



Legislative Fiscal Bureau

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TO: Representative Scott Krug
Room 207 North, State Capitol

FROM: John D. Gentry, Fiscal Analyst

SUBJECT: Business Development Tax Credit

This memorandum provides information regarding the refundable business development tax credit.

The refundable business development tax credit can be claimed against the individual income tax and the corporate income/franchise tax equal to a portion of eligible expenses for increased employment, retaining employees, employee training, capital investment, and corporate headquarters location or retention in Wisconsin. The Wisconsin Economic Development Corporation (WEDC) is responsible for certifying businesses as eligible to receive credits, verifying eligible activities to claim credits from the Department of Revenue (DOR), and performing other general administrative activities related to the business development tax credit program.

WEDC Certification. In order to be certified to receive any of the business development tax credits, a person must operate or intend to operate a business in this state and enter into a contract with WEDC. Certifications can remain in effect for up to 10 years. A certified business is eligible to receive tax benefits if, in each year the business claims the credit, it increases net employment in Wisconsin above the level during the year before the person was certified, as determined by WEDC under its policies and procedures. There is no limit on the number of businesses that may be certified as eligible to receive business development tax credits.

When businesses apply to be certified under the program, WEDC evaluates applications based on certain factors, including: (a) whether the project would occur without the allocation of credits; (b) the extent to which the project will increase employment, contribute to economic growth, and increase geographic diversity of available business development tax credits in Wisconsin; (c) the financial soundness of the business; and (d) any previous financial assistance the applicant received from the former Department of Commerce or WEDC. The applicant must offer all eligible full-time positions that are filled as part of the eligible project compensation that includes health insurance benefits where the employer must cover at least 50% of the employee's health care costs, or other equivalent health insurance benefits that are acceptable to WEDC.

State law permits WEDC to allocate up to \$22 million in business development tax credits annually. Any unused allocation can be carried forward to future tax years. According to WEDC, approximately \$6.5 million carried forward from 2019 for use in 2020. In addition, WEDC may also request the Joint Committee on Finance for an increase of up to \$10 million annually for the amount of business development credits that may be allocated.

Credits are available for the following eligible projects. In general, WEDC limits the total amount of credits that a certified business may receive for an eligible project by calculating the greater of the amount the business would receive under either the job creation or capital investment portion of the credit. A business may be awarded credits in excess of this limit if the project meets any of the following criteria: (a) it is located in an economically distressed area, as determined by WEDC, which includes opportunity zones designated under federal law as recommended by the Wisconsin Housing and Economic Development Authority; (b) it locates or retains a corporate headquarters in Wisconsin; (c) the business relocates to Wisconsin; (d) 50% of eligible employee wages are greater than 400% of the federal minimum wage (\$29 per hour); (e) WEDC determines that the industry jobs multiplier is greater than 2.0; or (f) WEDC's Awards Administration Committee of the Board of Directors approves any other criteria. A business may qualify for tax credits only for eligible activities that occur after the certification date.

Capital Investment Credit. Under the credit for capital investment, WEDC can certify businesses to earn a credit for up to 3% of the business's personal property investment and for up to 5% of a new real property investment that is made in a capital investment project of \$1 million or more. For projects involving a capital investment of less than \$1 million, the investment must be equal to at least \$10,000 per eligible employee employed in the project for the business to be eligible to receive a capital investment credit.

Job Creation and Job Retention Credits. Under the credit for job creation, certified businesses can earn a credit for up to 10% of the amount of wages paid to an eligible employee (full-time job) in a tax year. If the employee is employed in a full-time job at the claimant's business in an economically distressed area (including opportunity zones), as determined by WEDC, an additional credit may be awarded for up to 5% of such wages. In making the designations, WEDC considers the most current area and state data available for the following indicators: (a) the unemployment rate, median per capita income, average annual wage, and other significant or irregular indicators of economic distress (such as natural disasters, plant closings, or layoffs), as reported by the Department of Workforce Development; (b) the percentage of families below the federal poverty line and the median family and household income, as reported by the U.S. Census Bureau; and (c) manufacturing assessment values by county, as reported by DOR.

In general, WEDC certifies a business for job creation credits based on the number of jobs projected to be created over a three-year period. Certified business can earn the credits over three years based on the increase in wages in each year compared to the prior year at the project locations for which the award is made, subject to annual review. Businesses that receive credits based on job creation must maintain those jobs for a period of five years from the date on which the business was certified as eligible to earn job creation tax credits. Credits cannot be earned for wages over \$100,000 per year.

According to WEDC, it generally does not award credits for jobs retained. However, in cases where WEDC does award credits for jobs retained, the credits are calculated based on the certified business's "baseline" wages, and the credits can be earned on an equal basis over a three-year period. A certified business's baseline equals the number of its full-time employees during the 12-month period immediately preceding the certification date. Projects certified for job retention credits have a baseline based on statewide employment, as well as project-specific employment.

For purposes of the credit, a full-time job means a regular, non-seasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay equal to at least 150% of the federal minimum wage (\$22,620) and benefits that are not required by state or federal law. If the position is not required to work at least 2,080 hours per year, a position may be considered a full-time job if the annual pay for the position is more than the amount determined by multiplying 2,080 by 150% of the federal minimum wage (\$22,620) and the individual in the position is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual in a full-time job. Initial training before an employment position begins is excluded from the definition of a full-time job.

Job Training Credits. A business may be certified to receive tax credits for up to 50% of eligible training costs, as determined by WEDC, to undertake activities to enhance an employee's general knowledge, employability, and flexibility in the workplace; develop skills unique to the person's workplace or equipment; or develop skills that will increase the quality of the business's product. Eligible training costs are the: (a) cost of the trainer; (b) cost of the training materials; or (c) wages of the trainee while in a classroom setting, on-the-job, or job shadowing setting. Travel expenses, food, and lodging are not eligible training costs.

Corporate Headquarters Credit. A certified business can earn an amount, as determined by WEDC, equal to a percentage of the amount of wages that the business paid to an employee in an eligible position in the taxable year. The eligible position must be created or retained in connection with the business's location or retention of its corporate headquarters in Wisconsin, and the job duties associated with the eligible position involve the performance of corporate headquarters functions.

Under WEDC's policies and procedures, a certified business can earn corporate headquarters credits for up to 10% of the annual wages of eligible positions created or retained in connection with a corporate headquarters location/retention in Wisconsin. Credits cannot be earned for wages over \$100,000 per year. In general, for jobs created in connection with the credit, a business is certified by WEDC to earn the credit over a three-year period based on projected full-time job creation over that three-year period. The credit is earned based on the year-over-year increase in wages at the project location, subject to annual review. Once the credits are reviewed by WEDC and awarded to the business, the jobs must be maintained for a period of five years from the business's certification date. Job retention credits are calculated based on the "baseline" wages (calculated the same as described under the business development job creation and job retention credits) and are earned on an equal basis over three years.

I hope this information is helpful. Please contact me with any questions.

JG/lb