to the IRS website. Historically taxpayers have been allowed to put short, curt descriptions for their research credit. However, now the IRS is mandating a more lengthy response about the nature of the research.



# MASSIE Notes



## Spotlight Speakers

### 174 Panel

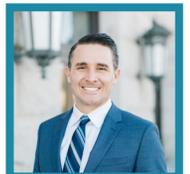
- Since every company and every person is different, we've put together a well-diversified panel to talk about what 174 may look like for different companies.
- One approach is to look at 174 starting from your financial statements. Look by cost center and note how the GL balances roll up, then apply a reasonable percentage for 174 amounts. After that, apply a book-tax difference to determine what they deem to be a 174 amortizable expense for the year.
- Software companies may not find the task quite so simple, as there are many types of internal-use software and types of development that need to be considered.
- Having a structure in place to rely on as it relates to cost centers may be useful. Exceptions can always be made as you go through each cost center, but there needs to be a solid foundation, or rule, to start with.
- Fujifilm has been diversifying its business, and each company they've acquired has its own R&D department. There are a lot of different R&D processes, varying by company, and they are now looking at how to consider cross-company charges such as legal fees and the like.
- Since Fujifilm is a Japanese company, they do not strictly follow only US GAAP. Because of this, their approach is to start with Section 41 and add back additional expenses.
- For Aveanna, their R&D credit is mainly made up of IUS software that is developed for nurses to use in the field. Initially, when they started their credit, they sought a practical approach. Instead of having to go out and do a study, they decided to apply a percentage to all the expenses.
- In considering what percentage might be realistic, they talked to auditors about what they might apply. Now that they are fine-tuning this approach, they are considering taking a conservative percentage of 150% of QREs. Of course, this percentage may vary significantly by company; for example, it might be appropriate for their IUS company but may not match a manufacturing company.
- It's vital that companies are looking at 174 broadly because 174 is indeed broad. Considering all the indirect costs associated, the 174 might encompass a lot.



Peter De Nicola



Robert Howren



Blake Udall



Katrina Welch



- One approach for including indirect costs is to develop an SG&A percentage to cover indirect costs or operating costs. This is a good starting point, a general rule that can be applied, and exceptions can be addressed as they come up.
- For companies that have various global locations, this process may be even more tricky. Figuring out the 174 costs for a centralized approach may take more time.
- It's important to remember that everyone has a different situation. Companies will need to look at their situations and determine what works best for their company.



## Where We Are Now, What to do Next

*Jason Massie, MASSIE R&D Tax Credits*

- What should people be keeping in mind?
- Taxpayers need to remember that this is a very fact-specific analysis; it differs from company to company. The important part is looking at the data and seeing how this data can tell your story. What is the difference between book and GAAP R&D, and how does this bridge the story we are telling? With the lack of clarity in the guidance for 174 right now, ask yourself if you're making reasonable estimates and whether or not the information presents a story that makes sense with the development the company has going on.
- Companies with well-outlined QREs for their 174 research credit may want to use that as a starting point. From there, there are items you'll add back to the credit, such as the fully loaded cost of the employees or the total contractor spend instead of just 65%. This approach allows the IRS to notice each item as you add it back; it adds a level of transparency.
- From a positive presentation perspective, this approach is easy to follow and might lead the IRS to question the items less. In short, you'll be showing: here's my credit, and I'm adding these additional costs.
- We have consistently seen that the R&D line item on the M-3 is not being used to its fullest extent, as companies are not using that schedule appropriately to list their expenses.
- As a takeaway, here are the areas to focus on when considering 174: It's important to remember this needs to be a factual analysis; each company will be different as we vary across sectors; it's important to ensure you can prove indirect costs do relate to the research.
- Software companies may differ from manufacturing, etc.
- Step into your subject matter experts' shoes and develop a process that you think would work the best for them. It is worthwhile to test these processes before you hit those critical times when you'll need them.



Jason Massie



Paige Riordon





## Upcoming R&D Best Practice Roundtable



**June 21, 2023 at 3 PM EST**

Complimentary | 1 CPE Credit

Register: [massietaxcredits.com/roundtable](https://massietaxcredits.com/roundtable)



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