

# MANUFACTURING TAX CREDIT

Program Guidelines | January 2018



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## Section I – Introduction and Purpose

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The Manufacturing Tax Credit Program was established by Act 84 of July 13, 2016 (the “Act”) for the purpose of providing tax credits to taxpayers who increase their annual taxable payroll by \$1,000,000 through the creation of new full-time jobs. The taxpayer must agree to retain the new jobs and the increase in payroll for at least five years from the start date. The Program is administered by the Department of Community and Economic Development (the “Department”).

## Section II – Definitions

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The following terms shall have the following meanings:

**“Annual Taxable Payroll.”** The total amount of wages paid by an employer for the base year or year one, as applicable, from which personal income tax under Article III is withheld.

**“Base Year.”** The four calendar quarters preceding the start date.

**“New Job.”** A full-time job created in year one which has an average wage at least equal to the county average wage where the job is located, and which includes employer-provided health benefits.

**“Qualified Tax Liability.”** The liability imposed on a Qualified Taxpayer for the following taxes: Personal Income Tax (excluding employer withholding), Corporate Net Income Tax, Capital Stock/Foreign Franchise Tax, Bank Shares Tax, Title Insurance Companies Shares Tax, Insurance Premiums Tax, Gross Receipts Tax, and Mutual Thrift Institutions Tax.

**“Start Date.”** The first day of the calendar quarter in which an application is submitted to the Department unless the applicant requests and the Department agrees to a later start date.

**“Taxpayer.”** An entity that is engaged in manufacturing, defined as the mechanical, physical or chemical transformation of materials, substances or components into new products that are creations of new items of tangible personal property for sale.

**“Wages.”** Remuneration paid by an employer to an individual with respect to the individual’s employment.

**“Year One.”** The four calendar quarters immediately following the Start Date.

## **Section III – Eligibility**

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A Taxpayer which is increasing its annual taxable payroll in Year One by at least \$1,000,000 above the amount in the base year solely through the creation of new full-time jobs is eligible to apply to the Department for a Manufacturing Tax Credit. The Taxpayer must also agree to retain the new jobs and the increase in payroll for at least five years from the Start Date.

## **Section IV – Application and Approval**

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A Taxpayer shall submit the Application to the Department by accessing [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us). The Department may require additional information to document the increase in annual payroll and the creation of new jobs.

The Department shall review and approve an Application meeting the requirements of the Act on an on-going basis throughout the fiscal year.

Upon approval, the Department shall issue a commitment letter containing the following to the Taxpayer:

- A description of the new full-time jobs to be created
- The number of new jobs to be created by the Taxpayer
- The amount of private capital to be invested in the creation of new jobs
- The average wage of new full-time jobs to be created
- The increase in year one of the annual taxable payroll for new jobs above the base year amount of annual taxable payroll
- The maximum manufacturing tax credit amount the Taxpayer may claim
- A statement that the Taxpayer intends to maintain existing operations in the commonwealth for least five years from the start date.

The Taxpayer must return a signed copy of the commitment letter to the Department.

By executing the commitment letter, the company seeking the credits is authorizing the Department to request access to, and review of, the company's and its affiliates' state tax returns and waives confidentiality under Pennsylvania law and authorize release of this information. The commitment letter authorizes the Pennsylvania Department of Revenue to release the tax returns and tax return information by any means possible, including but not limited to by phone discussions, mail, facsimile, e-mail or other electronic means.

The Department will engage with the Pennsylvania Department of Revenue for an employer withholding determination that the Taxpayer has increased the annual taxable payroll in year one by at least \$1,000,000 above the base year amount from the creation of new jobs as specified in the commitment letter.

The Department will also authorize the Pennsylvania Department of Revenue to perform a State Tax Compliance Clearance. Should an applicant be found to be out of compliance, notices will be sent to the applicant with instructions on how to rectify any compliance issues. The applicant must resolve non-compliance issues within the required time period in order to be eligible for the program.

After the determination has been completed, the Department, shall issue the Taxpayer a manufacturing tax credit certificate.

## **Section V – Manufacturing Tax Credit Amounts and Limitations**

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- A. The total amount of Manufacturing Tax Credits issued by the Department may not exceed \$4,000,000 in any fiscal year.
- B. A Taxpayer shall receive a credit up to 5% of the Taxpayer's increase in annual taxable payroll, if the annual taxable payroll increases in year one by at least \$1,000,000 above the base year amount from the creation of new jobs up to the amount specified in the commitment letter.
- C. Tax credits shall be made available by the Department on a first-come, first-served basis.

## **Section VI – Use of Tax Credits** *(As administered by the PA Department of Revenue)*

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Upon issuance of the tax credit certificate, the Department will notify the Department of Revenue that the entity has been awarded a credit within the program.

### **A. Terms of Use**

A completed tax report must be filed for the period in which the credit was approved before the credit may be passed through, carried forward, sold or assigned. The credit is non-refundable. The credit may be used to offset 100% of the entities liability or 100% of the shareholder, member or partner's liability if the entity is a pass-through entity. Credits passed through must be in proportion to the pro-rata share of ownership in the pass-through entity.

### **B. Credit Utilization**

To utilize this credit, please return the tax credit certificate and claim form to the Department of Revenue. Do not include the claim form with any tax report. The claim form and tax credit certificate must be mailed to:

Commonwealth of Pennsylvania  
Department of Revenue  
Bureau of Corporation Taxes  
Dept. 280701  
Harrisburg, PA 17128-0701

### **C. Carry Forward Provision**

The Taxpayer must submit the tax credit certificate to the Department of Revenue not to exceed the earlier of (1) five years from the date the Taxpayer receives the tax credit certificate or (2) six years from the Start Date.

Once the Certificate is submitted to the Department of Revenue, the tax credit may be carried over and applied for not more than three succeeding taxable years.

Each time the credit is carried over to a succeeding taxable year, the credit shall be reduced by the amount used as a credit during the immediately preceding taxable year.

### **D. Tax Credit Sales**

A completed tax report must be filed for the period in which the credit was approved before the credit may be passed through, carried forward, sold or assigned. In addition, the sale or assignment of a restricted credit will not be approved if the seller has any unpaid state taxes, non-filed or incomplete state tax reports and returns as of the date the Department of Revenue is asked to review the seller's records as part of the process to approve the sale of a credit.

Entities that are no longer subject to filing the RCT-101 Corporate Tax Report as per the phase out of the Capital Stock & Foreign Franchise Tax are required to file the PA- 20S/PA-65, S Corporation/Partnership Information return prior to selling a credit. Every domestic or foreign PA S corporation (72 P.S. § 7330.1), partnership (72 P.S § 7335(c)), or entity formed as a limited liability company that is classified as a partnership or S corporation for federal income tax purposes, must file the PA- 20S/PA-65 Information Return. Single Member Limited Liability Companies with an individual, partnership or corporation as the single member are required to file the specified returns: An individual as the single member, must file a PA-40 Individual Tax Return. If the single member is a corporation or partnership the return of the owner (RCT-101 Corporate Tax Report or PA 20S/65 Information Return) must be filed.

### **E. Purchased or Assigned Credits**

Buyers or assignees of the credit must use the credit in the year in which the purchase or assignment is made. The credit "shall be immediately claimed" and is prohibited from being carried forward, carried back, refunded, sold or assigned.

The credits are applied to the buyer's or assignees account for the tax period open as of the date the seller's report is filed for the period in which the credit is approved or for the period as of the date the seller becomes compliant.

Tax period open refers to the current tax year open, regardless as to when the taxpayer files a tax return for the tax period.

The amount of the credit that a buyer or assignee may use against any one Qualified Tax Liability may not exceed 50% of the Qualified Tax Liability for the taxable year.

## F. Resources

For additional guidance, please refer to an informational notice on the Department of Revenue's website at: [revenue.pa.gov](http://revenue.pa.gov), under the general tax information link to incentives credits and programs; tax credits page.

Department of Revenue inquiries should be directed to:

PA Department of Revenue  
Office of Economic Development  
11th Floor Strawberry Square  
Harrisburg, PA 17128  
Telephone: (717) 772-3896

## Section VII – Penalties

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- A. A Taxpayer which receives a manufacturing tax credit and fails to maintain existing operations related to the manufacturing tax credits in the commonwealth for a period of at least five years from the start date must refund to the commonwealth the total amount of manufacturing tax credits granted. The Department of Revenue may issue an assessment, including interest, additions and penalties, for the total amount of each manufacturing tax credit to be refunded to the commonwealth.
- B. A Taxpayer which receives a manufacturing tax credit and fails to maintain new jobs along with the increase in taxable payroll for a period of at least five years from the start date must refund to the commonwealth the total amount of manufacturing tax credits granted. The Department of Revenue may issue an assessment, including interest, additions and penalties, for the total amount of each manufacturing tax credit to be refunded to the commonwealth.
- C. The Department may waive the penalties outlined in the section if it is determined that a company's existing operations were not maintained or the new jobs and increase to payroll were not created because of circumstances beyond the company's control. Circumstances shall include natural disasters, unforeseen industry trends or a loss of a major supplier or market.

## Section VIII – Program Requirements

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### A. Nondiscrimination

No assistance shall be awarded to a Qualified Taxpayer under this program unless the Qualified Taxpayer certifies that the Qualified Taxpayer shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws.

## **Section IX – Contacts**

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A. Program inquiries should be directed to:

Department of Community & Economic Development  
Center for Business Financing  
Manufacturing Tax Credit Program  
Commonwealth Keystone Building, 4th Floor  
400 North Street  
Harrisburg, Pennsylvania 17120-0225

Phone: (717) 787-7120  
Fax: (717) 772-3581  
E-mail: [ra-eitc@pa.gov](mailto:ra-eitc@pa.gov)

B. These guidelines can be accessed on-line at [www.dced.pa.gov](http://www.dced.pa.gov).

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).