



# This Week in State Tax (TWIST)

January 30, 2023



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## Texas: R&D Credits Cannot be Created Outside Statute of Limitations

The Texas Comptroller's Tax Policy Division recently published a policy letter addressing whether a taxpayer may amend a report for an out-of-statute report period to create a research and development (R&D) credit and credit carryforward. The taxpayer was not requesting a refund for any of the closed years but would be requesting a refund in open years related to the carryforward of the credit the taxpayer was attempting to create in the closed tax year.

The Comptroller concluded that once the statute of limitations for a tax year closes, a taxpayer may not create an R&D credit by amending a closed year report to reflect previously unreported eligible expenses. The letter acknowledged that the Comptroller is permitted to verify the qualified research expenses claimed in a closed year, but only to substantiate a credit carryforward claimed on an open report. Please contact [Jeff Benson](#) with questions on Texas Policy Letter Ruling No. 202301007L (Jan. 19, 2023).



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