



Biotechnology Innovation Organization  
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May 4, 2023

The Honorable Chuck Schumer  
Majority Leader  
United States Senate  
Room S-221, The Capitol  
Washington, DC 20510

The Honorable Mitch McConnell  
Republican Leader  
United States Senate  
Room S-230, The Capitol  
Washington, DC 20510

The Honorable Kevin McCarthy  
Speaker  
U.S. House of Representatives  
Room H-305, The Capitol  
Washington, DC 20510

The Honorable Hakeem Jeffries  
Democratic Leader  
U.S. House of Representatives  
Room S-230, The Capitol  
Washington, DC 20510

Dear Majority Leader Schumer, Republican Leader McConnell, Speaker McCarthy, and Democratic Leader Jeffries:

The Biotechnology Innovation Organization (BIO) and BIO members urge immediate legislative action to repeal the harmful R&D amortization provision that went into effect in 2022 and urge you to swiftly pass S. 866/H.R. 2673, also known as the American Innovation and Jobs Act in the Senate and the American Innovation and R&D Competitiveness Act in the House.

As you know, the 2017 Tax Cuts and Jobs Act (TCJA) changed the R&D deduction to a mandatory five-year amortization for domestic R&D and fifteen-year amortization for foreign R&D, with the effective date delayed until 2022.

As we have noted in our previous correspondence<sup>12</sup>, R&D amortization is already having and will continue to have a negative impact on American innovation and high-paying R&D jobs. For the biotechnology industry specifically, it will divert much-needed funds away from small R&D-intensive companies. This could potentially cause long-term damage to the development of future treatments and ultimately limit the pipeline of treatments and products that patients and consumers rely on our industry to develop technologies that help heal, fuel, and feed the world.

Less recognized, but no less significant, is the impact on even the smallest companies, those that have not otherwise had—and did not anticipate having—a current tax liability.

For example, recipients of Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) grants and other government grants are generally very early-stage

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<sup>1</sup> [https://www.bio.org/sites/default/files/2023-03/csba\\_letter\\_to\\_congressional\\_leaders\\_urguing\\_for\\_passage\\_of\\_s.866\\_the\\_american\\_innovation\\_jobs\\_act\\_of\\_2023\\_march\\_28\\_2023.pdf](https://www.bio.org/sites/default/files/2023-03/csba_letter_to_congressional_leaders_urguing_for_passage_of_s.866_the_american_innovation_jobs_act_of_2023_march_28_2023.pdf)

<sup>2</sup> [https://www.bio.org/sites/default/files/2022-06/BIO%20Section%20174%20Letter\\_Final.pdf](https://www.bio.org/sites/default/files/2022-06/BIO%20Section%20174%20Letter_Final.pdf)



companies just transitioning their promising technology from an academic research institution to a company to start the development process. These grants are often the first major investment the company has received and virtually all of it is devoted to R&D expenditures. While these grants are considered taxable income to the recipient, immediate expensing previously allowed an immediate deduction that offset any tax liability. Now, however, many of these companies will face a large upfront tax bill, forcing them to divert critical funds from their research at an early make-or-break moment for the company's technology. In short, R&D amortization threatens to stifle innovative discoveries before they are even launched.

Similarly, growing biotechs may also feel the harmful impacts of the provision even though they don't yet have a product on the market. At this stage, small biotechs often rely on partnerships with larger companies to help fund their research. Payments received under these collaboration agreements may be treated as taxable income. These companies typically can utilize their Net Operating Loss (NOL) carryforwards, generated by the immediate expensing of R&D costs, to offset some or all of this taxable income. This allows companies to devote a greater portion of their resources to bringing their product to market faster. For many companies, however, the move to amortization will likely result in a tax liability because they will have smaller NOL carryforwards.

Indeed, a recent Wall Street Journal article starkly outlines the problems R&D amortization causes for research-intensive small businesses across the economy.<sup>3</sup> As the article points out, the current law "appears at odds with broader government interest in U.S. competitiveness and scientific advances." In many cases, this change to the tax law essentially amounts to a tax on innovation and a threat to the millions of patients and consumers relying on these companies for treatments and solutions.

BIO applauds Senators Hassan and Young and Representatives Estes and Larson and the many cosponsors for introducing legislation to reverse the R&D amortization provision and urges Congress to include it in the next possible legislative vehicle. Immediate action is critical to avoid the harmful impact on R&D companies today and ensure the development of future treatments and cures for tomorrow.

Sincerely,

Biotechnology Innovation  
Organization

Acadia Pharmaceuticals Inc.  
San Diego, CA

Acorda Therapeutics, Inc.  
(Ron Cohen, Founder,  
President & CEO, BIO Board  
Director)  
Pearl River, NY

Aequor Inc.  
San Diego, CA

Alkermes, Inc.  
Waltham, MA

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<sup>3</sup> [https://www.wsj.com/articles/small-businesses-face-big-tax-bills-from-research-deduction-change-a189b113?mod=hp\\_lead\\_pos5](https://www.wsj.com/articles/small-businesses-face-big-tax-bills-from-research-deduction-change-a189b113?mod=hp_lead_pos5)



Allievex Corp. (Thomas P. Mathers, President & CEO, BIO Board Director)  
Marblehead, MA

Alnylam Pharmaceuticals, Inc.  
Cambridge, MA

Alumis Inc. (Martin Babler, President & CEO, BIO Board Director)  
South San Francisco, CA

Amicus Therapeutics (John F. Crowley, Executive Chairman, Chair of BIO Emerging Companies Section)  
Philadelphia, PA

Ananke Therapeutics (Julia Owens, CEO, BIO Board Director)  
Cambridge, MA

Antiva Biosciences, Inc. (Gail Maderis, Chairman, BIO Board Director)  
Brisbane, CA

Ardelyx Inc. (Mike Raab, President & CEO, BIO Board Director)  
Waltham, MA

Arizona Bioindustry Association, Inc.

Ashvattha Therapeutics, Inc. (Jeffrey L. Cleland, Chairman, CEO & President, BIO Board Director)  
Redwood City, CA

Aurinia Pharmaceuticals, Inc.  
Rockville, MD

BioNJ

BioUtah

Caribou Biosciences, Inc. (Rachel Haurwitz, President & CEO, BIO Board Director)  
Berkeley, CA

Center for Global Health Innovation  
Atlanta, GA

Cerevast Medical, Inc. (Bradford A. Zakes, President & CEO, BIO Board Director)  
Bothell, WA

Chiesi USA, Inc. (Giacomo Chiesi, Head of Global Rare Diseases, BIO Board Director)  
Cary, NC

Colorado BioScience Association

Eisai, Inc.  
Nutley, NJ

Elucida Oncology, Inc.  
Monmouth Junction, NJ

Enzyvant  
Cary, NC

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Boca Raton, FL

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San Diego, CA and Seoul, Republic of Korea

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Brentford, Middlesex

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Illinois Biotechnology Innovation

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Cambridge, MA

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Menlo Park, CA

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South San Francisco, CA

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Cambridge, MA

MassBio

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Rockville, MD

Monte Rosa Therapeutics  
Boston, MA

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South San Francisco, CA

North Carolina Biosciences Organization



NuvOx Pharma  
Tucson, AZ

Ovid Therapeutics, Inc.  
(Jeremy M. Levin, Chairman  
& CEO, BIO Board Director)  
New York, NY

PTC Therapeutics  
South Plainfield, NJ

PureTech Health (Daphne  
Zohar, Founder & CEO, BIO  
Board Director)  
Boston, MA

REGENXBIO  
Rockville, MD

ReNetX Bio, Inc. (Erika  
Smith, CEO, BIO Board  
Director)  
New Haven, CT

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(Eddie J. Sullivan, President  
& CEO, BIO Board Director)  
Sioux Falls, SD

Sana Biotechnology, Inc.  
(Steve Harr, President & CEO,  
BIO Board Director)  
Seattle, WA

Sanofi  
Bridgewater, NJ

Sarepta Therapeutics, Inc.  
Cambridge, MA  
Servier Pharmaceuticals US  
Boston, MA

Sherlock Biosciences, Inc.  
Boston, MA

South Dakota Biotech  
Association

Sutro Biopharma, Inc.  
(William J. Newell, CEO, BIO  
Board Director)  
South San Francisco, CA

SynDevRx, Inc.  
Cambridge, MA

Ted Love, Former President  
& CEO of Global Blood  
Therapeutics, Vice Chair of  
BIO Health Section (Vice  
Chair of BIO Board)

Texas Healthcare and  
Bioscience Institute

Trevi Therapeutics (Jennifer  
Good, Co-Founder, President  
& CEO, BIO Board Director)  
New Haven, CT

Ultragenyx Pharmaceutical,  
Inc  
Novato, CA

Vertex Pharmaceuticals, Inc.  
Boston, MA

Vir Biotechnology, Inc.  
San Francisco, CA

Cc: The Honorable Ron Wyden  
Chair, Senate Finance Committee  
The Honorable Mike Crapo  
Ranking Member, Senate Finance Committee  
The Honorable Jason Smith  
Chair, House Ways & Means Committee  
The Honorable Richie Neal  
Ranking Member, House Ways & Means Committee