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## **Biotech execs see benefits, complications in tax law changes**

**Silicon Valley / San Jose Business Journal - by [Lisa Sibley](#)**

Silicon Valley life sciences companies could soon be taking advantage of some recent state and national tax changes that biotech and tax executives say could help speed the development of new treatments and therapies.

But the new provisions are complicated, so companies should seek tax advisers to calculate the benefits.

“If companies don’t understand how to take advantage of these changes, they are missing an opportunity,” said Matt Gardner, president and CEO of BayBio, an independent trade association serving the Northern California life science industry.

The economic stimulus bill passed early this year has a provision allowing companies to write off as much as 50 percent depreciation on capital investments purchased and put in service before year’s end. But according to BayBio, this provision doesn’t do much for companies that aren’t yet making money — such as many early-stage drug manufacturers.

A provision in the Housing and Economic Recovery Act of 2008, passed in July, however, now lets these companies that made capital investments use certain accumulated tax credits from previous years to get refunds.

The refund amount is based on a certain percentage of what a company could otherwise claim under the old depreciation formula, but it could mean the difference between getting no tax refund and getting hundreds of thousands or even millions of dollars — money that can be reinvested in research and development.

“The provision allows companies that have never paid taxes to be able to turn those credits into a payment,” said Yi Shepard, managing director at WTAS LLC. The independent tax firm, with offices in San Francisco and Palo Alto, will be one of the presenters at a seminar on the topic Oct. 27 and 28 hosted by BayBio. Shepard will help explain to local companies how they can take advantage of these provisions.

The new provision could benefit companies such as [Affymax Inc.](#), a biopharmaceutical company working to improve patient care for conditions such as kidney disease and cancer. The Palo Alto company is destined to lose money for a long period of time because of the lengthy drug-development process.

“Companies like ours aren’t going to have income for 10 years,” said Paul Cleveland, Affymax’s executive vice president and chief financial officer.

Cleveland said while Affymax does have capital expenditures — such as drug manufacturing equipment and giant computer servers — it’s only about 15 percent of its annual budget, so it won’t meet the minimum required under the previous bill. The new bill, however, gives the company an opportunity to capitalize on the purchases.

“It’s a marginal improvement,” he said. “You will see more investment in research in Silicon Valley as a result of this provision.”

Cleveland — speaking for himself and not the company — said the only drawback is that this is yet another complication to an extremely complicated tax code.

“It’s ridiculous how hard it is to calculate our taxes,” he said, explaining that Affymax pays outside tax advisors to help.

But companies have to act fast, Gardner said. The provision applies only to assets acquired through Dec. 31 to get the rebate. Gardner said this creates a little stimulation for companies that were thinking about making capital equipment purchases in early 2009 to do it now, especially because alternative funding options are critical in the economic downturn.

#### **At-a-glance**

**What:** A new tax provision that has the potential to allow up to \$30 million in tax rebates to life sciences companies.

**Why:** To help make Bay Area life sciences companies aware of how they can take advantage of these provisions.

**Presenters:** Local accounting firms, with tax implementation experts, plus briefings by policy directors from BayBio and the Biotechnology Industry Organization.

**When:** Oct. 27 and 28

**Where:** Throughout the Bay Area

**Cost:** Free

**URL and registration information:** [www.baybio.org/wt/home/Tax\\_Seminars\\_2008](http://www.baybio.org/wt/home/Tax_Seminars_2008)

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