

When the Chicken Does Come Before the Egg: The Taxpayer-Friendly Takeaways from *George v. Commissioner*, Plus a Few ‘Egg-cellent’ Judicial Puns



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Some tax court opinions are dry. Others are dense. And then there are the rare decisions where the court clearly enjoyed the assignment. [*George v. Commissioner*, T.C. Memo. 2026-10](#) falls squarely in the third category. From its opening pages, the court signals both the seriousness of the R&D credit issues at stake and its willingness to have a little fun along the way. As Judge Greaves famously framed the dispute:

“Forget the proverbial chicken or the egg; today we are called to answer which came first, the research or the research credit?”

Clever turn of phrase aside, the opinion delivers something far more important for taxpayers, particularly those in agriculture and other operationally complex industries: a roadmap for how real-world innovation can qualify for the R&D credit when done correctly.

The Big Win: The Court Acknowledged That Agriculture Innovates. Full Stop.

Before we get to the substance, it’s worth pausing on tone. Over the course of 80+ pages, the court peppers the opinion with references to “ruling the roost,” “sunny-side up,” and other poultry-themed flourishes. That levity is notable because it accompanies a very serious acknowledgment: modern agriculture is technologically sophisticated. The opinion’s humor is not accidental. By leaning into chicken metaphors, the court subtly reinforces its understanding of the industry it is judging.

From a litigation perspective, that tone is telling. Courts don’t joke about industries they don’t take seriously. The takeaway? The court was engaged, informed, and analytical, not dismissive. That is good news for future taxpayers who bring better-structured R&D claims to the table.

This is reinforced by the court repeatedly recognizing that poultry production involves:

- Complex biological systems
- Evolving disease pressures
- Feed chemistry and nutrient optimization

- Genetic performance tradeoffs
- Data-driven decision-making at massive scale

Indeed, the court emphasizes that even “small changes having dramatic impacts on profitability” are central to the industry, noting that producers may earn “approximately one penny of profit per pound.”

That framing matters. The court did not dismiss these activities as routine farming. Instead, it treated them as legitimate candidates for R&D analysis, rejecting the outdated notion that innovation only happens in laboratories.

What the Taxpayer Got Right (and the Court Agreed)

Despite ultimately limiting the credits claimed, the court credited the taxpayer with confronting real technological uncertainty, a foundational requirement under §41.

The opinion details extensive efforts to address:

- Disease outbreaks with no clear industry solution
- Antibiotic-free production pressures
- Feed efficiency and nutrient absorption challenges
- Vaccine administration methods and dosage questions
- Genetic line performance under different conditions

The court acknowledged that these efforts involved trial-and-error, failed approaches, and iterative refinement, classic hallmarks of experimentation.

In fact, the court goes as far as rejecting the IRS’s argument that data collected by *George* was “routine” and thus excluded from consideration. Instead, the court rejected the ‘routine’ argument the IRS has been fighting hard to revive. Likewise, the court rejected IRS attempts to repurpose the adaptation exclusion, definitively stating that an improved business component is a different business component.

That distinction leaves the door wide open for taxpayers who document their experimentation contemporaneously and intentionally, even when data used for testing is collected during standard production.

Practical Lessons the Court Practically Hands to Taxpayers

If you read the opinion with an eye toward future claims, the lessons are unmistakable:

- When possible, articulate uncertainty before acting. This helps avoid the IRS assertion that a company reverse-engineered the research narrative.
- Design experiments with intent, though they don’t have to look like laboratory work.
- Document while the feathers are flying. Production data is helpful, but technical reasoning is essential.
- Separate experimentation from execution. Rolling out a solution is not the same as proving it works.
- Assume IRS scrutiny and prepare accordingly. The IRS will ask whether the “research” existed before the credit study. Courts will too.

These lessons don’t clip the wings of the R&D credit. They strengthen it.

The Broader Takeaway: Courts Want Better R&D Claims, Not Fewer

For all the poultry puns, *George v. Commissioner* delivers a serious, taxpayer-friendly message: Section 41 remains viable for real-world businesses that innovate intentionally and document rigorously. The court did not narrow the statute. It did not exclude agriculture. And it did not demand laboratory conditions. It simply required that the research come first—and the credit follow honestly.

Final Thought

If nothing else, *George* proves that even an R&D case about chickens can be meaty.

Matthew Reddington served as counsel in this matter and played a primary role in securing the favorable outcome for the taxpayers.