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The OBBBA: Research and Experimental Expenses & the R&D Credit

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Presentation Overview

1. TCJA Capitalization Mandate vs. OBBBA IRC §174A
2. Transition Relief & Green Acres Farm Case Study
3. Rev. Proc. 2025 -28 & Model Election Statements
4. Agricultural R&D Tax Credit Screening & Audit Defense

Part I • Statutory Framework

TCJA Capitalization & OBBBA Repeal

TCJA Mandatory Amortization (2022 – 2024)

Post-2021 Mandate

Capitalization required after December 31, 2021.

Recovery Periods

Five years domestic; fifteen years foreign.

Mid-Year & Software

Midpoint start; software costs included.

First-Year Deduction Shock Under TCJA

10%

Maximum first-year deduction on domestic R&E under mid-year convention

OBBBA Section 70302 Enacts IRC §174A

Immediate Domestic Expensing

Full deduction allowed after December 31, 2024.

Optional 60 -Month Election

Amortize starting when benefits first realize.

Domestic vs. Foreign R&E Treatment

R&E Category	Code Section	Post-2024 Tax Treatment
Domestic Research	New IRC §174A	Immediate deduction or 60+ month amortization
Foreign Research	Amended IRC §174	Mandatory 15 -year capitalization and amortization

Transition Relief for 2022 –2024 Capitalized Costs

All Taxpayers

1- or 2-Year Recovery

Deduct unamortized balance in 2025 or 2025–2026.

Eligible Small Businesses

Retroactive §174A

Amend 2022–2024 returns for immediate expensing.

Small Business Eligibility & Statutory Deadline

⩽ $31 Million

IRC §448(c) gross receipts threshold for 2025.

No Tax Shelters

Must qualify under IRC §448(a)(3) and §448(d)(3).

July 6, 2026

Retroactive election deadline now passed.

Part II • Computational Case Study

Green Acres Farm: TCJA vs. OBBBA Math

Green Acres Farm: Entity & Research Facts

Entity & Receipts: Family C corporation; $25M average gross receipts.

Research Activities: Cover crop and no -till planting system (2022 –2024).

Substantiation: Custom equipment modifications, soil testing, complete records.

Green Acres Farm Financial Data (2022 – 2024)

Tax Year	Pre-R&E Income	Domestic QREs	IRC §41 Credit
2022	$2,000,000	$100,000	$10,000
2023	$2,100,000	$120,000	$12,000
2024	$2,200,000	$130,000	$13,000

2022 Original Return Under TCJA Rules

Basis & Amortization

Capitalized QREs: $100,000

§280C(c)(1) Reduction: $0

Year 1 Amortization (10%): $10,000

Unamortized Carryover: $90,000

2022 Tax Computation

Taxable Income: $1,990,000

Gross Tax (21%): $417,900

Less §41 Credit: ($10,000)

Final Tax Paid: $407,900

2022 Amended Return: Track 1 Retroactive Election

§174A & §280C(c)(1)

Gross QREs Expensed: $100,000

§280C(c)(1) Reduction: ($10,000)

Net §174A Deduction: $90,000

Amended Income: $1,910,000

Amended Tax & Refund

Amended Tax (21%): $401,100

Less §41 Credit: ($10,000)

Post-Credit Tax Due: $391,100

2022 Tax Refund: $16,800

Immediate 2022 Cash Refund Generated

$16,800

2022 tax refund ($407,900 original tax minus $391,100 amended tax)

Green Acres Farm: Two Transition Tracks

Track 1: Amended by July 6, 2026

All open years (2022 –2024) amended; zero 2025 carryover.

Track 2: No Amended Returns

Recover remaining balance on 2025 or 2025–2026 returns.

Part III • IRS Administrative Guidance

Rev. Proc. 2025-28 & Rev. Proc. 2026-32

IRS Procedural Guidance Framework

Rev. Proc. 2025 -28

Issued September 2025 for elections and method changes.

Rev. Proc. 2026 -32

Coordinates §481(a) adjustments and extends eligibility waivers.

Waiver Window

Automatic change waivers extended through pre -2028 tax years.

Automatic Consent & Form 3115 Waiver

Automatic Consent: Covers switch to immediate §174A expensing or 60 -month amortization.

Statement in Lieu: Replaces formal Form 3115 and National Office duplicate copy.

Superseding Returns: Automatic extension granted for timely unextended 2024 filers.

2025 Recovery Options for Unamortized Balances

Option A • Full Acceleration

100% in 2025

Deduct entire remaining balance on 2025 return.

Option B • Ratable Spread

50% in 2025 & 50% in 2026

Smooth deductions over two years without amending.

Summary of Small Farm Transition Pathways

Scenario	Prior Periods (2022 –2024)	Unamortized Balance (2025)
Small Farm (≤$31M)	Retroactive §174A expensing via amended return	Deduct 100% in 2025 or ratably over 2025–2026
$50,000 Carryover	Original 2022 –2024 returns left unchanged	$50,000 in 2025 (Option A) or $25,000/yr (Option B)

Strategic Tax Planning Considerations

Loss Year Timing

Full expensing in a loss year yields lower value.

§280C & §163(j)

Evaluate credit reduction and interest deduction limits.

Entity Structure

Partnerships and trusts require heightened technical review.

Mandatory Elements of Written Election Statements

1. **Taxpayer Identity:** Full legal name and TIN/EIN.

2. **Taxable Years Affected:** Specific calendar or fiscal years covered.

3. **R&E Description:** Specific activities such as soil trials or feed formulations.

4. **Dollar Amounts & Declaration:** Exact expenditures and formal election citation.

Model Statement #1: Retroactive Small Business Election

Rev. Proc. 2025 -28 §3.03

Consistency Rule: Applies to all 2022 –2024 R&E years.

Eligibility Affirmation: ⩽$31M receipts; not a tax shelter.

§280C Selection: Must select Option A or Option B.

Cedar Valley Ranch Illustration

$92,000 QREs reduced to $84,640 under default §280C(c)(1) ($7,360 credit).

Model Statement #2: Statement in Lieu of Form 3115

Section 7.02 • DCN 273

Cut-Off Basis: Zero IRC §481(a) adjustment permitted.

Recovery Election: 100% in 2025 or ratably 2025–2026.

Filing Attachment: Attach to timely original 2025 return.

Prairie Ridge Farms Illustration

$34,600 unamortized balance deducted in full on 2025 Form 1120.

Model Statement #3: Late Reduced Credit Election

IRC §280C(c)(2) Mechanics

Preserves Deduction: Full $92,000 §174A deduction retained.

21% Credit Cut: $7,360 credit reduced by $1,546 to $5,814.

Form 6765: Must attach marked amended Form 6765.

Coordination Requirement

Requires selecting Option B under Paragraph 5 of Statement #1.

E-File Rules, Irrevocability & Audit Exposure

Separate PDFs

Attach each election as a clearly labeled PDF.

Irrevocable Elections

Sections 3, 4, and 6 elections cannot be revoked.

No Audit Protection

Pre-2025 R&E costs receive zero automatic audit protection.

Part IV • Client Screening & Substantiation

R&D Tax Credits for Farmers & Ranchers

Agricultural R&D Credits: Legitimate but Narrow

Genuine Experimentation

Farms qualify when resolving technical uncertainties under IRC §41.

Not Automatic

Trying a new crop or practice alone does not qualify.

Qualifying Activities vs. Routine Farming

Strong Candidates

- Novel irrigation or nutrient -delivery systems
- New livestock production or housing methods
- Improved crop handling and storage processes

Disqualified Routine Work

- Ordinary crop production and standard fertilizing
- Routine soil testing and conventional breeding
- Adapting existing tech to new weather or fields

The IRC §41(d) Statutory Four-Part Test

1. Permitted Purpose

Improve function, performance, reliability, or quality.

2. Elimination of Uncertainty

Resolve capability, method, or design uncertainty.

3. Process of Experimentation

Systematically evaluate alternatives to resolve uncertainty.

4. Technological in Nature

Rely on physical, biological, engineering, or computer science.

Livestock Operations: Opportunities vs. Traps

Qualifying Systems

New feeding systems, production processes, or environmental controls.

Non-Qualifying Husbandry

Routine feed trials, herd management, and standard breeding.

Contemporaneous Documentation Standards

Technical Records: Trial protocols, lab results, production data, engineering analyses.

Cost Tracking: Employee time allocations and research supply invoices.

Retrospective Warning: Post-hoc consultant narratives invite heavy IRS scrutiny.

Beware Contingency & Percentage Promoters

No Revenue Formula

Credits never equal a flat percentage of farm revenue.

Eligible QREs Only

Limited to qualified wages, supplies, and contract research.

Capital Assets Excluded

Land improvements and equipment purchases do not qualify.

Five Client Screening Questions Before Study

1. Developed a new process, equipment, or handling method?
2. Conducted structured experiments to solve technical problems?
3. Documented alternatives tested, results, and actual costs?
4. Identified employee or contractor experimentation time?
5. Grounded in real research rather than expense mining?

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Questions & Discussion

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