R&D Tax Credits

Webinar For TEI Houston

BY MASSIE R&D Tax Credits

GUEST APPEARANCE Morgan Lewis

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GREEN

The Research Credit Playbook is Broken: What to Do Differently in 2026	**Jason Massie**
Cases and Controversy	**Alex Sadler + Douglas Norton**
How to Prepare Your Team for an IRS R&D Interview or Site Visit	**Stephen Whiteaker**
Build an SME Collaboration Hub: From Discovery to Adoption	**Peter Green**

The Research Credit Playbook is Broken

What to Do Differently in 2026

Jason Massie
Founder/President

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Experience Best Practices

The Old Playbook

- Job Titles: Infer Activities
- Cost Centers: Identify Innovation
- SME Interviews
- Project Write-Ups
- Wages, Supplies, Contractors on Form 6765

Form **6765** (Rev. December 2023) Department of the Treasury Internal Revenue Service

Credit for Increasing Research Activities

Attach to your tax return.
Go to *www.irs.gov/Form6765* for instructions and the latest information.

OMB No. 1545-0619
Attachment Sequence No. **676**

Name(s) shown on return | **Identifying number**

Section A—Regular Credit. Skip this section and go to Section B if you are electing or previously elected (and are not revoking) the alternative simplified credit.

1	Certain amounts paid or incurred to energy consortia (see instructions)		1
2	Basic research payments to qualified organizations (see instructions)	2	
3	Qualified organization base period amount	3	
4	Subtract line 3 from line 2. If zero or less, enter -0-		4
5	Wages for qualified services (do not include wages used in figuring the work opportunity credit)	5	
6	Cost of supplies	6	
7	Rental or lease costs of computers (see instructions)	7	
8	Enter the applicable percentage of contract research expenses. See instructions	8	
9	Total qualified research expenses. Add lines 5 through 8	9	
10	Enter fixed-base percentage, but not more than 16% (0.16) (see instructions)	10 %	
11	Enter average annual gross receipts. See instructions	11	
12	Multiply line 11 by the percentage on line 10	12	
13	Subtract line 12 from line 9. If zero or less, enter -0-	13	
14	Multiply line 9 by 50% (0.50)	14	
15	Enter the **smaller** of line 13 or line 14		15
16	Add lines 1, 4, and 15		16
17	Are you electing the reduced credit under section 280C? Yes ☐ No ☐ If "Yes," multiply line 16 by 15.8% (0.158). If "No," multiply line 16 by 20% (0.20) and see the instructions for the statement that must be attached. Members of controlled groups or businesses under common control, see instructions for the statement that must be attached		17

Section B—Alternative Simplified Credit. Skip this section if you are completing Section A.

18	Certain amounts paid or incurred to energy consortia (see the line 1 instructions)		18
19	Basic research payments to qualified organizations (see the line 2 instructions)	19	
20	Qualified organization base period amount (see the line 3 instructions)	20	
21	Subtract line 20 from line 19. If zero or less, enter -0-		21
22	Add lines 18 and 21		22
23	Multiply line 22 by 20% (0.20)		23
24	Wages for qualified services (do not include wages used in figuring the work opportunity credit)	24	
25	Cost of supplies	25	
26	Rental or lease costs of computers (see the line 7 instructions)	26	
27	Enter the applicable percentage of contract research expenses. See the line 8 instructions	27	
28	Total qualified research expenses. Add lines 24 through 27	28	
29	Enter your total qualified research expenses for the prior 3 tax years. If you had no qualified research expenses in any one of those years, skip lines 30 and 31	29	
30	Divide line 29 by 6.0	30	
31	Subtract line 30 from line 28. If zero or less, enter -0-	31	
32	Multiply line 31 by 14% (0.14). If you skipped lines 30 and 31, multiply line 28 by 6% (0.06)		32
33	Add lines 23 and 32		33
34	Are you electing the reduced credit under section 280C? Yes ☐ No ☐ If "Yes," multiply line 33 by 79% (0.79). If "No," enter the amount from line 33 and see the line 17 instructions for the statement that must be attached. Members of controlled groups or businesses under common control, see instructions for the statement that must be attached		34

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 13700H Form **6765** (Rev. 12-2023)

Why the Old Playbook is Breaking

- The IRS has changed the way they evaluate claims
- They have changed the way the R&D credit is reported on Form 6765

The New Form 6765

- Business Components must be identified
  - Top 50 or 80% of QREs listed
  - Wages broken down by activity
  - Supplies and Contractors tied to each business component
  - Qualitative descriptions required

Form 6765 (Rev. 12-2024) Page **3**

Section G—Business Component Information. Complete lines 49(a) through 49(f) for each business component you are required to report. See instructions. Attach additional sheets if necessary to capture all business components.

BC	49(a) EIN of the controlled group member conducting the research activities on this business component	49(b) Controlled group member's principal business activity code	49(c) Business component's name or unique alphanumeric identifier (see instructions)	49(d) Business component type (select one from available options)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

BC	49(e) Software (if applicable, select from the available options)	49(f) Describe the information sought to be discovered. Use the space provided.
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Form **6765** (Rev. 12-2024)

The IRS Using AI

- The IRS is expanding its use of AI and data analytics for audit selection and risk assessment
- AI systems evaluate large volumes of data, detect anomalies, and assign risk scores to Forms and Returns
- IRS is integrating data from multiple sources, including third-party and public data

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Two New IRS Advantages

- More Data included on Form 6765
  - Business Components
  - Activity-Level Information
  - QRE breakdown
- Improved Analytics Using AI
  - Pattern detection
  - Risk scoring
  - Data comparison

Your Claim Doesn't Stand Alone

- Your Filing Goes Into the IRS Data Ecosystem
  - Prior filings
  - Industry benchmarks
  - Third-party data
  - Public disclosures

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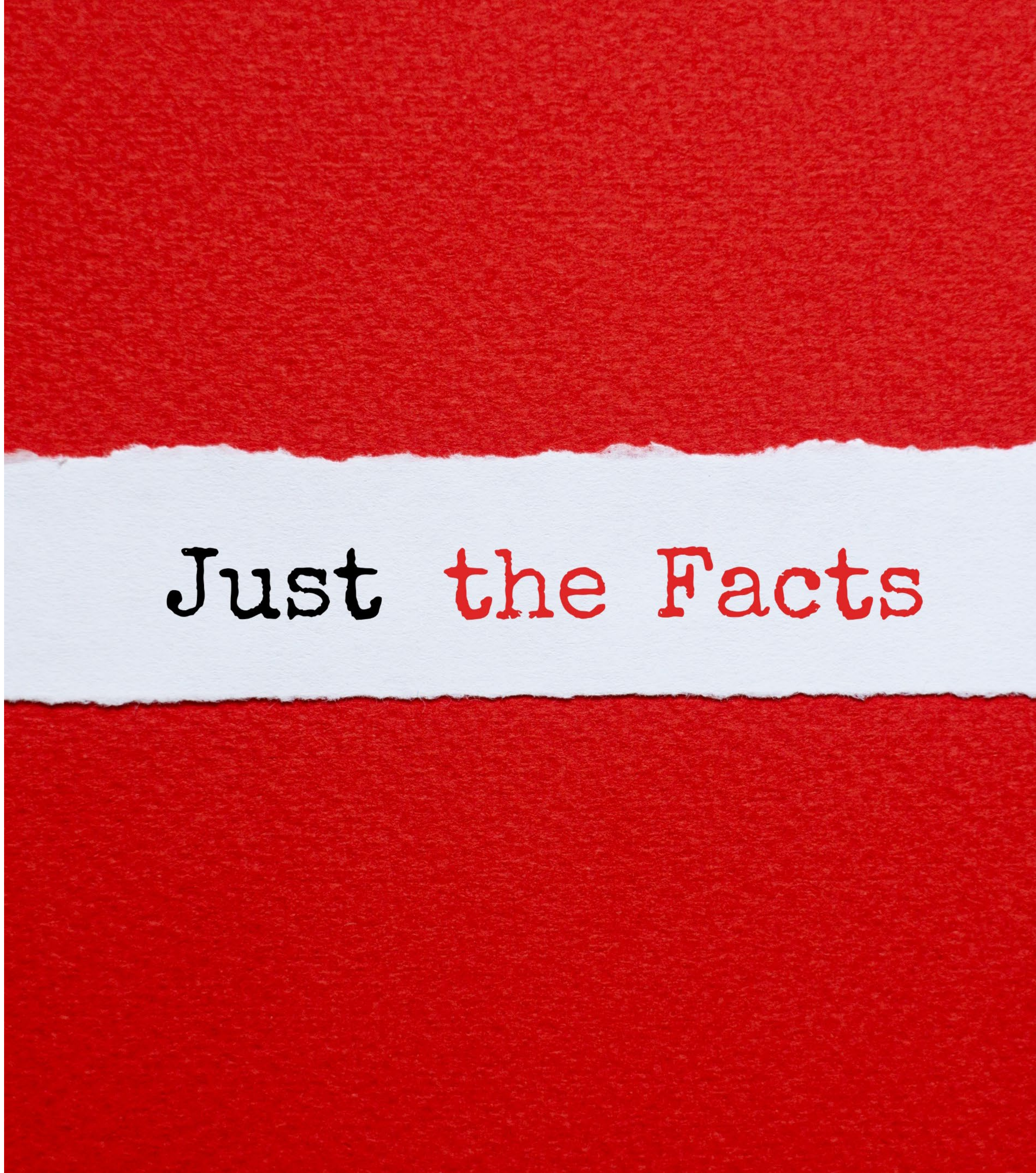
Experience Best Practices

What Does This Mean?

- By the time you are examined, the IRS already has a preliminary assessment of your filing.
- AI will highlight inconsistent stories.
- You no longer get to tell your story first.

The IRS Shift

- The IRS can now evaluate your claim like a case
  - Documentation is treated as evidence
  - Less reliance on interviews and provider statements



Interviews and Documentation

PAVE the Road with documentation

FILL the potholes with interviews

Litigation Principles Apply

- Burden of proof lies on the Taxpayer
- Evidence > Testimony
- Contemporaneous Documentation is King
- Each element must be proven

The more you claim without proof…

The less the IRS trusts you.

RECEIPTS.
PROOF.
TIMELINE.
SCREENSHOTS.

The New Playbook

Legal Case	R&D Study
Claim	Business Components
Elements	Four-part test
Facts	Activities
Evidence	Documentation
Witnesses	SMEs
Argument	Roadmap and Narratives

The New Playbook

Legal Case	R&D Study	Action
Claim	Business Components	Define BCs
Elements	Four-part test	Identify how BCs meet elements
Facts	Activities	Gather facts
Evidence	Documentation	Assemble evidence
Witnesses	SMEs	SME alignment
Argument	Roadmap and Narratives	Connect to costs & present clearly

The IRS doesn't trust your conclusions anymore.
They trust your evidence.

Business Components

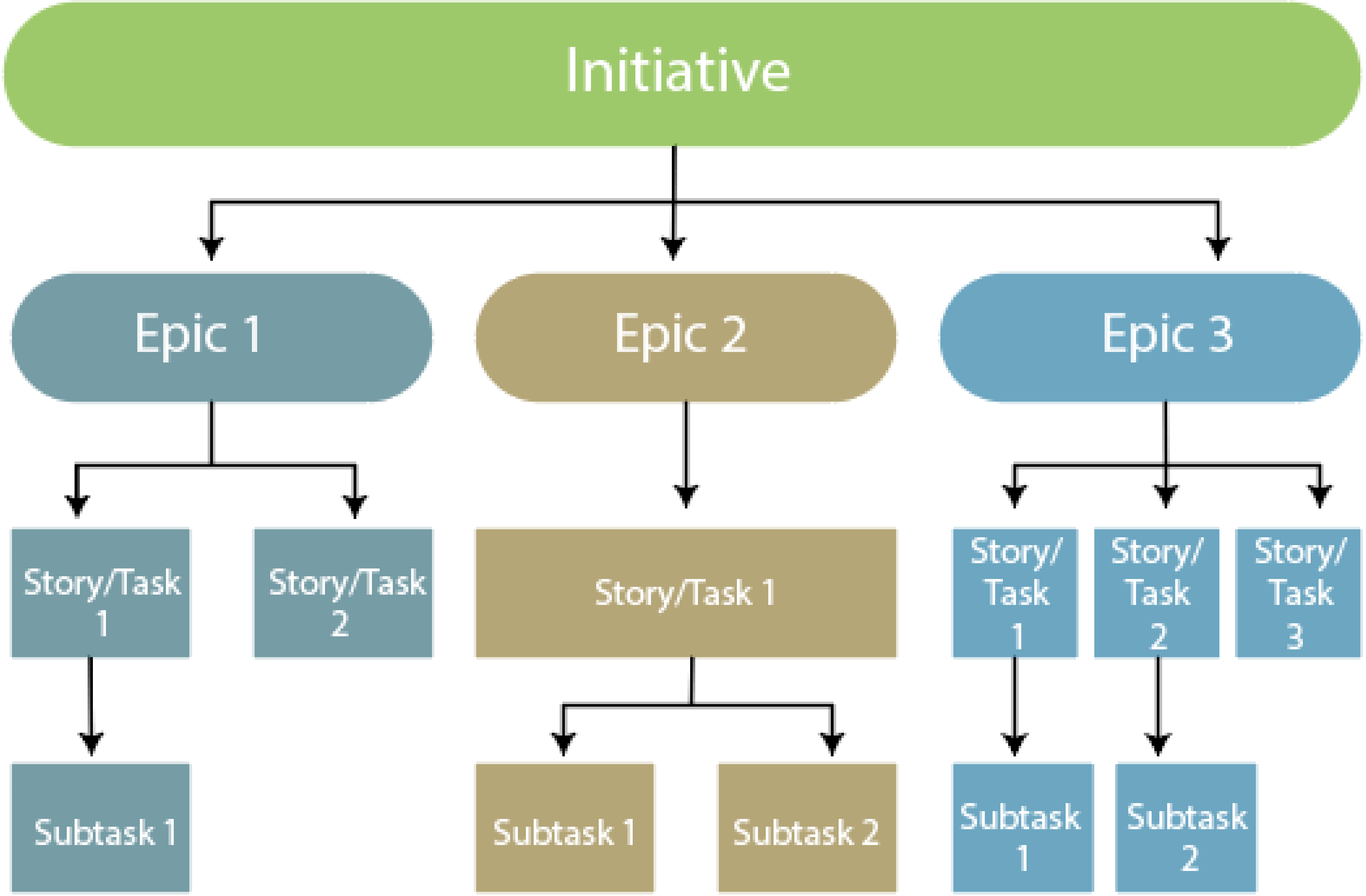
- Determine the Business Component Strategy

Tesla Roadster

- 0-60 1.9 seconds
- 250 mph top speed
- 620-mile range
- $200k MSRP

What is the business component?

- Entire car?
- Engine, body, electronics?
- Tires, brakes, steering?
- Battery, aerodynamics, ball bearings?



Initiative
Epic 1
Epic 2
Epic 3
Story/Task 1
Story/Task 2
Story/Task 1
Story/ Task 1
Story/ Task 2
Story/ Task 3
Subtask 1
Subtask 1
Subtask 2
Subtask 1
Subtask 2

Business Component Strategy Comes First

- Under the Old Playbook, business components were an output. Now they are the foundation of the claim.
- Form 6765 is no longer asking: How much did you spend?
- It's asking:

  What are you claiming and can you prove it?

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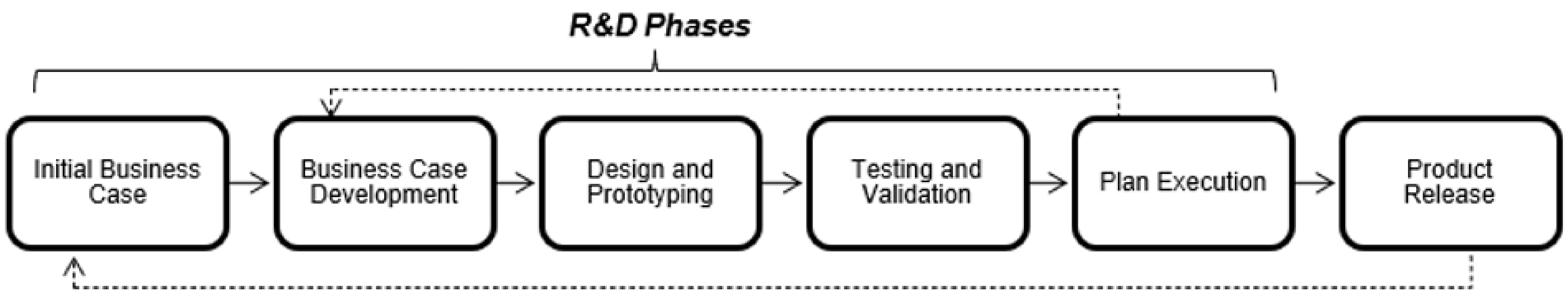
BCs, Activity-Level Information, and Documentation

Product Development Life Cycle Memorandum



Phase	Qualified Research Activities Performed	Departments Involved	Documents Created
Initial Business Case	- The project idea is submitted, including a description, customer insight, the project's benefits, and what problems will be solved. - The project undergoes preliminary design in which requirements, features, and functionality are defined. - The engineering team reviews the initial concept to assess the project's feasibility and evaluates the most effective development path.	- - - - - -	- Product description - Preliminary design criteria - Initial conceptual designs

SMEs Are Your Witnesses

- Establish Facts
- Validate Work
- Explain Uncertainty
- Provide you with a clear understanding of the story

Your Approach to SMEs

- Ask better questions
- Listen deeply
- Customize your engagement
- Respect their time

Kyocera AVX, D.C., But Refiled in T.C.

- Multinational manufacturer.
- 2018 claim of $400k, later amended after PwC study to $1.7 m.
- IRS filed motion for Summary Judgement.
  - No issue as to facts.
  - Law supports IRS since Kyocera had burden of proof.
  - No documentation in support.

2025 Kyocera Takeaways

- Documentation over interviews.
- SMEs must opine on a reasonable number of employees.
- SME testimony to PwC not reliable since after-the-fact.
- Activity-level information and documentation are needed to prove 80% POE.
- Technical documentation was not retained by Kyocera or PwC.
- B/Cs were too broadly defined.

Best Practice Action Steps

- Work with your SMEs on a Business Component Strategy.
  - Explain the new Form and IRS focus
- Gather the Product or Software Development Lifecycle.
  - Phases
  - Qualified activities
  - Resources
  - Documentation
- Lay the foundation for why SMEs are qualified to opine on BCs and employee activities.
  - Keep the number of employees to SMEs at a reasonable amount.
- Value documentation over interviews.
  - Retain and organize technical documentation.
  - Don't wait until an examination.

Final Thoughts

- If the IRS is the judge, what kind of case are you building?
- Form 6765 tells the IRS your story.
- AI tests whether it makes sense.
- Your job is to make sure the story holds together before you file.
- Your SMEs are the star witnesses of your case. Make this as easy as possible on them.

Jason Massie

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Jason Massie, CPA, Esq., is the Founder and President of MASSIE R&D Tax Credits and has 36 years of tax consulting experience. Jason received a B.S. in Accounting from Christian Brothers University and a Juris Doctor from the Cecil C. Humphreys School of Law at the University of Memphis. He first learned of R&D Tax Credits at a Big 8 accounting firm in Washington, D.C.

Over the next dozen years, Jason led Big 4 and law firm practices and founded MASSIE in 2004. His peers widely recognize him as an expert with frequent speaking and writing engagements.

Morgan Lewis

TEI HOUSTON - FEDERAL RT (VIRTUAL) R&D CASES & CONTROVERSY UPDATE

Alex Sadler
Doug Norton

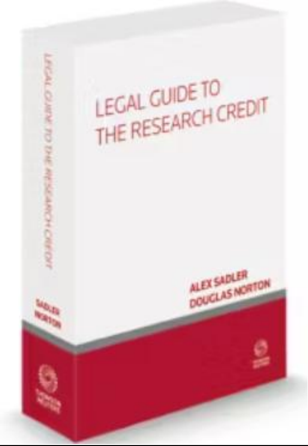
Presenters

Alex Sadler
Morgan Lewis

Doug Norton
Morgan Lewis

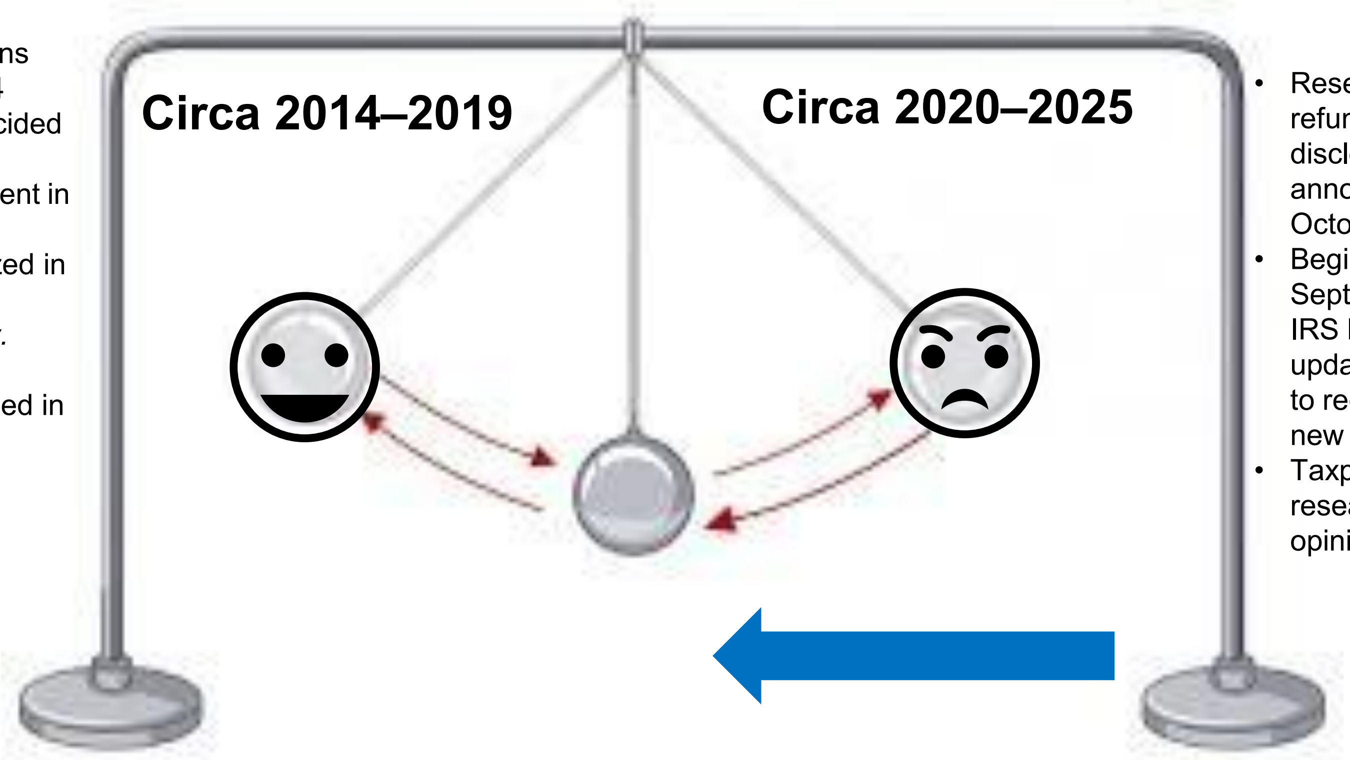
Two Quick Announcements

- The 12th Annual R&D Tax Credit Symposium will be in Washington, DC in the first two weeks of November.
  - If you have not previously attended and would like to be on our Symposium distribution list, please contact Duy.Le@morganlewis.com or Kejsi.Shahaj@morganlewis.com
- The 2026 Edition of Legal Guide to the Research Credit is available on thomsonreuters.com.



The Research Credit Pendulum

- Pilot model regulations finalized in July 2014
- *Suder v. Comm'r* decided in October 2014
- Credit made permanent in December 2015
- New IUS rules finalized in October 2016
- *Populous Holdings v. Comm'r* – favorable funding case – decided in December 2019



- Research credit refund claim disclosure regime announced in October 2021
- Beginning in September 2023, IRS begins updating Form 6765 to require significant new information
- Taxpayer record in research credit opinions: 1–13 (7%)

Research Credit Opinions, 2019–2025

#	Year	Case Name	Court	Main Issues	Result for TP
1	2019	Quebe	DC	Base period	Loss
2	2019	Siemer Milling	TC	POE in wheat milling projects	Loss
3	2019	Populous Holdings	TC	Funded research exclusion	Win
4	2020	Meyer, Borgman & Johnson	TC	Funded research exclusion	Loss
5	2020	Tangel	TC	Funded research exclusion	Loss
6	2021	Little Sandy Coal	TC	174 /POE, pilot models, substantiation	Loss
7	2021	Leon Max	TC	174/POE in garment making	Loss
8	2022	Grigsby	DC	BC test; funded research exclusion	Loss
9	2023	Moore	TC	Substantiation of qualified services	Loss

Research Credit Opinions, 2019–2025

#	Year	Case Name	Court	Main Issues	Result for TP
10	2023	Betz	TC	174 /POE, pilot models, substantiation, penalties	Loss
11	2023	Little Sandy Coal	7th Cir	174 /POE, pilot models, substantiation	Loss
12	2023	Grigsby	5th Cir	BC test; funded research exclusion	Loss
13	2024	Moore	7th Cir	Substantiation of qualified services	Loss
14	2024	Meyer, Borgman & Johnson	8th Cir	Funded research exclusion	Loss
15	2024	Phoenix Design Group	TC	174/POE in electrical/mechanical engineering projects; penalties	Loss

IRS/DOJ Record: 14-1

Taxpayer Record: 1-14

Landscape Circa December 2024

Is the Pendulum Beginning to Swing Back?

- *Intermountain Elecs., Inc. v. Comm'r*, No. 11019-19 (3/14/2024)
  - Rejecting IRS arguments that production activities expenses are categorically not experimentation or eligible for section 174
- *Smith v. Comm'r*, No. 13382-17 (12/18/2024), and *System Techs., Inc. v. Comm'r*, No. 12211-21 (1/5/2025)
  - Rejecting IRS arguments that research performed by architectural firm and automotive supplier were funded

J.G. Boswell Co. v. Comm'r, No. 2408-19 (Greaves, J.)

J.G. Boswell Co. v. Comm'r, No. 2408-19 (Greaves, J.)

- **Key Issues Addressed in Summary Judgment**
  - Agriculture industry can qualify
  - No winner and case proceeded to trial
  - Focus will be on substantiation (including base period) and satisfaction of R&D activities
  - Emphasizes fact-intensive analysis
- **Key Questions Raised During the November 2025 Trial**
  - What is a product?
  - What is sufficient documentation (base period, QREs, and QRAs)?
  - Opinion will likely have different results based on specific projects (likely to prevent categorical disallowance)

J.G. Boswell v. Comm'r, No. 2408-19 (Greaves, J.) Brief of the National Association of Manufacturers (NAM) and the American Chemistry Counsel (ACC) as *Amici Curiae* Supporting Petitioner

- **Key arguments:**
  - "Supplies used in the conduct of qualified research" says what it means and means what it says in Section 41(b)(2)(A)(ii)—its "single, best meaning" includes ***all*** supplies used in the conduct of qualified research, expanded administratively by Treas. Reg. § 1.41-2(b)(1) to include ***all*** supplies "used in the conduct of qualified services . . . by an employee of the taxpayer[.]"
    - The "indirect research expenditures" rule of Treas. Reg. § 1.41-2(b)(1) ***does not*** exclude QREs for supplies that meet the statutory definition of supplies under Section 41(b)(2)(A)(ii)
    - The "indirect research expenditures" rule of Treas. Reg. § 1.41-2(b)(1) ***cannot*** exclude QREs for supplies that meet the statutory definition under Section 41(b)(2)(A)(ii).
  - The Tax Court's and the Second Circuit's *Union Carbide* opinions have no precedential or persuasive effect following the Supreme Court's *Loper Bright* and *Kisor* opinions.

George v. Comm'r, T.C. Memo. 2026-10 (Greaves. J.)

Basic Facts

- George's of Missouri, Inc. ("GOMI") is one of the largest fully integrated poultry producers in the U.S.
- During the years at issue, GOMI conducted experiments on flocks of "broilers" to evaluate whether commercially available feed additives, vaccination, medications, and probiotics would improve the quality and performance of the tested chickens within GOMI's unique production system
- An alliantgroup professional having extensive experience with research credit studies and the agricultural industry determined that GOMI had incurred $16.5–29.5 million in supply QREs [feed costs] per year entitling it to research credits of $1,070,380 (2014), $2,870,901 (2015), and $530,317 (2016)
- The IRS disallowed the claims in their entirety

Rhetorical Flourishes by Judge Greaves

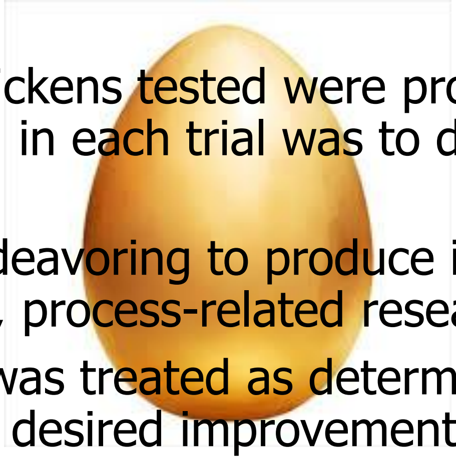
- *"Forget the proverbial chicken or the egg, today we are called to answer* ***which came first****, the research or the research credit study?"*
- *"Everyone* ***scrambled*** *to find ways to improve broiler performance without introducing antibiotics."*
- *"But this diminishing effectiveness was not the uncertainty petitioners* ***roosted*** *on."*
- *"The research trials for 2013 are of a* ***different feather****."*
- *"Petitioners failed to adequately substantiate the QREs related to the Floramax trials, and* ***we will not wing it*** *with an estimated ungrounded in the record."*
- *"GOMI's research credits were a mixed basket of eggs: some* ***good eggs*** *supported by contemporaneous records and some* ***rotten eggs****."*
- *Section titles – "A Tangled Nest of Entities," "Not All Sunny-Side Up"*

High-Level Assessment

QREs	Claimed	Allowed	%
2012	$16,450,745	$5,115,281	31%
2013	$29,478,367	$7,280,578	25%
2014	$17,025,243	$1,919,559	11%
Overall	**$62,954,355**	**$14,315,418**	**22.7%**

Golden Eggs

Golden Eggs



- **Business component definition.** The tested chickens tested were product-related business components because GOMI's goal in each trial was to develop higher quality and better performing broilers.
  - Rejected the IRS's argument that GOMI was endeavoring to produce its standard broiler product at a reduced cost – i.e., process-related research.
  - GOMI's research objective – a better chicken – was treated as determinative, rather than analyzing the methods by which the desired improvements were to be achieved, e.g., new additives or medicine dosages.
  - Under the *Union Carbide* framework, the identification of the business components as product rather than process-related meant that the feed costs were eligible for treatment as QREs rather than as indirect research expenses.

Golden Eggs

- **Section 174 analysis.** At the outset of several trials, objective uncertainty existed concerning whether the tested treatment would have the desired effect on the chickens, and GOMI's employees conducted investigative activities such as administering medications and studying the test results.
  - Testing commercial products. Rejected the IRS's argument that the commercially available nature of the tested treatments eliminated uncertainty, finding that vendor testing was typically on a small scale and in sterile environments not representative of GOMI's production system.
  - Chickens as pilot models. The tested broilers were pilot models because the uncertainty could be eliminated only after they reached their end weights, and thus all costs of developing the broilers were R&E expenditures.

Golden Eggs

- **Process of experimentation analysis.** The activities performed by GOMI in conducting the trials – e.g., forming a hypothesis, administering the treatment, collecting and evaluating data, comparing to control data, and reaching conclusions – reflected a process of experimentation as defined in the regulations.
  - Not confined to evidence in the study. "We review the activities of the taxpayer de novo without regard to the research credit reports."
  - Not required to conduct a quantitative substantially all analysis. "We have previously applied the substantially all test without the mathematical precision that contemporaneous time logs would provide."

Golden Eggs

- **No liability for accuracy-related penalties notwithstanding lack of substantiation and court's disallowance of the large majority of QREs and credits**
  - Court's holding is based on reasonable cause without making a negligence determination
  - Alliantgroup possessed requisite expertise in research credit matters
  - Taxpayers provided necessary operational information to alliantgroup through interviews and records
  - "[P]etitioners reasonably relied in good faith on the advice of alliantgroup."

Rotten Eggs

A Few Rotten Eggs

- Basic substantiation failures
  - No evidence of feed recipe or varied dosages (Salinomycin, Phytase, and Vaxxitek trials)
  - "There are no documents in the records that establish even a semblance of a timeline for the research trials … Without definition of a year or timeline for the research trials, we cannot perform the four-part statutory test as demanded by section 41." (LT trials)
- Successful HatchPak and Tylan trials in 2012 eliminated the uncertainty for identical trials conducted in 2013
- Rejected methodology for estimating ASC base years based on QREs in the research years (10.23% of total feed expense)
  - Applied the 6% ASC rate from section 41(c)(5)(B) - is this correct where taxpayer failed to substantiate its base?

Other R&D Controversy Developments

Morgan Lewis

Use of Fast Track Settlement to Resolve R&D Cases

- On July 23, 2025, the IRS Large Business and International (LB&I) Division issued an Interim Guidance Memorandum (LB&I-04-0725-0008) designed to expedite corporate audits and resolve disputes more efficiently
  - "We encourage you to use FTS to resolve issues and cases early in the process."
  - Any LB&I recommendation recommendation to deny the use of FTS requires written DFO concurrence and a verbal explanation to the taxpayer.

OBBBA Changes for Tax Years after 12/31/2024

- Section 174A permits full expensing for domestic R&E expenditures
  - Software development treated as R&E
  - Transition options for 2022-2024 costs
  - Optionality to capitalize and amortize
- Section 174 remains in effect for foreign R&E, required to be capitalized and amortized over 15 years
- Pre-TCJA Section 280C(c) rules largely restored
- FDDEI carveout for R&E (and interest) starting in 2026

New Section 174A Questions

- **Amended section 41(d)(1)(A)**
  - "The term "qualified research" means research … with respect to which expenditures **<u>are treated</u>** as domestic research or experimental expenditures under section 174A."
  - How does this change the reporting of R&E expenditures?
- **What guidance applies under 174A?**
- **Nonconforming states**
- **Compliance issues**

Biography

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Alex Sadler represents clients in complex tax controversies and litigation. He has litigated numerous tax cases in the US Tax Court, US Court of Federal Claims, and federal district and appellate courts, and has served clients in several extended tax trials. Alex has also helped clients resolve tax disputes in audits and administrative appeals with the Internal Revenue Service.

Biography

Douglas Norton
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Douglas Norton practices tax law and focuses primarily on tax controversy. Doug has represented clients before the Internal Revenue Service, in the US Tax Court, and in US federal court. He uses his background in finance and economics to understand disputes that involve complex computations in addition to thorny tax law questions. While Doug handles a wide range of tax controversies involving individuals and corporations, he has particular experience with disputes over the research credit under section 41.

Our Global Reach

Africa
Asia Pacific
Europe
Latin America
Middle East
North America

Our Locations

Abu Dhabi
Almaty
Astana
Beijing
Boston
Brussels
Century City
Chicago
Dallas
Dubai
Frankfurt
Hartford
Hong Kong
Houston
London
Los Angeles
Miami
Munich
New York
Orange County
Paris
Philadelphia
Pittsburgh
Princeton
Riyadh
San Francisco
Seattle
Shanghai
Silicon Valley
Singapore
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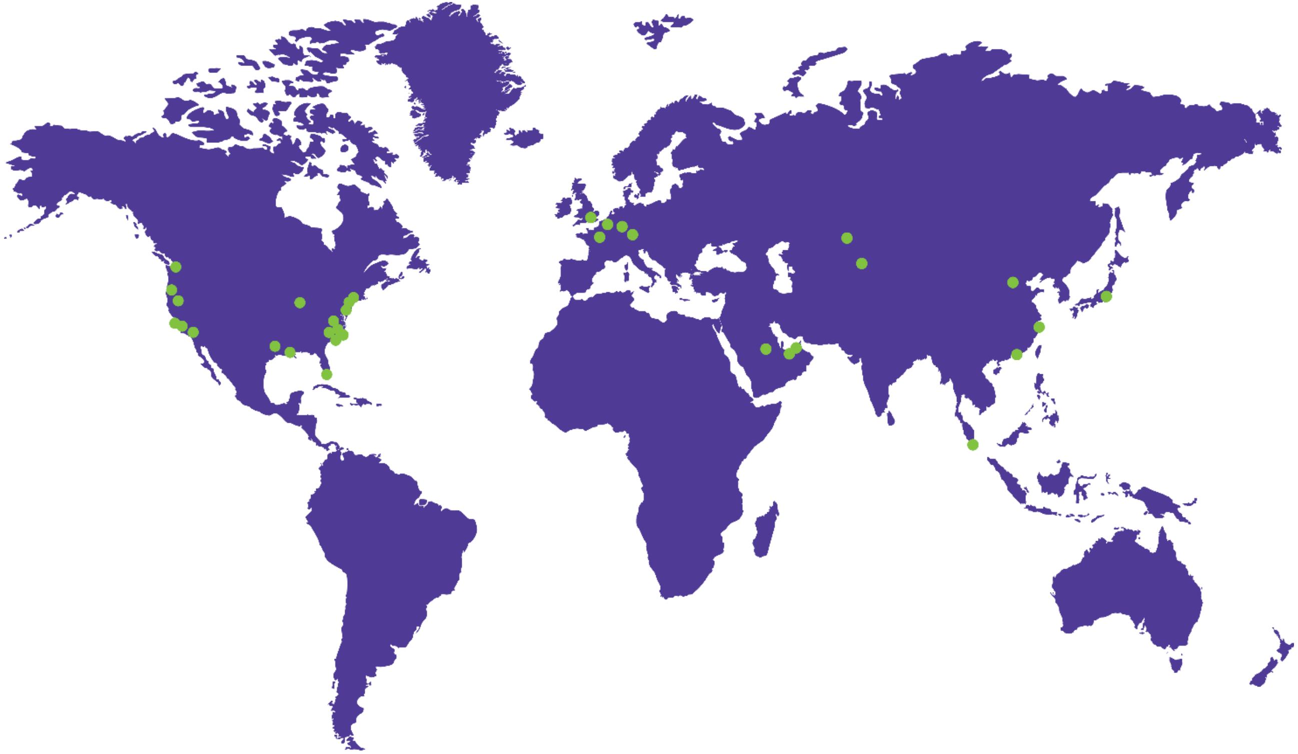
Wilmington



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THANK YOU

How to Prepare Your Team for an IRS R&D Interview or Site Visit

Stephen Whiteaker, CPA

MASSIE R&D Tax Credits
Experience Best Practices

IRS Interview & Site Visit Preparation

What the IRS Wants to See

- The Goal
  - Verify that qualified research activities occurred
  - Understand the technology, uncertainty, and experimentation
  - Confirm documentation supports the R&D credit claim
- Common IRS Focus Areas
  - Technical projects and business components
  - Employee involvement
  - Process of experimentation
  - Supporting documentation
  - Consistency between interviews and records
- Key Message
  - Interviews support the claim
  - Documentation defends the claim

IRS

People

Process

Proof

Prepare Your SMEs Before the Interview

Set Your Team Up for Success

- Before the Interview
  - Review projects and timelines
  - Identify the right Subject Matter Experts (SMEs)
  - Refresh memories with documentation
  - Explain R&D tax credit terminology
  - Conduct a mock interview session
- What SMEs Should Be Ready to Explain
  - Detailed description of the project
  - What uncertainty existed?
  - What alternatives were evaluated?
  - What testing or experimentation occurred?
  - What was learned from the process?
- Remember
  - **SMEs are experts in engineering and operations, not tax. Preparation bridges that gap.**

Tips For a Site Visit

- A site visit can be helpful or hurtful since you are almost always talking about the past.
  - Helpful if you claimed a pilot model that can be inspected, still have a process in place or have a group doing similar types of research such as a lab.
  - Not helpful if what you are being audited for is no longer being done or there is simply nothing to see.
- Avoid allowing random conversations on the floor between IRS personnel and the employees.
- Have a highly qualified person conduct the tour and explain to the IRS what they are seeing and how it is relevant to the credit under audit.

The 5 Things That Create a Defensible Claim

Audit-Ready Documentation Checklist

Must Have	Why It Matters
Project documentation	Demonstrates technical uncertainty
Design files & specifications	Shows development activity
Testing results	Supports experimentation
Time & employee records	Supports qualified wages
Emails, meeting notes & project logs	Provides contemporaneous evidence

Final Takeaway

✔ Greatest support for claimed R&D combine:

- Strong documentation
- Well-prepared SMEs
- Clear business components
- Consistent project narratives
- Early preparation before the IRS arrives

Stephen Whiteaker

swhiteaker@massietaxcredits.com

As MASSIE's Director of Controversy, Stephen specializes in audit risk assessment and quality review. His proficiency in navigating complex tax law makes him an essential resource in addressing tax technical challenges for clients. His extensive background includes a notable 32-year stint at the IRS, where he gained significant experience in tax controversy and audit procedures. Since then, he has been focused on delivering federal tax and audit consulting services to clients, assisting with compliance, managing audits, and providing strategic guidance in tax-related matters.

At the IRS, Stephen held various vital positions, enhancing his broad expertise in tax matters. He served as Territory Manager for businesses of all sizes, took on several roles in the national office, and was the Director of Field Operations for Engineering in the LB&I operating division. His tenure included a significant focus on research credits as an Executive Lead, where he gained experience in field enforcement for major U.S. companies.


R&D Tax Credit
Automation
MASSIE R&D Tax Credits
Experience Best Practices

Agenda

Build an SME Collaboration Hub
From Discovery to Adoption

Design, Build, and Scale

What Problems Are You Trying to Solve?

Too much work for the tax department

Money being left on the table

Poor SME interaction and response

Poor documentation / Audit preparedness

Additional Considerations

IRS Changes to Form 6765

- Report the top 80% of QREs, in no more than 50 Business Components (BC) in descending order by QRE
- Provide Type of BC: product, process, software, technique, formula, or invention
- Provide all QREs at the BC Level
- Wages provided for each BC - now by job function (Direct / Supervisor / Support)
- Supply & Contractor costs broken out by BC
- All required on the new form before you file

The Case for Documentation

- The IRS has prevailed outright in 11 of 14 R&D cases since 2019.
- IRS - "Contemporaneous Documents" must prove the case.
- Documentation must specifically address "Technical Uncertainties" and "Process of Experimentation".

The Case for Documentation - Recent Tax Court Cases

Phoenix Design Group v. Commissioner (Dec 2024)

- Court denied credits across multiple projects citing lack of contemporaneous documentation and inadequate demonstration of experimentation.

Little Sandy Coal Co. v. Commissioner (2021)

- Court disallowed nearly all credits due to insufficient documentation of qualified research activities. Generalized narratives and after-the-fact estimates were not accepted.

Siemer Milling Co. v. Commissioner (2019)

- Credits disallowed where taxpayer failed to retain supporting documentation tying activities to statutory tests.

Moore, T.C. Memo. 2023-20

- Disallowed wage/time substantiation when taxpayer could not document employee time for qualified activities.

Current Case – Kyocera

- Exclusive reliance on interviews is inadequate for meeting the burden of proof.

Interview Notes No Longer Sustainable

The MASSIE Experience

BECAUSE TODAY IS DIFFERENT

Best People Processes
Technology you already use
Claim and Sustain the maximum credit

Because Today is Different

The Solution

- Focus on "Making it Easier" for the SME and Tax Department
- Put the SME Experience first with a Proven People Processes
- Use the technology tools you are already familiar with
- Always provide visibility into the project
- Customize the approach to you
- User-Experience focused

Today We…

- Watch videos to learn
- Collaborate in Microsoft Teams, Slack, etc.
- Instant message chats
- Like to be guided through a process with simple instructions online
- Can see when someone is available at their desk
- Send auto reminders in Power Automate
- Share calendars to make it easy to schedule meetings

The Goal

- Create an environment that supports SME participation
- Leverage systems they already know and use
- Communicate in familiar, business-friendly language
- Make it easier to understand requirements
- Make it easier to provide the information needed
- Increase engagement, accuracy, and efficiency


This 6-question survey is required to support ABC Co R&D tax credit efforts. We are gathering information on your innovative work efforts from April 2016 through the present. Failure to answer these questions may result in credits being disallowed by the Internal Revenue Service on examination. Please include enough detail for the reader to thoroughly understand the project described. Your answers substantiate ABC Co innovative efforts and details are necessary. If you have any questions, please email swatson@massietaxcredits.com.
This question has answer validation
Email Address: *
Please provide your email address.
View Conditions
Project Name *
Sample Project A
Sample Project B
If you wish to "Save and Continue Later" you will see that option at the top of your screen after completing this first page. In that case, you will receive an email with a link to return to your survey at another time. Your completed survey will be available to print out as a PDF for your files. (Consider saving often, as your responses are not saved in the Cloud automatically.)
MASSIE
Innovation in R&D Tax Credits

Results

- Claim and Sustain the maximum credit with minimal effort
- By making the process easier on everyone involved,

encourages greater participation,

which generates larger credits,

and ensures smoother audits

2025 SME Response Rate Average 98.43%

Why Microsoft Teams?

MASSIE R&D Tax Credits
Experience Best Practices

The MASSIE Method

Architecture Phase

- Customized plan that suits you

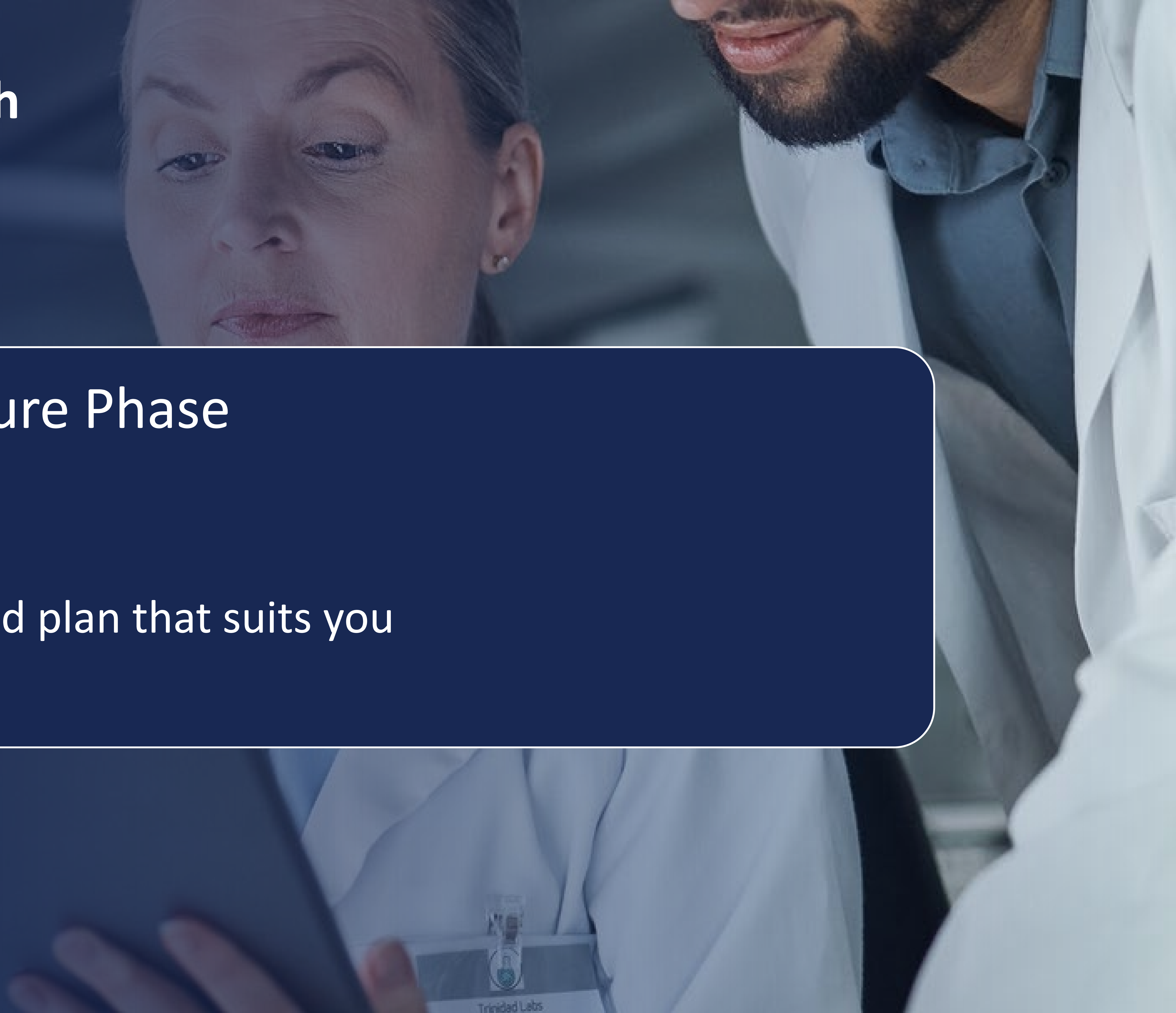
SME Interaction

- Process and tools to make it easier and more efficient

Tax Department

- Visibility and control of the project progress and final report documentation

Three-Phased Approach



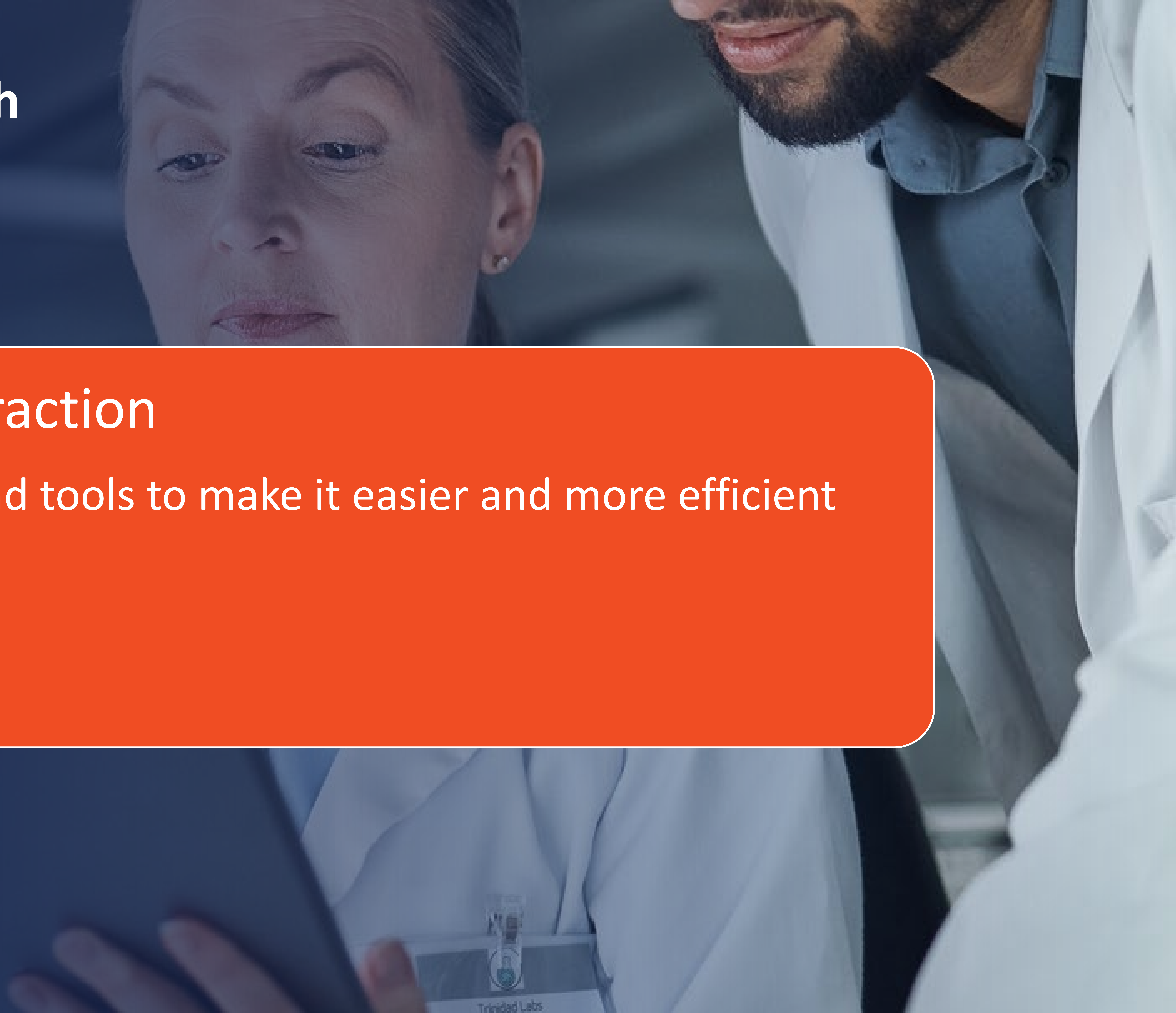
Architecture Phase

- Discovery
- Co-design
- Customized plan that suits you

Project Architecture

- Find existing systems that can provide data commonly requested from the SME
- Learn about your Product / Software Development Life Cycle
- Discuss Q/DNQ Methodology
- Find the Innovation & SMEs
- Discover how best to interact with your people – The User Experience ("UX")
- Agree on the Project Plan
- Develop Collaboration Tools

Three-Phased Approach



SME Interaction

- Process and tools to make it easier and more efficient

MASSIE's "SMEasier" Approach

The Form 6765 Business Component Solution Demo

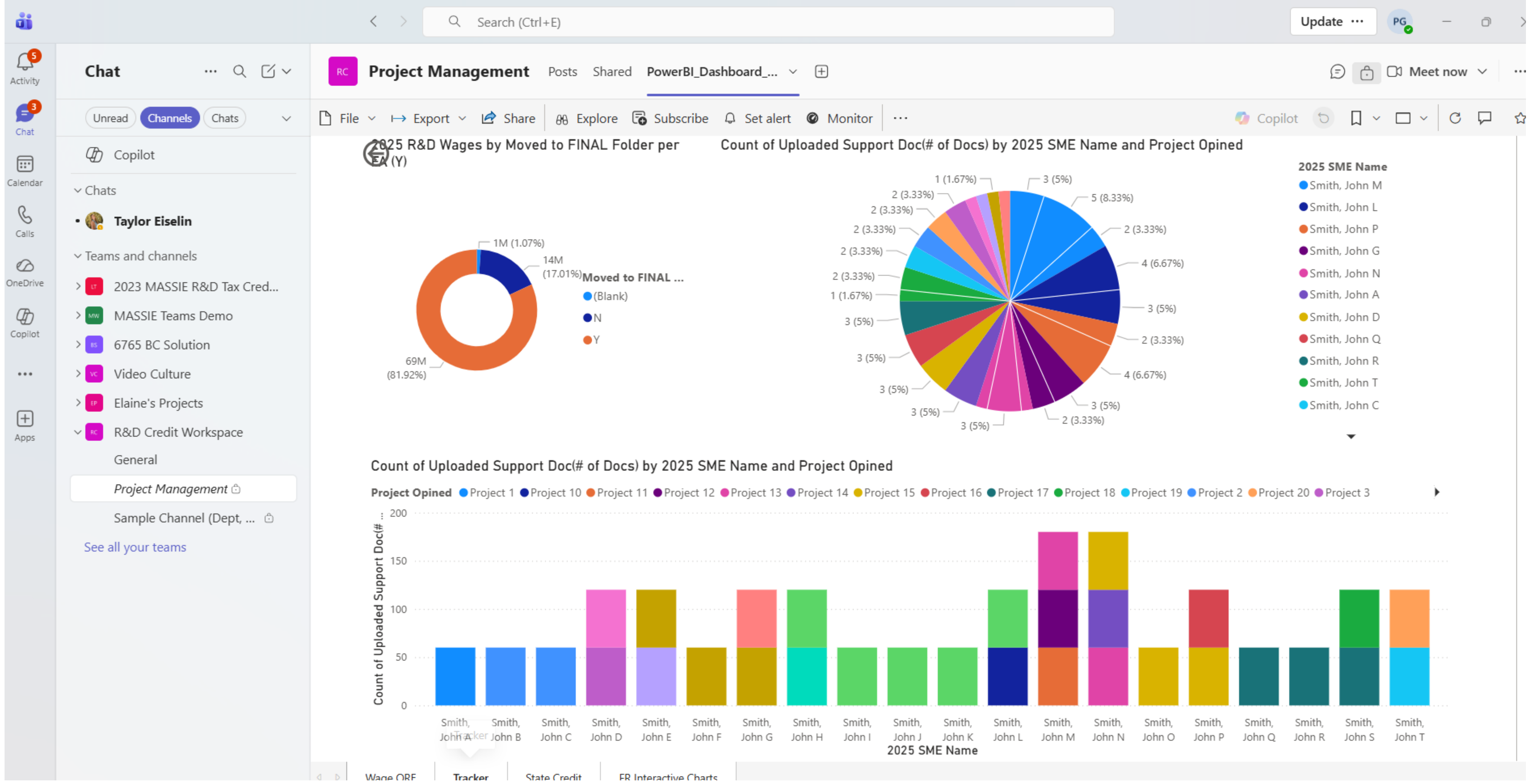
Using Microsoft Teams

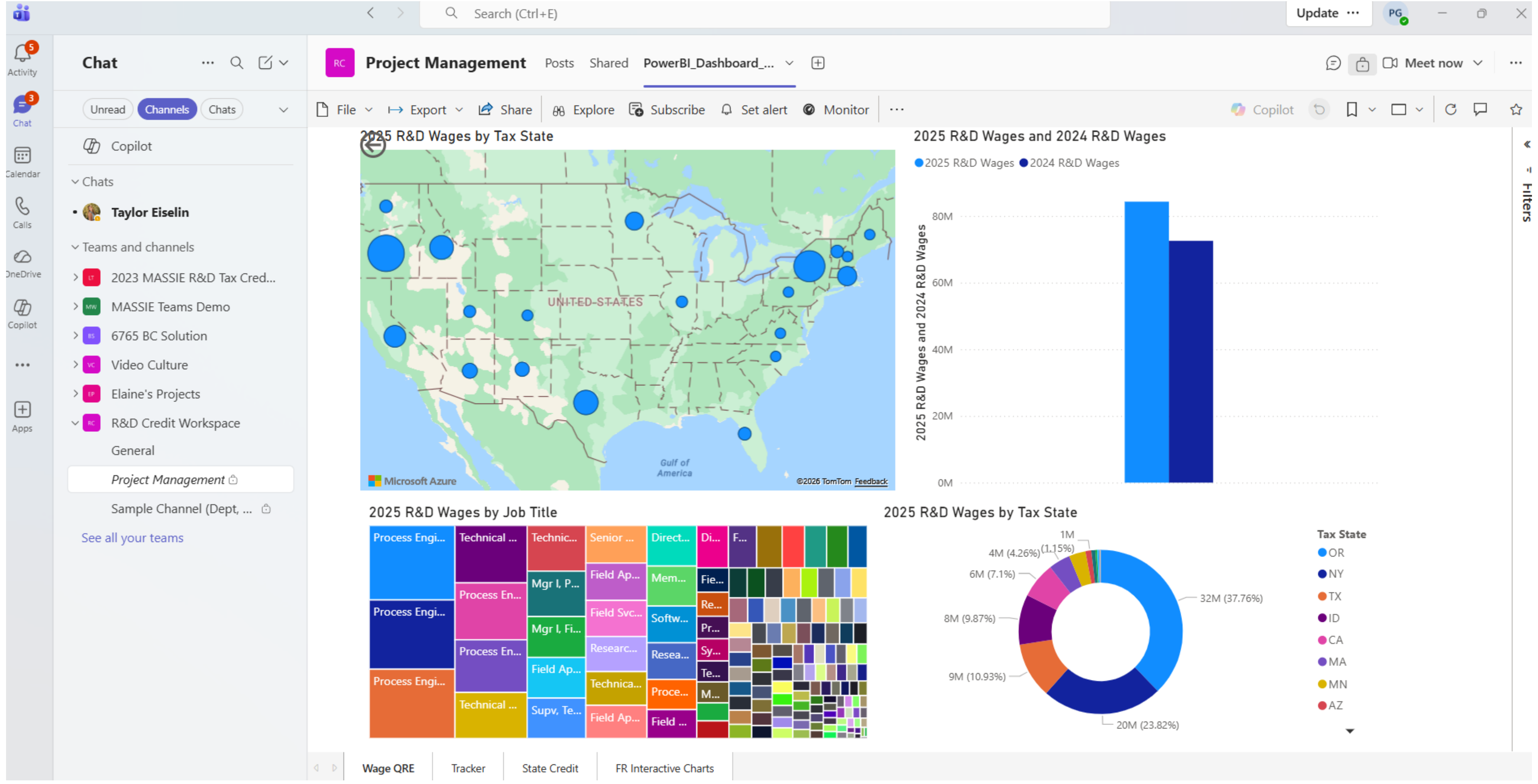
Three-Phased Approach

Tax Department

- Visibility and control of the project progress and final report documentation


Search (Ctrl+E)
Update
PG
Chat
Unread
Channels
Chats
Copilot
Chats
Taylor Eiselin
Teams and channels
2023 MASSIE R&D Tax Cred...
MASSIE Teams Demo
6765 BC Solution
Video Culture
Elaine's Projects
R&D Credit Workspace
General
Project Management
Sample Channel (Dept, ...
See all your teams
RC
General
Posts
Shared
Wiki & FAQs (1)
SME Tasks (1)
Client R&D Portal Demo
R&D BC Portal Demo v2
Meet now
SME Tasks
Grid
Board
Schedule
Charts
Filters
Group by Bucket
4
Tasks left
Not started 1
In progress 0
Late 3
Completed 6
Dept ...
Dept ...
Dept ...
Not Started
In Progress
Late
Completed
Urgen...
Impor...
Mediu...
Low
Not Started
In Progress
Late
Completed
Members
Unass...
Peter...
John ...
Taylo...
Forme...
Not Started
In Progress
Late
Completed
Tasks
Add task
Dept A
SME Info Request
10/15/2025
Dept B
SME Info Request
4 / 4
SME Info Request
1 / 4
04/09
SME Info Request
3 / 4
05/22/2025
Dept C
Completed





MASSIE R&D Tax Credits
Experience Best Practices

Post Project Review

How can we get even better next time?

At the end of the project:

- Process improvement meeting to find out how we can do even better next year
- What worked well – what can be improved
- SCOT
- Listen to the client

Get to Know Us

2026: Speaking on the R&D Tax Credit

January – Salt Lake City
February – Portland Chapter
February – Arizona
March – D.C. Midyear
March – Chicago Tax Club
April – DFW Tax School
April – Tax Technology Seminar
May – Florida
June – Hilton Head
June – Houston
September - Audits & Appeals
October – TEI Annual
October – Chicago Tax Club
November – TEI Silicon Valley x SJSU
November – Manufacturers Alliance

AI FOR R&D COLLABORATION FORUM

R&D Best Practice Roundtable
Past Spotlight Speakers

- Shreya Mehta, **Verizon Communications**
- Courtney Martin, **Walmart**
- Brian Kauffman, **Capital One**
- Michael Schlipp, **Northrop Grumman**
- Urvi Doshi, Lisa Campbell, **Lockheed Martin**
- Jennifer Seymour, **Kimberly Clark**
- Liz Cherry, **Siemens**
- Dale Green, **PACCAR**
- Madison Barnett, **Coca-Cola**
- Eva Lawrence, **AT&T**
- Steve Ortel, **Bayer**
- Kathleen Murtaugh, **CommScope**
- Dan Mansfield, **Caterpillar**
- Penni Christina, **Aetna**

Next Roundtable: June 24, 2026| 2 PM ET
massietaxcredits.com/roundtable

DC Update Contributors – Current R&D Cases & New Legisla

- Matt Lerner, **Sidley Austin**
- Alex E. Sadler, **Morgan Lewis**
- Jeffrey Moeller, **Ivins Philips & Barker**
- Paul DiSangro, **Mayer Brown**

MASSIE R&D Tax Credits
Experience Best Practices

Get Involved

THE R&D TAX CREDIT BEST PRACTICE ROUNDTABLE

June 24 1 PM CT

info@massietaxcredits.com

Peter Green

pgreen@massietaxcredits.com

As MASSIE's CEO, Peter is responsible for the company's growth and client experience initiatives that make the R&D tax credit process easier, generating larger credits and ensuring smoother audits. His innovative strategies at MASSIE have rapidly propelled the company's expansion. By implementing his unique improvement initiatives and ideas, Peter has significantly contributed to MASSIE's prominence in the industry.


THANK
YOU