

What Is the Job Creation Tax Credit?

Maryland's Job Creation Tax Credit program provides income tax credits up to \$1,000 or \$1,500 for each new, full-time job. The purpose of these tax credits is to encourage businesses to expand or relocate in Maryland. Tax credits are more valuable than deductions because credits are subtracted directly from income tax liability.

How much credit does a business receive?

1. In most cases, the credit is 2-1/2% of aggregate annual wages for all newly created, full-time jobs, subject to a limit of \$1,000 times the number of jobs created. The credit earned by a qualified business entity may not exceed \$1 million per credit year.
2. In a state enterprise zone, a federal empowerment zone, or a neighborhood designated by the Department of Housing and Community Development, the credit is increased to 5% of annual wages for all newly created full-time jobs, subject to a limit of \$1,500 times the number of jobs created. The credit earned by a qualified business entity may not exceed \$1 million per credit year.

How do I know if I can claim the Job Creation Tax Credit?

1. **Business Certification Requirement.** A business must be certified as a qualified business entity eligible for the tax credit. Applications for certification are available from the Department of Business and Economic Development (DBED).
2. **Declaration of Intent Requirement.** A business may not be certified as qualifying for the tax credit unless the business notifies DBED of its intent to seek certification **BEFORE** hiring qualified employees.
3. **Job Creation Minimums.**
 - a. The business must create 60 new, full-time jobs at the expanding or new facility during a 24-month period.
 - b. In designated "priority funding areas," the minimum is 25. (see below for definition of priority funding areas)
 - c. Outside "priority funding areas," the requirement may be reduced to as few as 30 new jobs if the aggregate payroll for the qualified positions is greater than 60 X the State's average annual salary.
4. **Other General Requirements.**
 - a. The new or expanded facility must be engaged in an eligible activity as defined by the statute.
 - b. Only new jobs which pay more than 150% of the federal minimum wage are eligible for the credit.
 - c. The expansion or establishment of a business must be at a single location in the state. Of course, a single firm may have more than one eligible location, provided that each is certified and meets the requirements of the statute.
 - d. The job must be filled for 12 months before it is qualified for the tax credit.

What is a “priority funding area”?

Priority funding areas are defined as: state enterprise zones; federal empowerment zones; DHCD designated neighborhoods; incorporated municipalities; the area between the I-495 beltway and Washington D.C., or the I-695 beltway and Baltimore City; or a growth area designated by each county for the purpose of this credit. These targeted areas qualify for lower job creation minimums.

What if a Maryland firm expands through a merger?

A job which is created through a change in ownership of a trade or business; is created through a consolidation, merger, or restructuring of a business entity, or which is created when an employment function is contractually shifted from an existing business entity in the state to another business entity is **not eligible** for the Job Creation Tax Credit *unless* the job is a net new job for the state.

Can various income tax credit benefits be combined for a new job?

YES! For example, a business located in an enterprise zone would also be eligible to receive enterprise zone income tax credits of \$1,000 or up to \$6,000 for hiring economically disadvantaged employees, provided that the firm is certified by the local enterprise zone administrator.

What if I do not have enough income tax liability to use all of the credit?

The credits can be carried forward for five years after the credit year. The credit year is the taxable year in which the business claims the credit.

How do I claim the Job Creation Tax Credit?

Maryland Tax Form 500CR is used to claim this credit. Attach a copy of the Final Certificate of Eligibility to the form. Also, note that the credit is taken against the state income tax only. It is not taken against the county income tax “add-on.”

When must an employer give DBED notice of its intent to qualify for the Job Creation Tax Credit?

This notice must be given BEFORE any qualified employees are hired. Any employee hired before notice is given is NOT qualified for the tax credit.

What types of business activities are eligible for the tax credit?

The statute limits eligibility to specific industries. These are:

- manufacturing or mining;
- transportation or communications;
- agriculture, forestry, or fishing;
- a public utility or warehousing;
- research, development, or testing;
- biotechnology;
- computer programming, data processing or other computer related services;
- *central* financial, real estate or insurance services;
- the operation of central administrative offices or a company HQ;
- business services firms (only located in state “priority funding areas”).

What is a “central administrative office”?

“Central administrative offices” are defined by regulation as a facility where a business entity’s central management or administrative functions are handled on either a regional or national basis. “Central administrative offices” includes offices or locations in the region where functions such as personnel, planning, general management, accounting and financial, purchasing, advertising, legal, data processing, and research and development are performed.

Can a not-for-profit entity qualify for the Job Creation Tax Credit?

Any Maryland business entity may qualify for the tax credit. However, the credit is of benefit only if the entity has a state income tax liability. Because most not-for-profit businesses owe no income tax, they will not benefit from the Job Creation Tax Credit. If the not-for-profit business has taxable income from business activities, it may be able to use the credit.

What is a full-time job?

A full-time position requires at least 840 hours of an employee’s time during at least 24 weeks in a 6-month period. This is an average work week of 35 hours per week.

I am paying my qualified employees 150% of the current federal minimum wage. What if the federal minimum wage increases?

The tax credit statute defines a *qualified* position as full-time and paying 150% of the federal minimum wage. Therefore, if the federal minimum wage increases, the wage required for a position to continue to be *qualified* also increases. For the Job Creation Tax Credit, a position must continue to be *qualified* as long as the credit is subject to recapture.

What if a business receiving the tax credit must reduce its workforce?

The purpose of this tax credit is to generate new, permanent, full-time jobs for Maryland workers. Therefore, the credit requires that jobs for which the credit is claimed must remain for at least three years following the year in which the credit is taken. If the number of jobs for which the credit is taken falls below the threshold (60, 30 or 25), the credits used must be repaid in full. If the number of jobs for which the credit is taken falls more than 5% but remains above the threshold, then the amount of the tax credit to be repaid is in proportion to the decline in certified employees.

Would employees working at an address other than the address of the facility be considered “qualified employees”?

The JCTC statute requires a business entity to establish or expand a business facility at a single address. However, in some cases, the addition of new qualified positions causes the business to outgrow its existing space and acquire additional space within close proximity of the original single facility location. Based on the facts and circumstances of the case, the Secretary may determine that new positions at multiple facilities may be counted.

What if the business entity is a government contractor and the new employees work at the government facility?

Generally, these employees would not be qualified for the JCTC credit. An exception might be made if the business entity leases space for a business facility from a government entity. The JCTC statute requires that “[t]o qualify for the tax credit provided under this subtitle, a business entity must establish or expand a business facility, in the State” that results in the creation of a certain number of qualified positions, and a government facility is not a business facility.

What records must a business maintain?

The qualified business entity shall provide information verifying the jobs it created still exist during the three taxable years following the credit year. The Department requires that information submitted by the business entity at the end of the three-year “clawback” period be verified by an independent certified public accountant selected by the business entity.

Is business information submitted to the Department confidential?

The Maryland Public Information Act requires the Department to protect trade secrets, confidential commercial information, and confidential financial information, as well as certain other information, from public disclosure. In the tax credit application, businesses consent to release of their names and number of jobs created.

How long does the Job Creation Tax Credit program last?

The Job Creation Tax Credit program will terminate January 1, 2014 unless the General Assembly extends the program. Since a position must be filled for 12 months by a qualified worker before the credit may be taken, this means that jobs filled after January 1, 2013 will not receive the credit.