

# RESEARCH AND DEVELOPMENT TAX CREDIT SYMPOSIUM

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September 21, 2015 • Washington, DC • Bloomberg Government



## AGENDA

- 8:00 AM **Registration and Continental Breakfast**
- 8:45 AM **Welcome and Overview**
- 9:00 AM **Recent Developments Impacting the R&D Tax Credit and Practical Implications for Taxpayers**  
**Dean A. Zerbe**, Alliantgroup LP, *Washington, DC*  
**Jeremy M. Fingeret**, Alliantgroup LP, *Houston, TX*  
This session will discuss the most recent legislative, regulatory, and IRS administrative developments impacting the R&D tax credit and review their practical implications for tax departments.
- 10:00 AM **Qualified Research under § 41(d)–Legal Principles Governing the Identification of Qualified Research Activities**  
**Jeff Moeller**, Ivins, Phillips & Barker, Chartered, *Washington, DC*  
**Alex Sadler**, Ivins, Phillips & Barker, Chartered, *Washington, DC*  
This session will review the statutory and regulatory criteria governing the determination of whether research activities are credit-eligible research under § 41(d), the impact of recent cases such as *Suder v. Commissioner* on that determination, and practical advice for tax departments responsible for identifying qualified research activities.
- 11:00 AM **Break for Refreshments**
- 11:15 AM **The Proposed Internal Use Software (IUS) Regulations–Are They Game Changers?**  
**Kathleen King**, Alvarez & Marsal Taxand LLC, *Washington, DC*  
This session will review the recently proposed regulations on internal use software development costs, including the proposed definition of internal use software and revisions to the high threshold of innovation test. The program will discuss opportunities the proposed regulations create for claiming software development costs as well as potential pitfalls.
- 12:15 PM **Luncheon**



- 12:30 PM **Innovation Policy and the Role of the R&D Tax Credit**  
**Keynote Speaker: Robert D. Atkinson**, The Information Technology & Innovation Foundation, Washington, DC
- 1:30 PM **Best Practices for Identifying and Documenting Qualified Research Expenses (QREs)**  
**Jason Massie**, MASSIE R&D Tax Credits, Atlanta, GA  
**Peter Green**, MASSIE R&D Tax Credits, Atlanta, GA  
This session will discuss best practices for identifying and documenting qualifying R&D activities and costs, gathering information from company subject matter experts, preparing your R&D tax credit claim, and employing systems and processes for maintaining information for audit.
- 2:30 PM **Break for Refreshments**
- 2:45 PM **In-House Perspectives on Managing the R&D Tax Credit**  
**Heidi Leep**, Bayer Corporation, Pittsburgh, PA  
**Tony Luper**, Red Hat, Inc., Raleigh, NC  
**Ben A. Kaplan**, Advanta Tax Advisors, LLC, Hackensack, NJ  
Representatives of large corporate research credit claimants will provide in-house perspectives on the efforts required to investigate and claim the research credit, provider selection, and strategies for managing the audit and resolving R&D tax credit issues with the IRS.
- 3:30 PM **Q&A Session to Discuss Attendee Research Credit Issues**  
**Heidi Leep**, Bayer Corporation, Pittsburgh, PA  
**Tony Luper**, Red Hat, Inc., Raleigh, NC  
**Ben A. Kaplan**, Advanta Tax Advisors, LLC, Hackensack, NJ  
**Jeff Moeller**, Ivins, Phillips & Barker, Chartered, Washington, DC  
**Alex Sadler**, Ivins, Phillips & Barker, Chartered, Washington, DC  
Panelists respond to attendee-submitted questions. Attendees are encouraged to participate in the discussion.
- 4:15 PM **Defending Your R&D Tax Credit Claim in Audits and Appeals**  
**Kendall B. Fox**, PricewaterhouseCoopers LLP, New York, NY  
**Joseph F. Maselli**, PricewaterhouseCoopers LLP, New York, NY  
**Josiah Miller**, PricewaterhouseCoopers LLP, New York, NY  
This session will discuss best practices for communicating with IRS examining agents and other personnel on audit, responding to IDRs and NOPAs, defending your claim when questions are raised, and resolving research credit controversies before the IRS Appeals Office.
- 5:45 PM **Cocktail Reception**



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## ATTENDEES

**Oscar Almeida**

Spectris  
Westborough, MA

**Pascaly Andy**

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## CO-CHAIRS

### JEFF MOELLER

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Jeffrey E. Moeller is a partner of Ivins, Phillips & Barker in Washington, DC ([www.ipbtax.com](http://www.ipbtax.com)), one of the few law firms in the country specializing exclusively in the practice of federal tax law. Jeff has extensive experience handling audit and controversy matters involving the research tax credit and has conducted frequent seminars in this area for clients. Jeff is lead counsel for the taxpayer in *Bayer Corp. v. United States*, a major R&D tax credit case currently being litigated in Pittsburgh. Jeff also specializes in corporate tax planning and transactional matters and has structured and negotiated mergers, acquisitions, joint ventures and other transactions valued in excess of one-hundred billion dollars. Jeff received his law degree from the Georgetown University Law Center.

### ALEX SADLER

**Ivins, Phillips & Barker, Chartered**

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Alex E. Sadler is a partner of Ivins, Phillips & Barker, where he specializes in representing taxpayers in litigation and administrative controversies with the IRS and state and local tax authorities. Before entering private practice in 2002, Alex was a trial attorney with the U.S. Department of Justice, Tax Division, Civil Trial Section, Northern Region, where he was awarded the Attorney General's Distinguished Service Award for his work on corporate tax shelter trials and the Tax Division's Outstanding Attorney Award. Alex currently serves as the chair of the DC Bar's Tax Audits and Litigation Committee. Alex is the author of the treatise *Legal Guide to the Research Credit* (2014-2015 edition), published by Thomson Reuters®. Alex has litigated tax cases in the United States Tax Court, Court of Federal Claims, and U.S. District Courts and Courts of Appeal and resolved many cases without litigation. Based on client feedback Alex has been ranked in *Chambers USA* since 2010. Alex received his J.D. from the University of Virginia School of Law.



# DISTINGUISHED SPEAKERS

## **ROBERT D. ATKINSON, PH.D.**

**The Information Technology & Innovation Foundation**

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Dr. Robert D. Atkinson is one of the country's foremost thinkers on innovation economics. With an extensive background in technology policy, he has conducted ground-breaking research projects on technology and innovation, is a valued adviser to state and national policy makers, and a popular speaker on innovation policy nationally and internationally. He is the author of *Innovation Economics: The Race for Global Advantage* (Yale, 2012) and *The Past and Future of America's Economy: Long Waves of Innovation That Power Cycles of Growth* (Edward Elgar, 2005). Before coming to ITIF, Atkinson was Vice President of the Progressive Policy Institute and Director of PPI's Technology & New Economy Project. *Ars Technica* listed Atkinson as one of 2009's Tech Policy People to Watch. He has testified before a number of committees in Congress and has appeared in various media outlets including CNN, Fox News, MSNBC, NPR, and NBC Nightly News. He received his Masters in Urban and Regional Planning from the University of Oregon and was named a distinguished alumnus in 2014. He received his Ph.D. in City and Regional Planning from the University of North Carolina at Chapel Hill in 1989.

## **JEREMY M. FINGERET**

**Alliantgroup LP**

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Jeremy Fingeret is a Senior Managing Director at alliantgroup, where he manages alliantgroup's R&D tax credit consulting and tax controversy practices. Jeremy earned a J.D. from the University of Houston Law Center. Jeremy is an experienced litigation attorney and has substantial experience litigating R&D tax credit cases including *Suder v. Commissioner*, T.C. Memo 2014-201 (2014), *Shami v. Commissioner*, 741 F.3d 560 (5th Cir. 2014), *U.S. v. Davenport*, 897 F.Supp.2d 496 (N.D.TX. 2012), *Shami v. Commissioner*, TC Memo 2012-78 (2012), and *U.S. v. McFerrin*, 570 F.3d 672 (5th Cir. 2009).

## **KENDALL B. FOX**

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Kendall Fox is a Tax Partner at PricewaterhouseCoopers LLP New York Office and has over twenty five years of tax consulting experience with a technical expertise in Research and Experimentation Credit and software related section 199 studies. He is the technical leader of PwC's national research tax credit consulting team, a team comprised of approximately 150 professionals. Kendall has served companies in several industries with particular experience in high-technology industries. Kendall has a wealth of experience in assisting companies with the IRS examination and appeal of research credit and section 199 issues. He is also a frequent speaker, instructor of external and internal continuing education courses, and author of and quoted in articles. Kendall is also co-author of *BNA Portfolio 556-2nd, Research and Development Expenditures*. As the leader of a national team of fully dedicated, credentialed professionals implementing large scale projects for the Fortune 500 marketplace, he has substantial project management experience, developing and utilizing proven methodologies and toolkits.

## **PETER GREEN**

**MASSIE R&D Tax Credits**

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Peter Green is the CEO of MASSIE R&D Tax Credits. Peter has worked in the tax credit industry since 2001, when he joined WALLACE - The Training Tax Credit Company. As VP of Business Development, Peter helped to establish the company as an industry leader in Georgia tax credits. In 2007, he became President of WALLACE. Peter implemented a variety of people, process and client-experience improvement initiatives in order to grow the company at an impressive pace over the next few years. Peter's success did not go unnoticed, and WALLACE was acquired by ADP in 2011. Peter has served as a member of The Taxation Committee of the Georgia Chamber of Commerce, and the Public Policy Committee of the Georgia Economic Development Association. Born, raised and educated in Dublin Ireland, Peter has been a Georgia resident since 1993. As CEO of MASSIE, Peter is responsible for the company's vision, growth objectives and client experience initiatives.





## **BEN A. KAPLAN**

### **Advanta Tax Advisors, LLC**

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Ben A. Kaplan is a finance and tax professional with over 20 years experience in research credit studies. He is currently with Advanta Tax Advisors, LLC. He has led the Research and Development Tax credit effort for major firms and obtained many millions of credit, after audit. Notably he was instrumental in helping a defense firm obtain \$8 million of additional credit and a financial services firm obtain \$10 million of annual credit, totaling \$60 million over 8 years. He has also helped many smaller companies obtain the credit, adding hundreds of thousands of dollars to their bottom line. Ben has also testified on numerous occasions before the Internal Revenue Service and Treasury concerning proposed Research and Development credit regulations. Ben's process for identifying qualifying projects has been hailed as a model for the financial services industry. Ben has a MBA in Finance from New York University and a JD from Rutgers School of Law in Newark, New Jersey. He is admitted in New York, New Jersey and the District of Columbia.

## **KATHLEEN KING**

### **Alvarez & Marsal Taxand LLC**

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Kathleen King is a Managing Director with Alvarez & Marsal Taxand, LLC in Washington, D.C.. She assists clients in identifying, documenting and sustaining tax incentives including research tax credits, domestic production deductions and fixed asset treatment. With over 20 years of experience, Ms. King's projects have ranged from targeted consulting engagements designed to address a specific issue to large-scale projects utilizing engagement teams working concurrently in multiple locations. She has advised clients across a variety of industries including aerospace and defense, food products, manufacturing, pharmaceutical products, and software. Kathleen also brings invaluable experience to the defense of studies and has successfully represented many clients at both the examination and appellate level. Prior to joining A&M, Ms. King served as a National Office Resource for Big Four R&D Tax Credit teams. Kathleen has worked provided written and oral comments on regulations and is a frequent author on tax planning issues. Ms. King earned her bachelor's degree in Mineral Land Management from the University of Colorado and her master's degree in Accounting from American University in Washington, D.C. She is a Certified Public Accountant (CPA).

## **HEIDI LEEP**

### **Bayer Corporation**

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Heidi Leep is a Tax Manager with Bayer Corporation in Pittsburgh, PA. She has been in corporate tax with Bayer for over 25 years, with experience in most areas of federal and state taxation. She has been responsible for preparing, reviewing and defending tax returns on audit. Currently, her focus is on the Research Tax Credit and the corporate information systems that are critical to tax processes. Prior to joining Bayer, she was a computer audit specialist with Deloitte. She holds an accounting degree from West Virginia University and is a Certified Public Accountant. She is a member of the Association for Computers and Taxation and participates in Tax Executives Institute events.

## **TONY LUPER**

### **Red Hat, Inc.**

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Tony Luper is a Contractor in the Red Hat Tax Department. Tony has over 25 years of corporate tax experience in public accounting and industry. He started his career with Deloitte & Touche and Price Waterhouse, and he was the senior tax executive for Oakwood Homes and LifeStyle Furnishings International. In 2002, he started a firm that specializes exclusively in tax compliance, accounting and planning out- and co-sourcing for mid- to large-size public and private businesses. Recently, Tony began working full time with Red Hat, a leading global provider of open source software solutions, concentrating on income tax accounting and research credits. Tony has extensive experience in identifying, documenting and claiming federal, state and foreign research credits for a variety of industries including software, hardware, manufacturing and pharmaceuticals.



**JOSEPH MASELLI**  
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Joseph Maselli is a Director at PriceWaterhouseCoopers. Since coming to PwC in 2006, Joe provides advice and prepares written responses to the IRS positions. He also makes oral presentations to the IRS. Joe advises on numerous procedural, administrative, and technical issues including Research Credit issues, issue resolution techniques, witness preparation, 9100 relief, and a wide variety of tax controversy matters. Prior to his tenure at PwC, Joe spent 32 years at the IRS with the Office of Chief Counsel. The position he held before coming to PwC was as an Area Counsel in the IRS Large and Mid-Size Operating Division ((LMSB) now known as the Large Business & International Division) located in New Jersey and New York. He worked in Manhattan for most of his IRS career. Joe was the principal legal advisor to an Industry Director and was responsible for all LMSB legal matters for the Industry Director and a nine state geographic area.

**JASON MASSIE**  
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Jason Massie is the Founder and President of MASSIE R&D Tax Credits. As a lawyer and CPA, Jason has worked in international law and accounting firms since 1989. He holds a B.S. in accounting from Christian Brothers University and law degree from the University of Memphis. Jason began his career at a Big 6 accounting firm in Washington, D.C. where he was first introduced to the R&D Tax Credit. Over the years, he has led Big 4 and law firm practices dealing with all types of federal and state tax planning, credits, incentives and other cash flow strategies. Jason is widely recognized as an expert by his peers, and a resource for CPAs and lawyers in the R&D Tax Credit and R&E Expenditure areas. He is a frequent speaker and writer on these two areas. As President of MASSIE, Jason is responsible for the quality, consistency and integrity of our tax credit service offerings.

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Josiah Miller is a Manager in the Tax Projects and Delivery Group for PricewaterhouseCoopers New York City Office. He has over nine years of experience with the IRS reviewing matters including research credit studies, cost segregation studies, fixed asset depreciation studies, repair and maintenance studies, commercial energy efficiency studies, and investment tax credits for renewable energy properties. Josiah has extensive experience across the high technology, software, utility, and renewable energy industries. He assisted the IRS National Office, Office of Chief Counsel, and Energy and Business Credits IPG in developing field guidance for the alternative energy industry. Josiah graduated from Case Western Reserve University with a Master's degree in Engineering and Management and a Bachelor's degree in Systems and Control Engineering with a minor in Economics.

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Dean Zerbe is the National Managing Director and Co-Leader of Tax Controversy Services at alliantgroup. He is the former Senior Counsel to the U.S. Senate Finance Committee. Dean worked closely with then-Chairman of the Senate Finance Committee, Senator Charles Grassley, and was involved in all major tax legislation signed into law. Dean earned his J.D. from George Mason University, and his LLM in tax from NYU. He has been featured in CNN Money, Fox News, CNBC, Forbes, MSNBC, The Washington Post and the Wall Street Journal.

