LEGISLATIVE PROPOSAL A
EXECUTIVE SUMMARY

Title

Modified Conformity to the Federal Alternative Simplified Credit (ASC) and Elimination of the Alternative Incremental Research Credit (AIRC)

Problem

California has not adopted the federal rules allowing the ASC method to calculate the California research credit. The "Federal Regular Method" requires taxpayers to provide records back to base years (1984-1988) to substantiate reported credits. Taxpayers often need more time to produce records or are unable to locate these documents, which makes the credit verification complicated and can extend audit resolution times. In California, because there is currently no available alternative, taxpayers are being denied the research credit because they are not able to substantiate the base period amounts.

Proposed Solution

To help alleviate this problem, it is proposed that California conforms to the ASC method and eliminate the AIRC method for research credit allowed for taxable years beginning on or after January 1, 2022.

The ASC method would be available as an election for taxable years on or after January 1, 2022. The election remains in effect until revoked under existing law with the consent of the Franchise Tax Board (FTB). The California research credit under the ASC method would be equal to three percent (3%) of the California qualified research expenses (CA QRE) that exceed fifty percent (50%) of the average CA QRE for the three preceding taxable years. For taxpayers who do not have CA QRE for any one of the three preceding taxable years, the proposed credit rate would be one and three tenths of one percent (1.3%) of the current year CA QREs.

By allowing the ASC method, taxpayers will have another method to calculate and substantiate the base amount for the credit based on the three preceding tax years versus documents from over thirty years ago.

Fiscal Impact

This proposal would not significantly impact the department's cost.

Economic Impact

This proposal would result in the following revenue loss/impact:

Estimated Revenue Impact of LP A
Assumed Enactment after June 30, 2021

($ in Millions)

Fiscal Year	Revenue
2021-2022	-$2.5
2022-2023	-$5.4
2023-2024	-$6.3

This analysis does not account for changes in employment, personal income, or gross state product that could result from this proposal or for the net final payment method of accrual.

Title

Modified Conformity to the Federal Alternative Simplified Credit and Elimination of the Alternative Incremental Research Credit

Introduction

This proposal would bring California into modified conformity with the federal alternative simplified credit and would eliminate the alternative incremental research credit.

Problem

California has not adopted the federal rules allowing the ASC method to calculate the California research credit. The “Federal Regular Method” requires taxpayers to provide records back to base years (1984-1988) to substantiate reported credits. Taxpayers often need more time to produce records or are unable to locate these documents, which makes the credit verification burdensome and can extend audit resolution times. In California, because there is currently no available alternative, taxpayers are being denied the research credit because they are not able to substantiate the base period amounts.

Proposed Solution

To help alleviate this problem, it is proposed that California conforms to the ASC method and eliminate the AIRC method for research credit allowed for taxable years beginning on or after January 1, 2022.

The ASC method would be available as an election for taxable years on or after January 1, 2022. The election remains in effect until revoked with the consent of the FTB.[1] The California research credit under the ASC method would be equal to three percent (3%) of the CA QRE that exceed fifty percent (50%) of the average CA QRE for the three preceding taxable years. For taxpayers who do not have CA QRE for any one of the three preceding taxable years, the proposed credit rate is one and three tenths of one percent (1.3%) of the current year CA QREs.

By allowing the ASC method, taxpayers will have another method to calculate and substantiate the base amount for the credit based on the three preceding tax years versus documents from over thirty years ago.

Program History/Background

Congress enacted the federal research credit in 1981 to stimulate increased research activities and innovation in the United States. California enacted a similar research credit in 1987 by conforming, with modifications, to the federal credit, for research conducted in this state.

[1] As allowed under the current law R&TC sections 17024.5 and 23051.5 – FTB Notice 2000-8.

The primary method used to calculate the credit is the "Federal Regular Method." This method relies on base amount factors from the taxpayer's historic research expenses (from the 1980's) and annual gross receipts, as well as the average preceding four taxable years' annual gross receipts.

Congress later enacted alternative methodologies to ease the burden on taxpayers whose circumstances, such as low gross receipts or lack of historic information, deprived them of a credit under the regular method. These methods are:

- The AIRC method that provided a sliding scale of credit rates, but still referenced to the taxpayer's gross receipts in the calculation. The 2015 amendments to Internal Revenue Code (IRC) section 41 terminated this method for taxable years beginning after December 31, 2008.[2]
- The ASC method that relies on a taxpayer's three most recent tax years' qualified research expenditures to determine the base amount and eliminates the weight of the taxpayer's gross receipts on the base amount.

California's current research credit conforms to the federal regular and the AIRC methods with modifications. California does not allow the ASC method.

Current Federal Law

IRC section 41 allows a credit for increasing research activities. The federal research credit is the sum of three separate credit components, the general research credit, the university “basic research” credit, and the energy research credit, as described below:

1. The General Research Credit – There are two methods of calculating the general research credit, the “Federal Regular Method” and the ASC method. More detail on calculating these methods is provided below under “Calculating the General Research Credit,” but generally they function as follows:
    - “Federal Regular Method” - For general research expenditures, a taxpayer may claim a research credit equal to 20 percent of the amount by which the taxpayer’s current year qualified research expenses (QRE) exceed the Base amount. The base amount for the current year is generally computed by multiplying the taxpayer’s fixed-base percentage by the average amount of the taxpayer’s gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 through 1988, then its fixed-base percentage is the ratio that its total qualified research expenses for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum fixed-base percentage of 16 percent). Special rules apply to all other taxpayers (so called start-up firms).[3]

[2] Public Law 114-113, enacted December 18, 2015.
[3] The Small Business Job Protection Act of 1996 expanded the definition of start-up firms under IRC section 41(c)(3)(B)(i) to include any firm if the first taxable year in which such firm had both gross receipts and qualified research expenses began after 1983. A special rule (enacted in 1993) is designed to gradually re-compute a

- ASC Method - In lieu of claiming the general research credit under the "Federal Regular Method," taxpayers may elect to claim a research credit under the ASC method generally equal to 14 percent of the amount by which the taxpayer's qualified research expenses for the taxable year exceed a simplified base amount.

2. The University "Basic Research" Credit – This separate component of the research credit is only available to corporations, and provides a research credit for corporate cash expenses paid for basic research conducted by universities and scientific research organizations.[4]
3. The Energy Research Credit – This separate component of the research credit is available for a taxpayer's expenditures on research undertaken by an energy research consortium.

The AIRC Method – Previously, in lieu of the "Federal Regular Method" taxpayers were allowed to elect to calculate their general research credit using the AIRC method. The AIRC method was terminated for federal purposes for tax years beginning after December 31, 2008.

The consistency rule, as provided in IRC section 41(c)(6), requires the taxpayer to apply a consistent methodology to calculate qualified research expenses used to compute the fixed-base percentage and the qualified research expenses for the credit year. Furthermore, acquisitions, or dispositions by the taxpayer must be considered retroactively in calculating the base amount.

Current State Law

California currently conforms, with modifications, to two of the federal methods used to calculate the general research credit, the "regular method," and the AIRC method. California does not conform to the ASC method.

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start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm is assigned a fixed-base percentage of three percent for each of its first five taxable years after 1993 in which it incurs qualified research expenses. A start-up firm's fixed-base percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenses is a phased-in ratio based on the firm's actual research experience. For all subsequent taxable years, the taxpayer's fixed-base percentage is its actual ratio of qualified research expenses to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993. IRC section 41(c)(3)(B). Treasury Reg. section 1.41-3(c).

[4] IRC section 41(e)(2)(A) In general the term "basic research payment" means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if-

(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

(ii) such basic research is to be performed by such qualified organization.

The Regular Method

California conforms to the Federal Regular Method of calculating the general research credit, with modifications. For general research expenditures, a taxpayer may claim a state research credit, equal to 15 percent of the amount by which the taxpayer's California qualified research expenses for a taxable year exceed a base amount.

- **Base Amount** - California generally conforms to the federal rules for determining the base amount, with the gross-receipts modification described below. Similar to the federal law, a taxpayer's California base amount cannot be less than 50 percent of its current-year California qualified research expenses.
- **Gross Receipts** - California law conforms to the federal definition of gross receipts to calculate the research credit under the "regular method" with modification. For California research credit purposes, gross receipts are only those from the sale of property held for sale in the ordinary course of business that is delivered or shipped to a purchaser within California, regardless of free on board (f.o.b.) point or any other condition of the sale.[5]

The ASC Method

California law specifically does not conform to the ASC method,[6] meaning taxpayers may elect the ASC method for federal purposes but not for state purposes.

The AIRC Method

Taxpayers may elect to calculate their general research credit using the AIRC method in lieu of the "regular method." California conforms to the federal AIRC method with modifications, including the modification that specifically provides that the federal December 31, 2008, termination date does not apply.[7] As a result, taxpayers may continue to elect the AIRC method under California law even though such an election is unavailable for federal purposes.

An election to use the AIRC method in lieu of the "regular method" applies to all succeeding taxable years, unless revoked with the consent of the FTB. Other modifications are described below:

- **Credit Rates and Base Amounts** - Under the California AIRC method:[8]
    - A credit rate of 1.49 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e., the base amount equals 1 percent of the taxpayer's average gross receipts for the 4 preceding years) but does not exceed a base amount computed by using a fixed-base percentage of 1.5 percent;

[5] R&TC sections 17052.12(g)(3) and 23609(h)(3).
[6] R&TC sections 17052.12(g)(4) and 23609(g)(4).
[7] R&TC sections 17052.12(h) and 23609(i).
[8] R&TC sections 17052.12(g)(1) and 23609(h)(1).

    - A credit rate of 1.98 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but does not exceed a base amount computed by using a fixed-base percentage of 2 percent; and
    - A credit rate of 2.48 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent.
- **Gross Receipts** - For purposes of calculating the general research credit under the AIRC method, gross receipts have the same meaning that they have under the "regular method," as described above.

Effective/Operative Date of Solution

If enacted during the 2021 legislative session, as a tax levy this proposal would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2022.

Justification

Conforming to the ASC method would provide businesses conducting research in California with a simplified calculation option, eliminate differences between federal and state law, and reduce recordkeeping requirements. It will also reduce the administrative burden on the FTB with respect to audits of the California research credit.

Implementation

Implementing this proposal would require some changes to existing forms and instructions and information systems, which could be accomplished during the normal annual update.

Fiscal Impact

This proposal would not significantly impact the department's costs.

Economic Impact

Revenue Estimate

This proposal would result in the following revenue loss/impact:

Estimated Revenue Impact of LP A
Assumed Enactment after June 30, 2021

($ in Millions)

Fiscal Year	Revenue
2021-2022	-$2.5
2022-2023	-$5.4
2023-2024	-$6.3

This analysis does not account for changes in employment, personal income, or gross state product that could result from this proposal or for the net final payment method of accrual.

Revenue Discussion

Based on output from the FTB's Corporate micro-simulation model, it is determined that the estimated revenue impact from eliminating the AIRC method and allowing for the ASC method in calculating the Research and Development Credit would result in a revenue loss of $5.4 million for taxable year 2022.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

Policy Considerations

None noted.

Other Agency/Industry Impacted

Not Applicable.

Other States

The states surveyed are *Iowa*, *Virginia, New Jersey, and Massachusetts* for their adoption of the ASC method in the recent years. These states allow the taxpayers an election to use the ASC method and have modified the credit percentage used to calculate the credit, as follows:

Iowa has different credit percentages applicable to large and small businesses, as well as individual taxpayers[9].

In *Virginia* the credit percentage is 10 percent. For taxpayers without research expenses in any of the three preceding years, the credit is 5 percent of the current year VA QREs.[10]

In New Jersey the credit percentage is 10 percent. If the taxpayer does not have NJ qualified research expenses in any of the three preceding years, the credit rate is 10 percent of the current year NJ QREs.[11]

In Massachusetts the credit percentage used to calculate the MA ASC credit was phased in over a 7-year period. For calendars years beginning on or after January 1, 2021, the credit percentage is 10 percent. If the taxpayer does not have MA qualified research expenses in any of the three preceding years, the credit rate is 5 percent of the current year MA QREs.[12]

Although similar to California's economy, *New York* does not offer a research credit for taxable years beginning on or after January 1, 1987.

Potential Compromises

The ASC credit rate may need to be increased to encourage the taxpayers to use this method.

Additional Comments

External stakeholders have expressed interest in seeking a legislative solution to address California's conformity to the federal ASC method.

[9] Iowa Code section 15.335(4)b & Iowa Code section 422.10(1)d.
[10] Va. Code Ann. section 58.1-439 C.1.
[11] New Jersey Corporation Business Tax Research and Development Tax Credit (https://www.state.nj.us/treasury/taxation/pdf/current/cbt/306.pdf)
[12] Mass. Gen. L. section 38M(b).

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Franchise Tax Board’s Draft Proposed Amendments for LP A

Subject: Modified Conformity to the Federal Alternative Simplified Credit and Elimination of the Alternative Incremental Research Credit

Amendment 1

Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12

For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “net tax” (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(3) For each taxable year beginning on or after January 1, 2000, the reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”

(c) Section 41(a)(2) of the Internal Revenue Code shall not apply.

(d) “Qualified research” shall include only research conducted in California.

(e) In the case where the credit allowed under this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of “qualified research expense” any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to “Section 501(a)” in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read “this part or Part 11 (commencing with Section 23001).”

(g) (1) For each taxable year beginning on or after January 1, 2000, and before January 1, 2022:

(A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read “one and forty-nine hundredths of one percent.”

(B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read “one and ninety-eight hundredths of one percent.”

(C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read “two and forty-eight hundredths of one percent.”

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section 41(c)(7) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer’s trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(4) Section 41(c)(5) of the Internal Revenue Code, relating to election of alternative simplified credit, shall not apply.

(h) For each taxable year beginning on or after January 1, 2022:

(1) Section 41(c)(4) of the Internal Revenue Code, relating to an election of alternative incremental credit, shall not apply.

(2) Section 41(c)(5) of the Internal Revenue Code, relating to an election of alternative simplified credit, shall apply, except as otherwise provided.

(A) The reference to "14 percent (12 percent in the case of taxable years ending before January 1, 2009)" in Section 41(c)(5)(A) of the Internal Revenue Code, relating to in general, is modified to read "three percent."

(B) The reference to "6 percent" in Section 41(c)(5)(B)(ii) of the Internal Revenue Code, relating to credit rate, is modified to read "one and three tenths of one percent."

(C) Section 41(c)(5)(C) of the Internal Revenue Code, relating to election, shall not apply, and in lieu thereof, an election under Section 41(c)(5)(A) of the Internal Revenue Code, relating to in general, may be made for any taxable year beginning on or after January 1, 2022. That election shall apply to the taxable year for which it is made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(i~~h~~) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j~~i~~) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

(k~~j~~) Section 41(a)(3) of the Internal Revenue Code shall not apply.

(l~~k~~) Section 41(b)(3)(D) of the Internal Revenue Code, relating to amounts paid to eligible small businesses, universities, and federal laboratories, shall not apply.

(m~~l~~) Section 41(f)(6), relating to energy research consortium, shall not apply.

Amendment 2

Section 23609 of the Revenue and Taxation Code is amended to read:

23609.

For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the “tax” (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “8 percent.”

(2) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “12 percent.”

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “11 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “12 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(3) For each taxable year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to “20 percent” in Section 41(a)(1) of the Internal Revenue Code is modified to read “15 percent.”

(B) The reference to “20 percent” in Section 41(a)(2) of the Internal Revenue Code is modified to read “24 percent.”

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of “qualified research expense” any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) “Qualified research” and “basic research” shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that “basic research,” for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities that are described in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

(A) A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

(B) A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a "specialized laboratory cancer center," and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

(A) "Biopharmaceutical research activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) "Other biotechnology research and development activities" means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each taxable year beginning on or after January 1, 1998, the reference to "Section 501(a)" in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read "this part or Part 10 (commencing with Section 17001)."

(h) (1) For each taxable year beginning on or after January 1, 2000, <u>and before January 1, 2022:</u>

(A) The reference to "3 percent" in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read "one and forty-nine hundredths of one percent."

(B) The reference to "4 percent" in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read "one and ninety-eight hundredths of one percent."

(C) The reference to "5 percent" in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read "two and forty-eight hundredths of one percent."

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section 41(c)(7) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to

customers in the ordinary course of the taxpayer’s trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(4) Section 41(c)(5) of the Internal Revenue Code, relating to election of the alternative simplified credit, shall not apply.

(i) For each taxable year beginning on or after January 1, 2022:

(1) Section 41(c)(4) of the Internal Revenue Code, relating to election of alternative incremental credit, shall not apply.

(2) Section 41(c)(5) of the Internal Revenue Code, relating to election of alternative simplified credit, shall apply, except as otherwise provided.

(A) The reference to "14 percent (12 percent in the case of taxable years ending before January 1, 2009)" in Section 41(c)(5)(A) of the Internal Revenue Code, relating to in general, is modified to read "three percent."

(B) The reference to "6 percent" in Section 41(c)(5)(B)(ii) of the Internal Revenue Code, relating to credit rate, is modified to read "one and three tenths of one percent."

(C) Section 41(c)(5)(C) of the Internal Revenue Code, relating to election, shall not apply, and in lieu thereof, an election under Section 41(c)(5)(A) of the Internal Revenue Code, relating to in general, may be made for any taxable year beginning on or after January 1, 2022. That election shall apply to the taxable year for which it is made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(j~~i~~) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(k~~j~~) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

(l~~k~~) Section 41(a)(3) of the Internal Revenue Code shall not apply.

(m~~l~~) Section 41(b)(3)(D) of the Internal Revenue Code, relating to amounts paid to eligible small businesses, universities, and federal laboratories, shall not apply.

(n~~m~~) Section 41(f)(6) of the Internal Revenue Code, relating to energy research consortium, shall not apply.