

This is an amendment to Business Income and Receipts Tax regulations as a result of an Ordinance (Bill# 130769) amending Chapter 19-2600 of the Philadelphia Code entitled "Business Income and Receipts Taxes," to revise the Credit for New Job Creation and the Philadelphia Re-Entry Employment Program for Returning Citizens ("PREP") Tax Credit by changing the term "Ex-Offender(s)" to "Returning Citizen(s)".

CITY OF PHILADELPHIA
BUSINESS INCOME AND RECEIPTS TAX REGULATIONS

ARTICLE V
CREDITS

SECTION 502. JOB CREATION TAX CREDIT

A) Definitions

1. Annual Wage, Total salaries, wages, and other compensation subject to the Philadelphia City Wage Tax as defined under §19-1500 of the Philadelphia Code and the Department's Income Tax Regulations.

5. Department. Department of Revenue.

6. **[Ex-Offender.] Returning Citizen.** A person previously convicted of a felony, or who was incarcerated for any conviction, or who is currently on probation or parole for any conviction, or who is currently in a work release program or programmed for work release.

7. Job Creation Tax Credits. Tax credits for which the Department has issued a certificate under Section 19-2604 (7) of the Code.

8. New Job. A full time job created by a company within the City and County of Philadelphia within five (5) years from the Start Date, the average hourly rate, excluding benefits, for which must be equal to at least the higher of:

(i) 150% of the federal minimum wage or, for any jobs created beginning January 1, 2015,

887892

DEPARTMENT OF REVENUE
2015 SEP 20 AM 10:15

(ii) \$12.00 multiplied by the CPI Multiplier. The CPI Multiplier shall be calculated annually by the Director of Finance, for wages to be provided on and after January 1 of each year by dividing the most recently published Consumer Price Index for all Urban Consumers (CPI-U) All Items Index, Philadelphia, Pennsylvania, by the most recently published CPI-U as of January 1, 2015.

For any Application for Job Creation Tax Credit filed with the Department on or after September 15, 2015, the term "New Job" does not include any job that by virtue of a merger, acquisition, reorganization or any other change in ownership or entity is transferred from a business entity (that had previously filed a BIRT return as required by Chapter 19-2600 of the Code) to a successor business entity. The term will also not include any job or position that belonged to a business entity that had previously terminated their business activity in Philadelphia and subsequently restarts business activity in Philadelphia within five years of the original business termination date.

Employment opportunities for **[ex-offenders]** Returning Citizens must be contracted for a minimum period of at least 180 days.

9. Start Date. The date on which a business may begin creating New Jobs that may be eligible for Job Creation Tax Credits. The Start Date will be the first day of the calendar quarter in which an application is submitted, unless the applicant requests and the Department agrees to a later start.

F) Tax Credits

1. Tax Credit Amounts

a. Basic Maximum Amount. An Applicant may claim a Job Creation Tax Credit in an amount equal to two percent (2%) of the annual wages paid for each New Job, excluding benefits or one thousand (\$1000) dollars for each New Job created, whichever is higher, up to the maximum job creation amount specified in the commitment letter. In the case of new employment opportunities for **[ex-offenders,]** Returning Citizens, the tax credit is five thousand (\$5000) dollars for each New Job created or two (2) percent of the annual wages paid for each New Job excluding benefits, whichever is higher, up to the maximum job creation amount specified in the commitment letter.

b. Special Tax Credit Opportunity for Job Creation in 2010 and 2011. In connection with any application filed after June 24, 2009, an applicant may claim a tax credit in the amount of \$3000 or the amount permitted under subparagraph (a) whichever is higher,

887893

DEPARTMENT OF REFORMS
2015 SEP 15 PM 10:17

for each New Job created in 2010 or 2011, up to the maximum job creation amount specified in the commitment letter.

H) Limitations

1. At least 25% of all Job Creation Tax Credits that can be approved in any year shall be available to Applicants with fewer than twenty five (25) employees or to create employment opportunities for [ex-offenders.] Returning Citizens.

2. An Applicant will not receive tax credits for New Jobs created prior to the Start Date.

3. The use of tax credits may neither be assigned nor transferred to any other business or subsidiary of the business awarded tax credits.

SECTION 504. PHILADELPHIA RE-ENTRY EMPLOYMENT PROGRAM ("PREP") FOR [EX-OFFENDERS] RETURNING CITIZENS TAX CREDIT

A. Definitions. For the purposes of this section, the following definitions apply:

1. "Applicant." A business as defined in Section 101 (D) of these regulations.

2. "Code." The Philadelphia Code.

3. "Department." Department of Revenue.

4. ["Ex-Offender."] "Returning Citizen." A person previously convicted of a felony, or who was incarcerated for any conviction, or who is currently on probation or parole for any conviction.

5. "Qualifying Employee." For any given tax year [an Ex-offender] a Returning Citizen is a "Qualifying Employee" of a business or a Qualifying Exempt Organization if he or she is either a Part-time or a Full- time Qualifying Employee, and meets all of the following criteria:

a. Is employed by the business or by the Qualifying Exempt Organization during the tax year in a position where either (A) compensation is equivalent to those wages and benefits, including sick leave, holiday and vacation absences, and tuition benefits., afforded regular employees in comparable positions as part of the Employer's regular payroll process; or, if a comparable position does not exist, (B) the average hourly rate., excluding benefits, is at least

887894

DEPARTMENT OF REVENUE
2015 SEP 10 AM 10:17

150% of the federal minimum wage, and the employment package includes the same benefits as are provided to other full-time employees and tuition support for GED, Community College or other post-secondary education, or vocational/technical education or training, of at least \$2,000 during each of the first two years of employment and \$1,000 during the third year of employment.

f. Before being hired by the business or by the Qualifying Exempt Organization, executed a PREP Employee's Agreement as required by subsection 504(E); and

g. Has been certified by R.I.S.E. as a Qualifying Employee in accordance with subsection 504(D).

6. "Qualifying Full-Time Employee." For any given tax year **[an Ex-offender] a Returning Citizen** is a "Qualifying Full-Time Employee" of a business or a Qualifying Exempt Organization if he or she is employed by the business or by the Qualifying Exempt Organization during the tax year for at least thirty-seven and one-half hours per week.

7. "Qualifying Part-Time Employee." For any given tax year, **[an Ex-offender] a Returning Citizen** is a "Qualifying Part-time Employee" of a business or a Qualifying Exempt Organization if he or she is employed by the business or by the Qualifying Exempt Organization during the tax year for at least twenty hours per week, but fewer than thirty-seven and one-half hours per week.

8. "Qualifying Exempt Organization." For any given tax year, a "Qualifying Exempt Organization" is an Organization that:

a. Has been certified as an organization exempt from taxation under the Internal Revenue Code of 1986, as amended, and is exempt from taxation under Chapter 19-2600 of the Code (Business Income and Receipts Taxes);

b. Employs a Qualifying Employee; and

c. Has been certified by R.I.S.E. as a Qualifying Exempt Organization in accordance with subsection (504)(F).

9. "R.I.S.E." The Mayor's **[o]Office of Re-Integration Services, [for Ex-offenders]** ("R.I.S.E."), or any other agency or office as the Mayor shall designate to perform the function assigned to R.I.S.E. by Section 19-2604 (9) of the Code.

10. "Tax Year." As defined in Section 101 of these regulations.

67895

DEPARTMENT OF RECORDS
2015 SEP 10 10:17

C. Eligibility; PREP Tax Credit Agreement; Program Requirements.

1. To be eligible to receive tax credits, a business must first execute a PREP Tax Credit Agreement with the Revenue Department that:

a. Details all the terms and conditions of the PREP Tax Credit as set forth in this subsection;

b. Sets forth the business' agreement to notify the Revenue Department within one week after any Qualifying Employee is no longer employed by the business or by the Qualifying Exempt Organization, which notification shall include an explanation as to why the Qualifying Employee's employment terminated;

c. Sets forth the business' commitment, as required under subsection 504(H), (A) to maintain its operations in the City of Philadelphia for five (5) years from the date of the agreement, and the business' agreement to repay any tax credits it receives if it violates such commitment, and (B) to repay those tax credits earned for a contribution to a Qualifying Exempt Organization if that Qualifying Exempt Organization fails to maintain its operations in the City of Philadelphia for five (5) years from the date of the agreement.

2. The **[Ex-offender] Returning Citizen** employed by the business or by the Qualifying Exempt Organization must be certified by R.I.S.E. as a Qualifying Employee as defined in subsection 504(A)(5).

3. The business or Qualifying Exempt Organization shall employ each certified Qualifying Employee for at least six (6) months. The Qualifying Employee shall be employed for more than six (6) months before a tax credit shall be calculated.

D. Certification of Qualifying Employees; Maximum Number Permitted.

1. After a business has executed a PREP Tax Credit Agreement, it shall make application R.I.S.E. on a form required by R.I.S.E. for each employee it wishes to have certified as a Qualifying Employee.

2. R.I.S.E. shall certify all persons who meet the definition of Qualifying Employee, except:

a. The number of certified Qualifying Employees at any one time shall not exceed 1,000, provided that if the City administers a program that provides employers based upon their employment of **[The Ex-offender] Returning Citizens** under terms and conditions which the Revenue Commissioner finds are substantially equivalent to the terms and conditions of the PREP Tax Credit provided under this Section, then the total number of certified Qualifying

887896

DEPARTMENT OF RECORDS
2015 SEP 10 AM 10:17

Employees plus the total number of employees under such grant program shall not exceed 1,000 at any one time; and

b. R.I.S.E. shall not certify **[an Ex-offender] a Returning Citizen** as a Qualifying Employee if it finds any of the following:

.1 the hiring of the **[Ex-offender] Returning Citizen** is displacing another employee of the business, and that the primary reason for such displacement is to obtain PREP tax credits;

.2 the Qualified Exempt Organization to which a contribution has been made under subsection 504(B)(1)(b) would hire the **[Ex-offender] Returning Citizen** notwithstanding receipt of the contribution.

3. The certification of a Qualifying Employee shall expire after such employee has been employed as a Qualifying Employee by any employer for a total of thirty-six months, or when the Qualifying Employee is no longer employed by the business, and a Qualifying Employee whose certification has expired shall no longer count against the maximum number of certified Qualifying Employees.

4. After an organization is certified by R.I.S.E. as a Qualifying Exempt Organization, it shall make an application to R.I.S.E. on a form required by R.I.S.E. for each employee it wishes to have certified as a Qualifying Employee.

5. The hiring of the **[Ex-offender] Returning Citizen** may not displace another employee and the primary reason for such displacement may not be to obtain PREP Tax Credits. In determining whether an employee has been displaced, the City will consider the facts and circumstances i.e., whether the **[Ex-offender] Returning Citizen** was hired to replace an employee who: voluntarily terminated employment, was terminated due to misconduct, was terminated due to poor performance, or was terminated in a reduction in work force due to lack of work.

E. PREP Employee's Agreement

1. To be a Qualifying Employee, **[an Ex-offender] a Returning Citizen** must have executed an agreement with the City that sets forth:

a. A package of basic education and job training and retention and support services that the City has designed for the **[Ex-offender] Returning Citizen**;

b. The **[Ex-offender's] Returning Citizen's** agreement to participate in life skills and basic financial management training, as well as meet all of his or her outstanding child support and other legal obligations.

887897

DEPARTMENT OF RECORDS
2015 SEP 10 AM 9:17

Underlined and Bold denotes matters added

[] Brackets and Bold denote matters deleted



Commissioner Clarena I. W. Tolson
Chief Revenue Collections Officer

Date: 9/9/15

887898

DEPARTMENT OF REVENUE
2015 SEP 10 AM 10:17