

AMENDMENT TO THE DEPARTMENT OF REVENUE  
BUSINESS PRIVILEGE TAX REGULATION

CREDITS

**Section 502. Job Creation Tax Credit**

A) Definition

1. Applicant. A business as defined in Section 101 (D) of these regulations and subject to the Business Privilege Tax.
2. Base period. The three calendar years preceding the date on which a business may begin creating New Jobs that may be eligible for Job Creation Tax Credits.
3. Code. The Philadelphia Code.
4. Department. Department of Revenue.
5. Job Creation Tax Credits. Tax credits for which the Department has issued a certificate under Section 19-2604 (7) of the Code.
6. New Job. A full time job with an hourly rate, excluding benefits, of at least 150% of the federal minimum wage, created by a company within the City and County of Philadelphia within five (5) years from the Start Date.

7. Start Date. The date on which a business may begin creating New Jobs that may be eligible for Job Creation Tax Credits. The Start Date will be the first day of the calendar quarter in which an application is submitted, unless the applicant requests and the Department agrees to a later start.
8. Tax Credit Certificate. Certificate issued to Applicant by Department after a New Job has been determined to be created.
9. Year One. A one-year period immediately following the Start Date.
10. Year Two. A one-year period immediately following the end of Year One.
11. Year Three. A one-year period immediately following the end of Year Two.
12. Year Four. A one-year period immediately following the end of Year Three.
13. Year Five. A one-year period immediately following the end of Year Four.

B) Program Requirements

1. The Applicant must agree to create within the City of Philadelphia at least twenty-five (25) New Jobs or to increase its number of full time employees by at least twenty-percent (20%) within five (5) years from the Start Date.
2. Applicants have five years from the Start Date to create the New Jobs. Tax credits are granted only after the New Jobs are created.
3. Applicant must agree to maintain existing operations and the operations related to the Job Creation Tax Credits in the City of Philadelphia for a period of five (5) years from the date the company first submits its Tax Credit Certificate to the Department.

## C) Eligibility

In order to be eligible to receive Job Creation Tax Credits, a company must have a current Job Creation Tax Credit Certificate from the Commonwealth of Pennsylvania for New Jobs located in the City of Philadelphia or demonstrate each of the following criteria:

- i. The ability to create the number of New Jobs required by the Department within five (5) years from the Start Date.
- ii. The financial stability of the company and the projects financial viability.
- iii. The intent to maintain operations in the City of Philadelphia for a period of five (5) years from the date the company submits its Tax Credit Certificate to the Department.
- iv. An affirmation that the business decision to expand or locate in the City of Philadelphia was due in a large part to the availability of a Job Creation Tax Credit.

## D) Application Process

Applicant must complete and submit to the Department a Job Creation Tax Credit application wherein the Applicant agrees to create at least twenty-five (25) New Jobs or to increase the Applicant's number of full time employees by at least twenty percent (20%) within five (5) years of the Start Date. In addition to

completing the Job Creation Tax Credit application, the Applicant will include the following items:

1. A description of the project.
2. The number of New Jobs to be created by the Applicant within the five (5) year period from the Start Date.
3. The amount of private capital investment in the project.
4. The maximum Job Creation Tax Credit amount the Applicant may claim, and the period of time over which it may be claimed.
5. A signed statement that the Applicant intends to maintain its operation in the City of Philadelphia for five (5) years from the date the Applicant first submits its Tax Credit Certificate to the Department.
6. The desired Start Date to begin creating New Jobs that may be eligible for tax credits.
7. Financial statements for the last three years.
8. Such other information as the Department may from time to time deem appropriate.

E) Commitment Letter

Upon approval of a successful application, the Department and the Applicant will execute a commitment letter. The letter will state the maximum number of New Jobs to be created and the maximum credit available to the Applicant, and other matters deemed pertinent by the Department.

F) Tax Credits

Applicants shall receive a Tax Credit Certificate for each New Job created pursuant to the commitment letter after the Department has verified the New Job was created.

An Applicant may claim a Job Creation Tax Credit of one thousand (\$1000) dollars for each New Job created up to the maximum job creation amount specified in the commitment letter. The credit must be claimed within five (5) years of receiving the Tax Credit Certificate from the Department, but in no case can it be longer than eight (8) years from the Start Date. Credits not claimed within this period will be forfeited.

An Applicant may only apply the tax credit against its total Business Privilege Tax liability. Cash refunds will not be issued for unused credits.

G) Job Creation

1. A business has five (5) years from the Start Date to create the number of New Jobs in the commitment letter. The base employment will be determined using an employee affidavit submitted by the Applicant that identifies full time employment levels for the three years preceding the Start Date. The full time employment numbers for each year will be averaged. The base full time employment will be the higher of the average full time employment level during the Base Period or the full time employment level at the Start Date.

2. To determine job creation, the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year One commencing with the Start Date. The average employment of the four quarters in Year One will be compared with the base employment to determine the number of New Jobs for which tax credits can be claimed. In Year Two, the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year Two. The average employment of the four quarters in Year Two will be compared with the average employment by quarter of Year One to determine the number of New Jobs for which tax credits may be claimed. In Year Three, the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year Three. The average employment of the four quarters in Year Three will be compared with the average employment by quarter of Year Two to determine the number of New Jobs for which tax credits may be claimed. In Year Four, the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year Four. The average employment of the four quarters in Year Four will be compared with the average employment by quarter of Year Three to determine the number of New Jobs for which tax credits may be claimed. In Year Five, the Department will review the employment affidavit filed by the Applicant for the four-calendar quarters of Year Five. The average employment of the four-quarters in Year

Five will be compared with the average employment by quarter of Year Four to determine the number of New Jobs for which the credits may be claimed.

3. New Jobs shall be deemed created in only those years when the wages of each new employee hired due to the tax credit exceeds 150% of the federal minimum wage created within the City and County of Philadelphia. Failure to create the required number of New Jobs by the end of year five may result in the imposition of penalties.
4. Every Applicant is directed and required to give to the Department proof of verification of job figures, such proof to be provided by, but not limited to, a review of tax returns filed with other taxing authorities, unemployment compensation filings, payroll records, or other company employment records. Tax Credit Certificates will be issued only after the Department has determined a New Job has been created and only up to the maximum number in the commitment letter.

#### H) Limitations

1. At least 25% of all tax credits that can be approved in any year shall be available to Applicants with twenty-five (25) employees or less.
2. An Applicant will not receive tax credits for New Jobs created prior to the Start Date.
3. The use of tax credits may neither be assigned nor transferred to any other business or subsidiary of the business awarded tax credits.

4. An Applicant may not receive tax credits for relocating operations from one location in Philadelphia to another location in Philadelphia.
5. Tax credits may not be converted to cash.
6. No business may claim or receive a tax credit under this section unless the business is in full compliance with all Philadelphia tax laws, ordinances and regulations.

I) Penalties

1. Failure to maintain operations. An Applicant that receives Job Creation Tax Credits and fails to substantially maintain existing operations and the operations related to the Job Creation Tax Credits in the City of Philadelphia for a period of five (5) years from the date the Applicant first submits a Tax Credit Certificate to the Department shall be required to refund to the City of Philadelphia the total amount of credit or credits granted.
2. Failure to create New Jobs. An Applicant that receives Job Creation Tax Credits and fails to create the approved number of New Jobs within five (5) years of the Start Date will be required to refund to the City of Philadelphia the total amount of credit or credits granted.
3. Waiver. The Department may waive the penalties outlined in subsections (1) and (2) above if it is determined that an Applicant's operations were not

4. maintained or the New Jobs were not created because of circumstances beyond its control. Such circumstances include natural disasters, acts of terrorism, unforeseen industry trends, or a loss of a major supplier or market.