



Indiana Department of Revenue

REQUESTS FOR RESEARCH EXPENSE CREDIT POLICY DETERMINATIONS

This guide provides information and guidance on submitting requests for REC Advisory Letters and DOR's policy determination process.

Taxpayers who want written guidance regarding the Indiana Department of Revenue's (DOR) Research Expense Credit (REC) policies may request an REC Advisory Letter through the agency's Tax Policy Division. Requests may be made anonymously. DOR may send REC Advisory Letters by email if the original request was made via email or upon taxpayer request.

DOR bases information in REC Advisory Letters upon correspondence with the taxpayer as outlined below. Letters provide technical assistance for the specific taxpayer who made the request and are advisory in nature only. Letters are nonbinding, are not considered official rulings and are not published in the Indiana Register. Other taxpayers, even with substantially similar situations, should not rely on another taxpayer's letter for advice.

Other types of informal advice made by DOR's Tax Policy Division (or by any other DOR employee), such as oral advice or advice given through email, are not binding.

I. Information to Consult Before Submitting a Request

Taxpayers should consult relevant statutes, regulations and policy documents before submitting their request. DOR also requires you to list the relevant statutes, regulations, etc. when submitting your request. In many cases, issues brought before the Tax Policy Division are addressed in these resources below and there is no need to request an REC Advisory Letter.

- Indiana's tax statutes are found in Indiana Code Title 6, available on the Indiana General Assembly's website, iga.in.gov/legislative/laws/2021/ic/titles/006.
- DOR's Indiana Administrative Code (IAC) regulations are in Title 45. You can access the IAC through Indiana General Assembly's website, in.gov/legislative/iac/iac_title?iact=45.
- DOR's guidance in the form of Information Bulletins, Departmental Notices and other policy documents that provide nontechnical assistance to the general public are posted in DOR's online Tax Library, dor.in.gov/legal-resources/tax-library.

- Information Bulletins are agency statements that interpret, supplement, or implement a statute or rule and are divided between sales tax, income taxes, and general tax matters.
- Departmental Notices are not considered an agency statement, as they do not express interpretations of law. They are intended to notify the public about tax enactments, tax rate changes and other DOR information.
- The Indiana Register contains most of DOR’s published rulings and Letters of Findings, in.gov/legislative/iac/showIRArchive.
- Indiana Tax Court decisions can be found on the Judicial Branch’s website at in.gov/courts/public-records/appellate-decisions.

II. Filing a Request for an REC Advisory Letter

Requests for an REC Advisory Letters must be in writing and include detailed explanations and supporting facts to ensure that overall circumstances are understood clearly. When requesting an REC Advisory Letter, the taxpayer or their representative must provide the following information:

- An affirmative statement that the taxpayer requesting the REC Advisory Letter “is neither under audit, nor in a protest period following an audit, nor involved in litigation before the Indiana Tax Court with regards to the substance of the matters being presented herein.” REC Advisory Letters are not issued if the taxpayer is involved in any of the proceedings mentioned above.
- An affirmative statement that the taxpayer requesting the REC Advisory Letter has maintained contemporaneous records demonstrating that the activities performed in Indiana constitute “qualified research”. While it is not a requirement to submit the contemporaneous records with the request for an REC Advisory Letter, the attorney who is assigned the request may contact the taxpayer to review the records.
 - When claiming an Indiana research expense credit, or the sales and use tax exemption for property used in qualified research, contemporaneous records must be kept which demonstrate that the activity for which a research credit or sales and use tax exemption is claimed constitutes “qualified research” under IRC §41(d)(1).
 - Indiana law does not indicate the specific records to be maintained. However, IC 6-8.1-5-4 provides a general record keeping requirement for a taxpayer to maintain its books and records, including any source documentation necessary to determine the amount of a person’s tax liability.

- Additionally, the Internal Revenue Service regulations require a taxpayer claiming a credit under IRC §41 to maintain records in sufficiently usable form and detail to substantiate that the research expenditures claimed are eligible for the credit. While the IRC does not contain a particular approach or accounting methodology for capturing expenditures, it does require identification of the qualified research expenses by business component (qualified activity). The business component reflects the actual activity undertaken to discover new information where the activities reflect components of a process of experimentation.
- A statement of all relevant and material facts. Failure to disclose or present all relevant and material facts may impact the accuracy of the guidance and conclusions contained in DOR's response and compromise the taxpayer's ability to rely on the REC Advisory Letter for future tax purposes.
- A list of all statutes, regulations, case law, Letters of Findings, Revenue Rulings and informational publications of which you are aware that are relevant to the legal question(s) posed and how such law impacts your request.
- Clearly pose all question(s) that must be answered. Be as specific as possible. DOR's Tax Policy division will not address questions it determines to be vague or ambiguous.
- If the person submitting the request is an attorney, accountant or other representative requesting an REC Advisory Letter on behalf of a client, they must also submit Form POA-1 which authorizes DOR to speak with you on behalf of your client as its power of attorney. The POA-1 form is available on DOR's website, dor.in.gov/tax-professionals/power-of-attorney-procedures-and-form.

III. Where to Submit a Request for an REC Advisory Letter

Taxpayers can submit requests by letter or by emailing taxpolicy@dor.in.gov. Email requests may be written in the body of the email or in Microsoft Word or PDF attachments. Written requests can be mailed to:

Indiana Department of Revenue
Attn: Tax Policy Department, MS 102
100 N. Senate Ave., Room N248
Indianapolis, IN 46204

IV. After Submitting Your Request

DOR will send a receipt confirmation containing a reference number for the request. Please include this reference number when contacting DOR regarding your request.

The Tax Policy department will assign your request to an attorney who will provide a determination. Requests are processed based on the order in which they are received. The time it takes DOR to respond depends on various factors, such as the complexity of the request and the level of review required. A DOR representative may contact you for additional information; however, you may receive the REC Advisory Letter without any further contact from DOR.

An REC Advisory Letter may be considered DOR's final determination in the matter. If you disagree with the findings in the letter, you may submit a new request and clearly explain your objections or provide additional resources. DOR is not, however, obliged to issue a new REC Advisory Letter if the original REC Advisory Letter accurately states DOR's position. If a new REC Advisory Letter is issued, it will supersede the prior advice. As stated above, REC Advisory Letters are nonbinding.