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# Job Creation Tax Credit

Program Guidelines

January 2009

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# Section I – General

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## A. Introduction

1. The Job Creation Tax Credit Program (JCTC) was established for the purpose of securing job-creating economic development opportunities through the expansion of existing businesses and the attraction of economic development prospects to the Commonwealth of Pennsylvania.
2. The Job Creation Tax Credit Program is a key component of the Commonwealth's plan to develop and maintain a flexible arsenal of economic development incentives for Pennsylvania business to lead the way into the 21st century.
3. The Job Creation Tax Credit Program is available to eligible businesses who, within three years from a negotiated start date, create 25 or more jobs or increase employment by 20%. Every new full-time job, up to a set maximum which meets certain minimum wage standards, will result in a \$1,000 tax credit that the business can use to pay a number of state business taxes. The business may claim these credits only after the jobs are created. A minimum of 25% of all tax credits available to be awarded each fiscal year will be allocated to businesses that employ 100 or fewer employees.

## B. Eligibility

In order to be eligible to receive Job Creation Tax Credits, a business must demonstrate the following:

1. The ability of the business to create the number of jobs specified in a JCTC application within three years from the start date. The start date will be the first day of the calendar year quarter in which the application is submitted unless the applicant requests and the Department of Community and Economic Development (DCED) agrees to a later start date.
2. Leadership in the application, development, or deployment of leading technologies in business operations. A business will be determined to meet this requirement if it:
  - Conceives and develops new production or product technology, or
  - Improves its productivity by incorporating innovative processes.
3. The financial stability of the business and the project's financial viability.
4. The business' decision to expand or locate in the Commonwealth was due in part to the availability of Job Creation Tax Credits.

## C. Program Requirements

1. The business must agree to create within the Commonwealth of Pennsylvania at least 25 new full-time jobs or to increase its number of full-time employees at the project site(s) by at least 20% within three years of the start date. To be counted as new full-time employees under the JCTC Program, each new employee must earn an hourly wage rate of at least 150% of the federal minimum wage, excluding benefits, at the time the certificate is issued.
2. The business must agree to maintain its operation in the Commonwealth for a period of five years from the start date.
3. The start date will be the first day of the calendar year quarter in which an application is submitted unless the applicant requests and the DCED agrees to a later start date.

## Section II – The Application Process

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### A. Application Submission and Approval Procedures

1. The Single Application must be submitted on-line by accessing [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us).
2. Upon approval of a successful application, the Department will issue a commitment letter containing the following information to the business:
  - A description of the project.
  - The number of jobs to be created by the business within specified periods of time.
  - The amount of private capital investment in the project.
  - The maximum JCTC amount the business may claim, and the period of time over which it may be claimed.
  - A statement that the business intends to maintain its operation in the Commonwealth for five years from the start date.
3. Upon acceptance of the conditions listed in the commitment letter, the business must sign the letter and return it to DCED within 60 days of the date of the letter.

### B. Supplemental Information for the Single Application for Assistance

In addition to completing the DCED Electronic Single Application for Assistance application, please include a narrative to address the following items:

1. A description of how the business exhibits leadership in the application, development or deployment of leading technologies in its primary business processes.
2. A description of the investment (including amount) that the business will undertake in order to create the new jobs for which tax credits are being requested.
3. The desired start date to begin creating new jobs that may be eligible for tax credits. The start date must be the first day of a calendar quarter in which the application is submitted unless the applicant requests and the DCED agrees to a later start date.
4. If you currently employ more than 25 individuals or plan to create more than 25 new jobs, please attach financial statements for the last three years or a letter from a certified public accountant that includes the following liquidity ratios from your most recent annual financial statement: current ratio, quick ratio and debt to equity ratio.
5. The application the Employment Affidavit (Attachment A), completed and signed, attesting to the employment numbers for the last three years.

### **C. Application Evaluation Criteria**

Applications are evaluated based on the following criteria:

1. Program eligibility.
2. The number of jobs to be created.
3. The amount of private investment.
4. The financial stability of the business.
5. The average hourly wage paid to employees.
6. The extent to which the business develops or deploys leading technologies.
7. The extent to which the project addresses Pennsylvania Keystone Principles.
8. Additional factors that may pertain to an application, such as synergies with other DCED initiatives.

DCED reserves the right to reject any application based upon DCED's use of portfolio or public policy criteria or consideration with respect to any particular business or category of business.

## **Section III – Job Creation**

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- A. A business has three years to create the required number of jobs. The base employment will be determined by using Appendix A - Employment Affidavit submitted by the business that identifies employment levels on the start date and on the previous three anniversaries of the start date. Those four numbers are then averaged. The base employment number will be the higher of that average or the employment number on the start date.
- B. To determine job creation, DCED reviews the employment affidavit filed by the business for the four calendar quarters of year one, commencing with the start date. The average employment by quarter in year one is compared with the base employment to determine the number of jobs for which tax credits may be claimed. In year two, DCED will review the employment affidavit filed by the business for the four calendar quarters of year two. The average employment level of the four quarters in year two will be compared with the average employment level of year one to determine the number of jobs for which tax credits may be claimed. In year three, we will review the affidavit filed by the business for the four calendar quarters of year three. The average employment level of the four quarters in year three will be compared with the average employment level of year two to determine the number of jobs for which tax credits may be claimed.
- C. New jobs shall be deemed created in only those years when the wage of each new employee hired due to the tax credit exceeds 150% of the federal minimum wage. Failure to create the required number of jobs by the end of year three may result in the imposition of penalties.
- D. DCED reserves the right to request proof or verification of job figures, such proof to be provided by, but not limited to, a review of the company's unemployment compensation filings, payroll records or other company employment records.

## Section IV – Procedure for Utilizing Tax Credits

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- A. After jobs have been deemed created, DCED will issue a tax credit certificate to the business. In order to claim tax credits, the business must submit this tax credit certificate to the Department of Revenue. Specific filing instructions will accompany each tax credit certificate issued.
- B. A business may claim a job creation tax credit of \$1,000 for each new job created up to a specified amount, as approved by DCED. The credit must be claimed within five years of receiving the tax credit certificate, but in no case can it be longer than six years from the start date. Credits not claimed within this period will be forfeited.
- C. A business may apply the tax credit to 100% of the business's state corporate net income tax, capital stock/franchise tax or the capital stock/franchise tax of a shareholder of the business if the business is a Pennsylvania S corporation, gross premiums tax, gross receipts tax, bank and trust business shares tax, mutual thrift institution tax, title insurance business shares tax, personal income tax or the personal income tax of shareholders of a Pennsylvania S corporation, or any combination thereof. Cash refunds will not be issued for unused credits.

## Section V – Limitations

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- A. At least 25% of all tax credits approved in any fiscal year shall be available to businesses with 100 employees or less. If this set-aside for smaller businesses has not been fully expended by April 30 of a fiscal year, it shall be made available to larger businesses.
- B. A business will not receive tax credits for jobs created prior to the start date.
- C. A business may not receive tax credits for relocating operations from one municipality in this Commonwealth to another unless special circumstances exist and the municipality that is losing the existing jobs has an opportunity to submit comments prior to action by the Department.
- D. The assignment, transfer or use of the credits by any other company is prohibited; provided, however, that the tax credits may be assigned, in whole or in part, to an affiliated entity. As used in this paragraph, the term "affiliated entity" means an entity that is part of the same "affiliated group", as defined by Section 1504 (A) (1) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. Section 1504 (A) (1)), as the company awarded the credit.
- E. Tax credits may not be converted to cash.

## Section VI – Penalties

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1. A business which received Job Creation Tax Credits and fails to maintain operations related to the JCTC project for a period of five years from the start date shall be required to refund to the Commonwealth the total amount of the credits utilized.
2. A business which receives Job Creation Tax Credits and fails to create the approved number of new jobs within three years of the start date will be required to refund to the Commonwealth the total amount of the credits utilized.
3. DCED may waive the penalties outlined in this section if it is determined that a business's operations were not maintained or the new jobs were not created because of circumstances beyond the business's control. Such circumstances include, but are not limited to: natural disasters, unforeseen industry trends or a loss of a major supplier.

## Section VII – Contact

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- A. Program inquiries should be directed to:

Department of Community & Economic Development  
Center for Business Financing  
Job Creation Tax Credit Program  
4<sup>th</sup> Floor, Commonwealth Keystone Building  
Harrisburg, Pennsylvania 17120-0225  
Phone: (717) 787-7120  
Fax: (717) 772-3581  
E-mail: [jaodonnell@pa.gov](mailto:jaodonnell@pa.gov)

- B. These guidelines can be accessed on-line at [www.newPA.com](http://www.newPA.com).
- C. The Single Application for Assistance can be accessed on-line at [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us).



# Appendix A – Employment Affidavit

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Applicants for Job Creation Tax Credits are required to complete and sign this affidavit.

Indicate below the number of full-time employees for each item requested. Begin with the desired start date and work backward three years. Do not go by the calendar year. Also include the average hourly wage to be paid to the new hires, excluding benefits.

This affidavit will be reviewed to determine the base employment. The employment numbers provided will be averaged. The higher of the averaged number or the employment at the time of the start date will result in the base employment. Businesses must either create 25 new full-time jobs or increase the base employment by 20% to qualify for Job Creation Tax Credits.

Project Start Date: \_\_\_\_\_ All Jobs \_\_\_\_\_ Paying more than 150% of minimum

Project Site Employment at the time of the start date: \_\_\_\_\_

Project Site Employment 1 year prior to the start date: \_\_\_\_\_

Project Site Employment 2 years prior to the start date: \_\_\_\_\_

Project Site Employment 3 years prior to the start date: \_\_\_\_\_

Statewide employment at the time of the start date: \_\_\_\_\_

Average hourly wage to be paid to new employees, excluding benefits: \$ \_\_\_\_\_ /hour

Under penalties of perjury, I declare that I have compiled the information contained in this schedule, and to the best of my knowledge and belief, it is true, correct and complete.

\_\_\_\_\_  
Preparer's Name

\_\_\_\_\_  
Preparer's Title

\_\_\_\_\_  
Preparer's Signature

\_\_\_\_\_  
Date