

Manufacturing Tax Credit

PROGRAM GUIDELINES
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Pennsylvania
Department of Community
& Economic Development



Commonwealth of Pennsylvania
Josh Shapiro, Governor

PA Department of Community & Economic Development
dced.pa.gov



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Section I – Introduction and Purpose

The Manufacturing Tax Credit Program (“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 (“Manufacturing Tax Credit”). 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

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 of the Tax Reform Code of 1971 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. County average wages can be found on the [Department’s website for the Manufacturing Tax Credit \(MTC\) Program](#).

“Qualified Tax Liability.” The liability imposed on a 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

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 jobs is eligible to apply to the Department for manufacturing tax credits. 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

A taxpayer shall submit the application to the Department by accessing grants.pa.gov. The Department may require additional information to document the increase in annual payroll and the creation of new jobs.

The taxpayer is required to submit a completed Job Record spreadsheet to the Department of Revenue in addition to the application. The Job Record spreadsheet must be submitted within 30 days of submitting the application. Information on how to complete and submit the spreadsheet will be provided to the taxpayer once a completed application is submitted.

The Department will review and approve an application meeting the requirements of these guidelines and the Act on an on-going basis throughout the fiscal year.

Additionally, as part of the application, the taxpayer must file a State Tax Clearance Form with the Department of Revenue for the applicant and for any shareholder, member, or partner owning 20% or more of the applicant entity. State Tax Compliance requires the taxpayer, shareholders, members, and partners of the taxpayer to have filed all required state tax reports and returns for all applicable taxable years and paid any balance of state tax due as determined at settlement or assessment by the Department of Revenue, unless the tax due is under appeal at the time the finding was made by the Department of Revenue.

Should an applicant, shareholder, member and/or partner of the applicant, be found to be out of compliance, notices will be sent to the non-compliant applicant, shareholder, member and/or partners of the applicant, with instructions on how to rectify any compliance issues. All non-compliant issues must be resolved in order to be eligible to receive the manufacturing tax credits.

Upon approval, the Department will issue a commitment letter containing the following to the taxpayer:

- A description of the new 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 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 amount manufacturing tax credits 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 taxpayer seeking the credits is authorizing the Department to request access to, and review of, the taxpayer'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.

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

- 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 may 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)

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.

C. Carry Forward Provision

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. Annual Report

Approved Manufacturing Tax Credit applicants shall file an annual report detailing the utilization of the credit. Annual reports must be filed within 45 days of filing an annual tax return. Reports begin the first year the tax credit is awarded and will end once fully utilized.

The [annual report is available on the Department of Revenue's website](#).

[Reporting guidelines are also available on the Department of Revenue's website](#).

Information contained in this report will be provided to the Independent Fiscal Office for use in preparing the MTC Tax Credit Report under the Performance-Based Budgeting and Tax Credit Efficiency Act.

G. Resources

For additional guidance, please refer to an informational notice on the Department of Revenue's website at: 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

- 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 taxpayer's existing operations were not maintained or the new jobs and increase to payroll were not created because of circumstances beyond the taxpayer's control. Circumstances shall include natural disasters, unforeseen industry trends or a loss of a major supplier or market.

Section VIII – Program Requirements

A. Nondiscrimination

No assistance shall be awarded to a Taxpayer under this program unless the taxpayer certifies that the 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.

Pursuant to the Act of June 19, 2018 (Act 36 of 2018, P.L. 229, No. 36), known as the Employment First Act, it is the policy of the Commonwealth that competitive integrated employment shall be the preferred outcome for all individuals with a disability eligible to work under Federal or State law, regardless of severity of disability and assistance required. To that end, entities are strongly encouraged to employ individuals with disabilities in a competitive integrated environment. A workplace is considered a competitive integrated environment when the individual with disabilities is paid wages that are on par with their nondisabled counterparts and the workplace setting includes both individuals with and without disabilities.

B. Worker Protection

Taxpayers must certify that they are in compliance with all applicable Pennsylvania state labor and workforce safety laws. Such certification shall be made through the Worker Protection and Investment Certification Form (BOP-2201) and submitted the application.

Section IX – Contacts

- A. Program inquiries should be directed to:

Department of Community & Economic Development
Tax Credit Division
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: nodato@pa.gov

- B. These guidelines can be accessed on-line at dced.pa.gov.

- C. The Single Application for Assistance can be accessed on-line at grants.pa.gov.