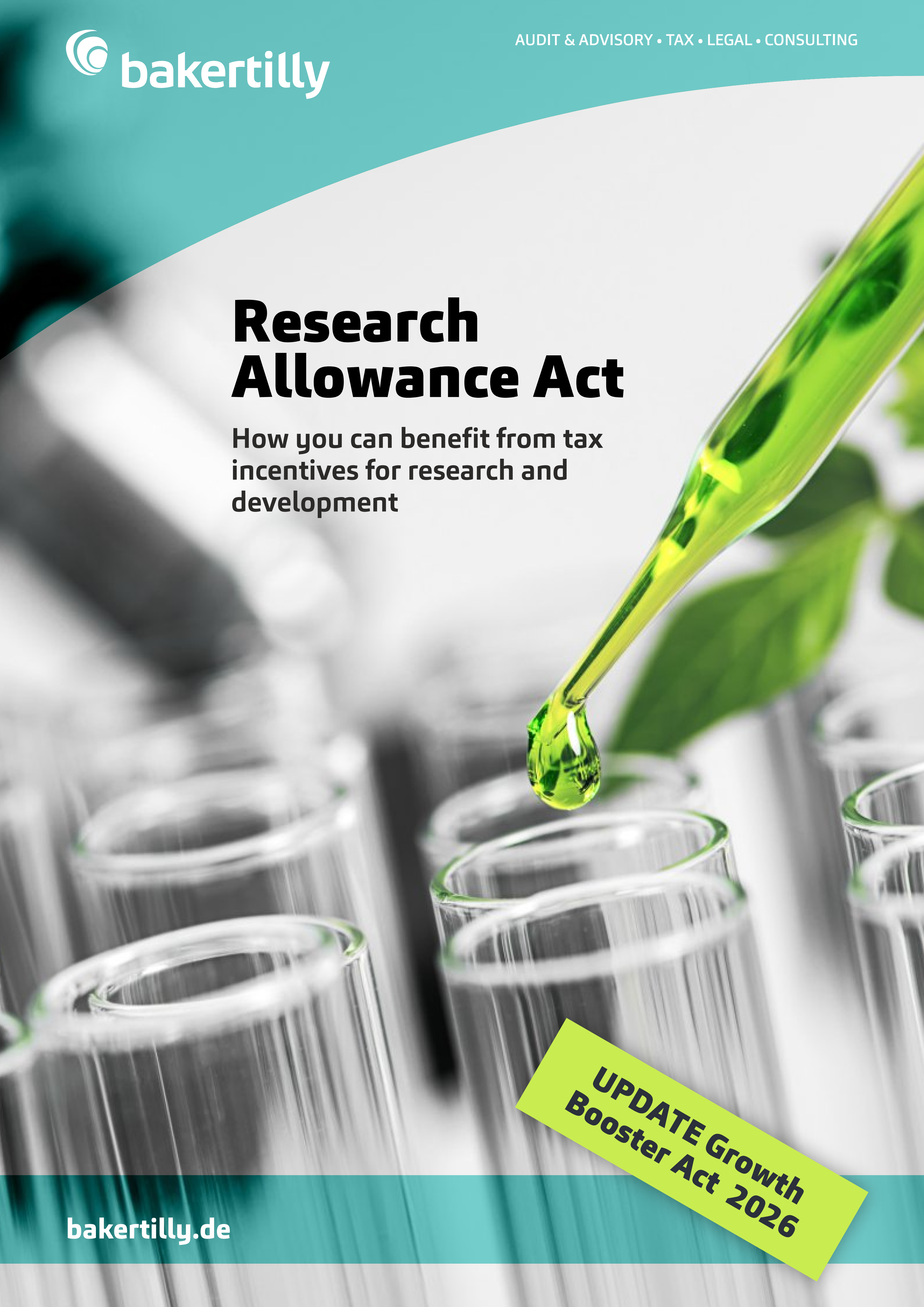
bakertilly

AUDIT & ADVISORY • TAX • LEGAL • CONSULTING

Research Allowance Act

How you can benefit from tax incentives for research and development



UPDATE Growth Booster Act 2026

bakertilly.de

Tax-free government research allowance – You too can benefit from R&D subsidies

Since January 1, 2020, research-based companies have been able to benefit from a government subsidy.

The German Research Allowance Act (FZulG) is once again being amended by the so-called Growth Booster Act, which will come into force on January 1, 2026.

The following pages provide you with an overview of the legal situation's development, allowing you to find out how and under what conditions you can benefit from the research allowance for the various fiscal years.

Take advantage of the government research allowance now

Who is eligible?

The allowance is generally available to all research companies which or whose shareholders are subject to unlimited or limited corporate income tax or income tax liability, i.e. who are not tax-exempt. All taxpayers with the following income are eligible:

- Income from agriculture and forestry Art. 13 EStG
- Income from trade or business Art. 15 EStG
- Income from self-employment Art. 18 EStG

In the case of partnerships pursuant to Art. 15 (1) sentence 1 no. 2 of the German Income Tax Act (EStG) (e.g., commercial partnerships such as GmbH & Co. KG), the partnership replaces the taxpayer as the beneficiary.

Classification as an R&D project: What is eligible for funding?

Eligible projects

- Innovative
- Risk/uncertainty
- Planned

Non-eligible projects

- Minor changes or improvements to products, processes, or services that are already known or proven
- Quality assurance

Basic research | Industrial research | Experi-mental development | Market launch/ market-related activities

The allowance is available to all companies, regardless of their size, legal form, or economic activity.

Eligible parties also include sole proprietorships that conduct their own in-house research and/or commission contract research, as well as collaborations between an eligible party and at least one other company. Collaboration with scientific institutions can also be subsidized by the allowance.

In this context it should be noted that public institutions are often exempt from tax if they conduct their own in-house research within the scope of the cooperation and are therefore not entitled to the research allowance.

What is eligible for funding?

The law provides for tax incentives for R&D in the areas of basic research, industrial research, and experimental development. The definitions are derived directly from the relevant EU state aid guidelines (Art. 2 Nos. 84 to 86 GBER).

The Regulation as amended June 23, 2023, also expressly takes into account digital development and simulation processes, demonstration projects, and pilot plants, provided these serve to test, validate, and further develop the research results and go beyond mere adaptation, routine, and quality assurance measures.

Funding will be provided for R&D activities commencing or for which the contract is awarded after the law came into force on January 1, 2020. The new provisions of the Growth Booster Act will apply from January 1, 2026.

The allowance is granted to all companies, regardless of size, legal form, or economic activity.

How is the research allowance calculated?

With regard to the research allowance's calculation basis, one must distinguish between in-house and contract research.

In-house research

Within the scope of in-house research, companies receive subsidies covering 100% of the **wages and salaries subject to income tax** for employees working on eligible projects.

In addition, any expenses incurred by the employer to secure the employee's future (in accordance with Art. 3 No. 62 EStG) are also eligible for funding. Within the scope of in-house research, a flat-rate overhead surcharge of 20% on personnel costs can be claimed for research projects started on or after January 1, 2026.

Since the Growth Opportunities Act came into force on March 28, 2024, eligible expenses also include part of the **acquisition and production costs** of depreciable movable fixed assets, provided these were acquired or produced after the new provisions of the Act came into force, are used exclusively in-house in the eligible research and development project and are necessary for the implementation of the research and development project.

Contract research

For contract research, the contracting entity will receive a flat-rate subsidy of 70% of expenses instead of the previous 60% from March 28, 2024. However, the contractor, i.e., the entrepreneur conducting research on behalf of a third party (e.g., contract research institutes, so-called Contract of Clinical Research Organizations), will not receive any funding.

Even before January 1, 2026, the costs for intra-group contract research can be claimed within the group, but only if the strict requirements of the BMF letter dated February 7, 2023 are met by

- the contracting entity bearing the economic risk,
- the contracting entity being responsible for content management,
- billing in line with market conditions (arm's length principle),
- an existing contractual basis, and
- the costs being allocated to the contracting entity.

The tax authorities must recognize intra-group contract research on a case-by-case basis. There is no legal entitlement, but only a right to discretionary consideration by the tax authorities.

From January 1, 2026, expenses for contract research conducted within a group of companies will be eligible for funding if the services are documented and invoiced in line with market conditions. Even though, in contrast to previous practice, the requirements previously regulated in the BMF letter are no longer explicitly stated in the text of the law, they are nevertheless indirectly implied by the obligation to provide “documentation in line with market conditions and a clear demarcation of services”.

Consumption costs

Consumption costs clearly attributable to the R&D project are eligible for funding for research projects beginning on or after January 1, 2026. The company can claim these costs as part of its in-house research. The contractor's invoice for contract research may also include consumables. These are included in the 70% flat rate.

SME factor

Companies qualifying as small and medium-sized enterprise pursuant to the SME definition in Annex I to the Block Exemption Regulation, can apply for an additional 10% increase in the research allowance for expenses incurred from March 28, 2024, onwards. The SME surcharge increases the subsidy rate.

Assessment basis

The assessment basis is the company's eligible expenses incurred during the financial year. The following upper limits apply to the assessment basis:

- Eligible expenses incurred after January 1, 2020, and before July 1, 2020: EUR 2 million.
- Eligible expenses incurred after June 30, 2020, and before March 28, 2024: EUR 4 million.
- Eligible expenses incurred after March 28, 2024, and before January 1, 2026: EUR 10 million.
- Eligible expenses incurred as of January 1, 2026: EUR 12 million.

Affiliated companies may only claim the above limits once.

The total amount of state aid granted for an R&D project, including the research allowance under the FZulG, is limited to EUR 15 million per company and R&D project.

Sole proprietorships/co-entrepreneurs

The own contributions of a sole proprietorship/co-partner in an eligible R&D project will be increased from EUR 40 until March 27, 2024 to EUR 70 until December 31, 2025 per working hour (max. 40 hours per week) and will be taken into account as eligible expenditure. From January 1, 2026, the hourly rate will be EUR 100.

Liquidity advantages

The research allowance creates additional liquidity advantages, especially for medium-sized and large companies with high eligible expenses, but generally only after the end of the fiscal year. As illustrated in the following overview (legal situation as of January 1, 2026), the amount of the liquidity advantage also depends on whether the company conducts in-house or contract research.

Sample calculation

Sample calculation	In-house research	Contract research
Expenses	Personnel expenses / overhead rate, depreciation / consumption costs	Contract volume including consumption costs
Amount of expenses in EUR	12,000,000	12,000,000
Assessment basis in EUR	12,000,000 (100% of expenses)	8,400,000 (up to 70% of the contract volume)
Subsidy rate in relation to total expenditure	25.0%	17.5%
Tax refund upon filing the tax return per year in EUR (example)	3,000,000	2,100,000
Increased SME factor 10% in EUR	1,200,000	840,000
Increased tax refund per year in EUR (example)	4,200,000	2,940,000

How is the research allowance granted?

The research allowance, to which there is a legal entitlement, is only granted upon application. The application process consists of two stages.

1. Application for the issuance of a certificate by the Research Allowance Certification Office (BSFZ)

- Project cost assessment (eligibility check, optimization of subsidy rate)
- Preparation of project application and work plan
- Project entry in IMS (GoBD*-compliant time recording, applicable depreciation allowance, creation of new project employees, recording of necessary movable assets and consumption costs, recording of orders and invoices, project progress documentation, etc.)
- Creation of BSFZ portal account; Elster certificate required
- Filing
- Response to queries from the assessor (BSFZ)

2. Application for determination of the research allowance at the tax office

- Preparation of tax office application based on project documentation
- Filing of application and BSFZ certificate with the tax office via Elster-Online

Before a funding application can be submitted to the relevant tax office, one must first obtain a certificate for the research project from the BSFZ.

As part of this first stage, the BSFZ checks whether the project is eligible for funding on its merits and falls under one of the research categories. In this respect, the correct presentation of the research project is very important at this stage. Digital process and project management as well as technical expertise are particularly important in this phase of the process. Baker Tilly is therefore working at this interface between technology, tax, and law with innoscripta GmbH, which has many years of experience in the aforementioned R&D area.

In the second stage, the application for the research allowance must be submitted electronically to the relevant tax office, together with the certificate from the BSFZ. The application can be filed after the end of the financial year in which the eligible expenses were incurred. In addition to the annual application, it is also possible to apply for the research allowance on a quarterly basis.

The determined amount will be credited or refunded on the tax as a prepayment in the next initial income or corporate income tax assessment (regardless of the assessment period), for individual co-entrepreneurs proportionally, if applicable. The quarterly application does not change the annual settlement mechanism. It merely results in an earlier assessment. Even before January 1, 2026, it was possible to take the expected research allowance into account as a reduction when determining prepayments, but only upon application and with justification to the tax office. This can now be done on the basis of the quarterly determination, which simplifies liquidity planning. The reimbursement option emphasizes that the allowance is intended to have the same effect on all companies regardless of their respective results, i.e., it is also paid in the event of a loss.

The research allowance is tax-neutral, i.e., it is not considered taxable income.

* German principles for the proper management and storage of books, records, and documents in electronic form, as well as for data access

When is the research allowance excluded?

If an enterprise is in economic difficulty within the meaning of Article 2(18)(a) and (b) of the GBER at the end of the financial year in which the eligible expenditure is incurred, the granting of a research allowance is excluded.

Generally, the research allowance can be combined with other subsidies. This is not possible if and to the extent the eligible expenses are already part of the assessment basis for other funding, grants, or subsidies from EU funds. However, if, in addition to other funding, higher (not yet subsidized) personnel costs or fees for contract R&D are incurred, these can be subsidized with the research allowance. In this case, the company will allocate the expenses on a pro rata basis. There is no prohibition on cumulation in relation to coronavirus aid, e.g., with regard to the flat-rate approach to personnel costs in the case of bridging aid, as this approach has a different funding objective than the research allowance.

The application for the research allowance can be filed within four years after the end of the year for which the entitlement to the research allowance arose. **Therefore, action must be taken for the research allowance relating to 2021.** For this financial year, an application for research allowance must be submitted to the tax office in 2025, otherwise the entitlement will lapse. An extension of the deadline is not possible.

The expansion of tax incentives for research is intended to strengthen Germany as a location for business and research. It is an attractive instrument for promoting research, offering extensive advantages, particularly for innovative companies (see next page).

No research allowance for enterprises that are in economic difficulties at the end of the fiscal year in which the eligible expenses are incurred

Advantages of the research allowance at a glance

25.0-35.0%
with SME factor

of personnel costs for internal R&D staff, including overhead rates and depreciation for necessary assets, plus consumption costs.

17.5-24.5%
with SME factor

of costs for external R&D, incl. consumption costs (contract research)

EUR 2.94-4.2 Mio.
with SME factor

per fiscal year

Advantages

Projects

- Eligibility for funding of both individual projects and joint projects
- Both external and group-internal contract R&D

Administration

- No application required before the start of the project, long (four-year) period for (retrospective) applications
- Lower administrative burden for application procedures and documentation

Tax advantages

- Attractive subsidy amount of up to EUR 4.2 million for SMEs and up to EUR 3.0 million for large companies
- Subsidy amount not subject to income tax (not subject to income tax or corporate income tax)
- Additional liquidity advantage through reduction of income or corporate income tax prepayments when applying on a quarterly basis

Effect

- Wide-ranging impact thanks to technology-neutral funding, especially for SMEs
- High probability of success and predictability due to existing legal entitlement

Your contact persons

Thorsten Went
Certified Tax Advisor
Partner Indirect Tax, Head of Digitalisation Tax
T: +49 211 6901-1178 | M: +49 151 14563615
thorsten.went@bakertilly.de

Heinrich Thiele
Attorney-at-Law (Rechtsanwalt), Certified Tax Advisor
Of Counsel
T: +49 89 55066-184 | M: +49 160 4785307
heinrich.thiele@bakertilly.de

At the intersection of technology, tax, and law, Baker Tilly successfully collaborates with innoscripta GmbH, an international software company specializing in cloud-based research and development software with many years of experience in the field of R&D.

Frederik Erber, M.Sc.
Partner innoscripta
T: +49 89 255553598
erber@innoscripta.com
innoscripta GmbH, Arnulfstraße 60, 80335 Munich

Four points of view.
One solution. Globally.

Follow us:

AUDIT & ADVISORY • TAX • LEGAL • CONSULTING

Baker Tilly provides a broad range of innovative and individual consulting services in the areas of Audit & Advisory, Tax, Legal and Consulting worldwide. Globally and in Germany, our accountants, lawyers, tax advisors and management consultants develop solutions which are precisely tailored to the individual needs of our clients and implement them with the highest standards of quality and efficiency. In Germany, Baker Tilly employs 1,680 specialists in ten different offices and is one of the largest partner-managed consulting firms in the country.

Baker Tilly
T: +49 800 8481111
kontakt@bakertilly.de

bakertilly.de

Image source: www.pixabay.de, www.stock.adobe.com