

Health Care Reform Advisory: Update on the Billion-Dollar Tax Credit and Grant Opportunity: What Life Sciences Companies Can Do Now to Prepare

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In a [recent advisory](#), we reported that the Patient Protection and Affordable Care Act (a.k.a. the health care reform bill) includes \$1 billion in tax credits and grants to defray the costs of therapeutic research by small and mid-size life sciences companies, including drug, therapeutic, and diagnostic companies. The new, temporary program offers a choice between an income tax credit and a cash grant for up to 50% of a company's costs paid or incurred in 2009 and 2010 and directly related to a "qualifying therapeutic discovery project" (QTDP).

The Treasury Department, after consultation with the Department of Health and Human Services, is expected to announce final guidance on the application process and selection criteria for the QTDP credit and grant program by May 21, 2010. But what can companies do now to prepare for what is sure to be a highly competitive application process?

What You Can Do Now

First, after reviewing our [recent advisory](#) to confirm your company and project are eligible, you can begin drafting a descriptive, compelling summary of your project. Your summary should address both the health care and economic benefits of your project. Keep in mind that your project must show reasonable potential to accomplish one of the following health care goals:

- to develop new therapies to treat areas of unmet medical need or to prevent, detect, or treat chronic or acute diseases and conditions
- to reduce long-term health care costs in the U.S.
- to significantly advance the goal of curing cancer within the next 30 years.

Similarly, your project will also be judged on whether it can meet certain economic criteria requiring the project to:

- create and sustain (directly or indirectly) "high quality, high paying" jobs in the U.S.
- advance U.S. competitiveness in the fields of life, biological, and medical sciences.

Although these summaries should be as descriptive as possible, they should be written in layperson's terms; applications will likely be reviewed by Treasury personnel without a deep industry background.

Second, you can identify which costs related to your project are eligible for the credit or grant. You should generate cost reports for your project covering 2009 and 2010 (projected through the end of the year), and separate out ineligible costs, such as certain executive compensation, interest, and facility maintenance expenses (such as mortgage or rent payments, insurance payments, utility costs, or the cost of maintenance personnel), and costs relating to certain support functions (e.g., human resources, accounting, data processing, etc.).

Finally, the QTDP credit and grant program was modeled after a similar program introduced last year for the energy sector. Life sciences companies may benefit from reviewing the application materials for that program, available on the Department of Energy's website at <http://www.energy.gov/recovery/48C.htm>.

Further Guidance Expected Soon

The Treasury will issue detailed guidance on the QTDP credit and grant program by May 21, 2010. Mintz Levin's life sciences, health law, and tax attorneys and the government relations professionals at ML Strategies are monitoring these issues closely and will update our clients and friends when the Treasury issues its guidance or as other developments arise.

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For up-to-date information regarding health care reform, please visit our [Health Care Reform: Analysis & Perspectives](#) page.

Please [click here](#) to learn more about our health care reform practice.

For further information regarding this or any issue related to Health Care Reform, please contact one of the professionals listed below or the Mintz Levin attorney who ordinarily handles your legal affairs.

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