

SECTION 502. JOB CREATION TAX CREDIT⁸⁹

A) Definition⁹⁰

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.
2. Applicant. A business as defined in Section 101(D) of these regulations and subject to the Business Income and Receipts Tax.
3. Base period. The three years preceding the date on which a business may begin creating New Jobs that may be eligible for Job Creation Tax Credits.⁹¹
4. Code. The Philadelphia Code.
5. Department. Department of Revenue.
6. 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.⁹² 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,
 - (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.

⁸⁹ Added by regulation submitted to the Department of Records February 13, 2003 (effective March 17, 2003).

⁹⁰ Amended by regulations submitted to the Department of Records June 22, 2005 (effective July 22, 2005), February 7, 2007 (effective March 9, 2007), and September 10, 2015 (effective October 13).

⁹¹ Amended by regulation submitted to the Department of Records on December 11, 2012 (effective January 10, 2013).

⁹² Amended by regulation submitted to the Department of Records March 20, 2015 (effective April 20, 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.⁹³

Employment opportunities for returning citizens must be contracted for a minimum period of at least 180 days.⁹⁴

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.
10. **Tax Credit Certificate.**⁹⁵ Certificate issued to Applicant by Department after a New Job has been determined to be created and has been retained for at least twelve months.
11. **Year One.** A one-year period immediately following the Start Date.
12. **Year Two.** A one-year period immediately following the end of Year One.
13. **Year Three.** A one-year period immediately following the end of Year Two.
14. **Year Four.** A one-year period immediately following the end of Year Three.
15. **Year Five.** A one-year period immediately following the end of Year Four.

B) Program Requirements

1. The Applicant must agree to create within the City of Philadelphia at least twenty-five (25) New Jobs or to increase its number of full time employees by at least twenty-percent (20%) within five (5) years from the Start Date.

⁹³ Added by regulation submitted to the Department of Records on August 6, 2015 (effective September 7, 2015).

⁹⁴ Amended by regulation submitted to the Department of Records on December 11, 2012 (effective January 10, 2013).

⁹⁵ Amended by regulation submitted to the Department of Records March 20, 2015 (effective April 20, 2015).

2. Applicants have five years from the Start Date to create the New Jobs. Tax credits are granted only after the New Jobs are created.
3. Applicant must agree to maintain existing operations and the operations related to the Job Creation Tax Credits in the City of Philadelphia for a period of five (5) years from the date the company first submits its Tax Credit Certificate to the Department.

(C) Eligibility⁹⁶

In order to be eligible to receive Job Creation Tax Credits, a company must have a current Job Creation Tax Credit Certificate from the Commonwealth of Pennsylvania for New Jobs located in the City of Philadelphia or demonstrate each of the following criteria:

1. The ability to create the number of New Jobs required by the Department within five (5) years from the Start Date. The jobs created must have at least fifty percent (50%) of its wages subject to the tax imposed by Philadelphia Code § 19-1502(1)(a) or § 19-1502(1)(b).
2. The financial stability of the company and the projects financial viability.
3. The intent to maintain operations in the City of Philadelphia for a period of five (5) years from the date the company submits its Tax Credit Certificate to the Department.
4. An affirmation that the business decision to expand or locate in the City of Philadelphia was due in a large part to the availability of a Job Creation Tax Credit.

D) Application and Approval Process⁹⁷

1. Applicant must complete and submit to the Department a Job Creation Tax Credit Application wherein the Applicant agrees to create at least twenty-five (25) New Jobs or to increase the Applicant's number of full time employees by at least twenty percent (20%) within five (5) years of the Start Date. In addition to completing the Job Creation Tax Credit Application, the Applicant will include the following items:
 - a. A description of the project.
 - b. The number of New Jobs to be created by the Applicant within the five (5) year period from the Start Date.

⁹⁶ Amended by regulation submitted to the Department of Records March 20, 2015 (effective April 20, 2015).

⁹⁷ Amended by regulation submitted to the Department of Records on December 11, 2012 (effective January 10, 2013).

- c. The amount of private capital investment in the project.
 - d. An affirmation that the decision to expand or locate in the City of Philadelphia was due in large part to the availability of the Job Creation Tax Credit.
 - e. The desired Start Date to begin creating New Jobs that may be eligible for tax credits.
 - f. Financial statements for the last three years or a letter from a certified public accountant that includes the following liquidity ratios from the most recent annual financial statement: current ratio, quick ratio and debt equity ratio. This information is required if the Applicant, upon submitting the application, employs more than twenty-five (25) individuals or plans to create more than twenty-five (25) New Jobs. g. Such other information as the Department may from time to time deem appropriate.
2. If the Department approves the company's application, the Department will issue a commitment letter to the company. Upon acceptance of the conditions listed in the commitment letter, the business must sign and return the letter to the Department.

E) Commitment Letter⁹⁸

1. The Department and the approved Applicant will execute a commitment letter. The commitment letter shall contain the following:
 - a. A description of the project.
 - b. The number of jobs created.
 - c. The amount of private investment in the project.
 - d. The maximum job creation tax credit amount the company may claim.
 - e. A signed statement that the company intends to maintain its operation in the City of Philadelphia for five years from the date the company submits its first Tax Credit Certificate to the Department.⁹⁹
 - f. Such other information as the Department deems appropriate.
2. After a commitment letter has been signed by both the Department and the business, and the Department has verified that New Jobs have been created pursuant to that commitment, the business shall receive a Job Creation Tax Credit Certificate reflecting the number of jobs created and filing information.

⁹⁸ Amended by regulation submitted to the Department of Records on December 11, 2012 (effective January 10, 2013).

⁹⁹ Amended by regulation submitted to the Department of Records on June 11, 2013 (effective July 11, 2013).

F) Tax Credits¹⁰⁰

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 Returning Citizens, the tax credit is five-thousand (\$5,000) 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 \$3,000 or the amount permitted under subparagraph (a), whichever is higher, for each New Job created in 2010 or 2011, up to the maximum job creation amount specified in the commitment letter.
- c. **Special Tax Credit Opportunity for Job Creation in 2012 and 2013.** In connection with any application filed after January 5, 2011, an applicant may claim a tax credit in the amount of \$3,000 or the amount permitted under subparagraph (a), whichever is higher, for each New Job created in 2012 or thereafter, up to the maximum job creation amount specified in the commitment letter.
- d. **Special Tax Credit Opportunity for Job Creation in 2012 and each year thereafter.** In connection with any application filed after March 14, 2012, an applicant may claim a tax credit in the amount of \$5,000 or the amount permitted under subparagraph (a), whichever is higher, for each New Job created in 2012 or thereafter, up to the maximum job creation amount specified in the commitment letter.¹⁰¹
- e. **Special Tax Credit Opportunity for Job Creation in 2015.** In connection with any application for a Job Creation Tax Credit filed after October 29, 2014, a business may claim in each of five (5) years a tax credit in the amount of \$5,000 or the amount permitted under subparagraph (a), whichever is higher, for each new job

¹⁰⁰ Amended by regulation submitted to the Department of Records on June 22, 2005 (effective July 22, 2005), by regulation submitted to the Department of Records on February 7, 2007 (effective March 9, 2007), and by regulation submitted to the Department of Records on December 11, 2012 (effective January 10, 2013).

¹⁰¹ Amended by regulation submitted to the Department of Records on June 11, 2013 (effective July 11, 2013).

created in 2015, up to the maximum job creation amount specified in the commitment letter.¹⁰²

2. Methodology to Determine Annual Wages Paid

- a. Annual wages paid shall be wages paid for the first twelve (12) months of employment for each New Job created during the job creation periods and subject to the Philadelphia City Wage Tax withholding imposed by Chapter 19-1500 of the Code. For each New Job created, the wages must be paid for a period of twelve months before the 2% tax credit shall be calculated, even if the twelve months are not consecutive months.
- b. In the event the twelve month period to calculate annual wages paid does not end within the year for which job creation was determined but ends within the first quarter of the next job creation year, wages paid to the respective person or persons in the first quarter of the next job creation year may be used to calculate annual wages paid for the year which job creation was determined. In no instance may the wages paid in the second quarter or subsequent quarters of the next job creation year be used to calculate annual wages paid for the prior job creation year.
- c. For each New Job created, the twelve month period to determine annual wages paid shall begin with the employee's earliest date of employment at the applicant's base of operations in Philadelphia during the job creation period. In the event an applicant's Start Date – as defined in Section 502(A) of these regulations – is a date that is prior to the actual date the applicant maintains operations (i.e., opens and office) in Philadelphia, the period to determine annual wages paid shall begin on the date within the quarter that the applicant began to maintain a base of operations in Philadelphia. Wages paid to an employee hired prior to the employer having a base of operations in Philadelphia are not includible in determining annual wages paid, even if the employee is hired on the applicant's Start Date.
- d. When the New Job created is filled by multiple persons within the twelve month period i.e., an employee is terminated, the wages paid to each employee for the twelve month period shall be combined. Example: Employee A is hired in January 20X1 and terminated in May 20X1; Employee B is hired in June 20X1 as a replacement and remains employed through December 20X1 and thereafter; Employee A's Philadelphia taxable wages from January through May 20X1 are \$40,000; Employee B's Philadelphia taxable wages for June through December 20X1 are \$30,000; Annual wages paid for the New Job created would be \$70,000.

¹⁰² Added by regulation submitted to the Department of Records March 20, 2015 (effective April 20, 2015).

- e. When the New Job created is filled by multiple persons but wages, because of various dates of hire, are not paid for all months within the twelve month period, the business shall wait until twelve months of wages have been paid before the 2% tax credit shall be calculated.
 - f. When it is determined that a New Job is created although no employee hired within the job creation period has twelve months of paid wages, wages may be combined for employees with different job classifications to calculate annual wages paid for each New Job created provided 1) the salary for each job classification is within the same pay range, 2) the jobs are created within the same year but a replacement was not hired or 3) a job was terminated within the same year but a replacement was not hired and 4) combining the wages of the employees amount to twelve months of paid wages.
 - g. Employees whose wages are combined for a particular job creation year in order to calculate annual wages paid as prescribed in subparagraph (a) and the two-percent (2%) tax credit for a New Job created in that particular year, and the employees are still employed in subsequent job creation year(s), wages paid to such employees may not be used to determine the tax credit for a New Job verified as created in the subsequent job creation year(s).
- 3. The credit must be claimed within five (5) years of receiving the Tax Credit Certificate from the Department, but in no case can it be longer than eight (8) years from the Start Date. Credits not claimed within this period will be forfeited.
 - 4. An Applicant may only apply the tax credit against its total Business Income and Receipts Tax liability. Cash refunds will not be issued for unused credits.

G) Job Creation¹⁰³

- 1. A business has five (5) years from the Start Date to create the number of New Jobs specified in the commitment letter. The base employment will be determined using an employee affidavit submitted by the Applicant that identifies full time employment levels for the three years preceding the Start Date. The full time employment numbers for each year will be averaged. The base full time employment will be the higher of the average full time employment level during the Base Period or the full time employment level at the Start Date.
- 2. To determine job creation, the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year One commencing with the Start Date.

¹⁰³ Amended by regulation submitted to the Department of Records on December 11, 2012 (effective January 10, 2013).

The average employment by quarter during Year One will be compared with the base employment to determine the number of New Jobs for which tax credits can be claimed. In Year Two the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year Two. The average employment by quarter during Year Two will be compared with the average employment by quarter of Year One to determine the number of New Jobs for which tax credits may be claimed. In Year Three, the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year Three. The average employment by quarter during Year Three will be compared with the average employment by quarter of Year Two to determine the number of New Jobs for which tax credits may be claimed. In Year Four, the Department will review the employment affidavit filed by the Applicant for the four calendar quarters of Year Four. The average employment by quarter during Year Four will be compared with the average employment by quarter of Year Three to determine the number of New Jobs for which tax credits may be claimed. In Year Five, the Department will review the employment affidavit filed by the Applicant for the four-calendar quarters of Year Five. The average employment by quarter during Year Five will be compared with the average employment by quarter of Year Four to determine the number of New Jobs for which the credits may be claimed.

3. New Jobs shall be deemed created in only those years when the wages of each new employee hired due to the tax credit exceeds 150% of the federal minimum wage created within the City and County of Philadelphia. Failure to create the required number of New Jobs specified in the commitment letter by the end of year five may result in the imposition of penalties.
4. Every Applicant is directed and required to give to the Department proof of verification of job figures, such proof to be provided by, but not limited to, a review of tax returns filed with other taxing authorities, unemployment compensation filings, payroll records, or other company employment records. A Job Creation Tax Credit Certificate may be requested one year following the Start Date specified in the commitment letter, provided the business has created one or more jobs. The business shall request issuance of a Job Creation Tax Credit Certificate by submitting a form as prescribed by the Department which shall include an employment affidavit. The business shall submit an employment affidavit annually for a five (5) year period, commencing with the end of Year One, even if New Jobs are not created for the particular period. Tax Credit Certificates will be issued only after the Department has determined a New Job has been created and only up to the maximum job creation number specified in the commitment letter.

Examples¹⁰⁴

- 1) A taxpayer, with a base employment number of 50, filed a JCTC application on March 1, 2010 for the creation of 30 New Jobs in Philadelphia with a Start Date of January 1,

¹⁰⁴ Added by regulation submitted to the Department of Records March 20, 2015 (effective April 20, 2015).

2010, and, accordingly, a Commitment Agreement was fully executed. The taxpayer has created 5 New Jobs on February 1, 2010, another 5 on June 1, 2011 and 10 more on March 1, 2012. The annual wages paid for each of the 20 new jobs created was \$60,000. In July 2013, the taxpayer requested issuance of a Job Creation Tax Credit Certificate and the Department has verified creation of the jobs.

Question: Determine the JCTC amount the Revenue Department shall issue to the taxpayer.

Answer:

In general, under subparagraph 502(F)(1)(b) of this Section, if an applicant fulfils the eligibility requirement, it may claim a Basic Maximum Amount equal to two percent (2%) of the annual wages paid for each New Job or one thousand (\$1000) dollars for each New Job created, whichever is higher, up to the maximum job creation specified in the commitment letter. Under subparagraph 502(F)(1)(b) of this Section, in connection for any JCTC application filed after June 24, 2009, for “Job Creation in 2010 and 2011,” a business may claim “a tax credit in the amount of \$3,000 ... up to the maximum job creation amount specified in the commitment letter.”

The taxpayer filed the application after June 24, 2009 and, therefore, the taxpayer is entitled to receive \$3,000 credit for each of the 5 jobs created in 2010 and for each of the 5 jobs created in 2011. The taxpayer is entitled to receive only the basic maximum amount of \$1,000 or 2% of the annual wages paid for each of the 10 jobs created in 2012. As such, taxpayer shall receive \$1,200 (which is 2% of \$60,000) credit for each of the 10 jobs created in 2012. As a result, the Department will issue JCTC certificate to the taxpayer in the amount of \$42,000 [i.e., $(10 * \$3,000) + 10 * \$1,200$].

- 2) The same taxpayer in Example 1 above filed another JCTC application on December 1, 2014 for the creation of 20 new jobs and signed a Commitment Agreement with the City accordingly. Taxpayer created 15 jobs on July 1, 2015 and 20 more on January 15, 2016, for a total of 35 additional jobs. In March 2017, the taxpayer requested issuance of a Job Creation Tax Credit Certificate and the Department has verified the creation of these jobs.

Question: Determine the JCTC amount the Revenue Department shall issue to the taxpayer.

Answer:

Out of the 30 new jobs the taxpayer committed to create under the first JCTC Commitment Agreement, the taxpayer had created only 20 jobs prior to filing a second JCTC application in December 2014. At the time of filing its first JCTC application, the taxpayer had a base employment number of 50 and has created 20 new jobs prior to its

second application. As a result, for the purpose of its second application, the taxpayer's base employment number is 70.

The taxpayer has to fulfill its first commitment before claiming any credit under its second application. The 15 new jobs created in 2015 are still within the 5 years limitation period to create new jobs under the first agreement and, as such, 10 of these jobs shall be used toward satisfying taxpayer's first commitment to create 30 new jobs. Thus, taxpayer shall receive a one-time \$1,000 basic maximum amount or 2% of the annual wages paid, whichever is higher, for each of these 10 jobs.

The remaining 5 new jobs created in Tax Year 2015 shall be used to satisfy the job creation commitment under the second Agreement. Accordingly, the taxpayer shall receive, in accordance with subparagraph 502(F)(1)(e) of this Section, \$5,000 for each of these 5 new jobs (a total of \$25,000) for Tax Year 2015 and additional \$25,000 for Tax Year 2016. As long as the taxpayer maintains the level of employment and timely requests for issuance of the JCTC certificate, the taxpayer shall receive \$5,000 JCTC for each of these 5 jobs for 3 more years. Under paragraph 502(F)(3) of this Section, the credit must be claimed within five (5) years of receiving the Tax Credit Certificate from the Department, but in no case can it be longer than eight (8) years from the Start Date. Credits not claimed within this period will be forfeited.

Fifteen of the 20 new jobs the taxpayer created in Tax Year 2016 shall count to satisfy the commitment under the second Agreement to create 20 new jobs. However, since these jobs are not created in Tax Year 2015, the taxpayer cannot take advantage of the provision of subparagraph 502(F)(1)(e) of this section, which is a Special Tax Credit provision for jobs creation in 2015 only in connection with an application filed after October 29, 2014. The taxpayer shall receive for each of these 15 jobs a one-time \$5,000 (\$75,000 total) under subparagraph 502(F)(1)(d), which is a Special Tax Credit Opportunity for Job Creation in 2012 and each year thereafter in connection with any application filed after March 14, 2012. In total, the Department will issue JCTC certificates for \$200,000 for the jobs created under the second agreement ((5 jobs x \$5,000 x 5 years) + (15 jobs x \$5,000)) provided that all terms of the program are met.

Under the second Agreement, the taxpayer committed to create 20 new jobs. In total, the taxpayer created 35 new jobs – 15 in 2015 and 20 in 2016. As explained above, out of the 15 new jobs created in 2015, the first 10 were counted towards fulfilling the first commitment for creation of 30 jobs (20 of which were created in tax years 2010 through 2012); the remaining 5 jobs created in 2015 and the first 15 out of the 20 jobs the taxpayer created in 2016 are counted towards fulfilling the second Commitment Agreement. As such, out of the 35 new jobs the taxpayer create in 2015 and 2016, the first thirty (30) are counted to fulfill in full the two job creation Commitment Agreements the taxpayer entered with the City. The taxpayer shall not receive any JCTC credit for the remaining 5 jobs created in 2016 as these jobs are in excess of the total new jobs the taxpayer committed to created under the two agreements.

In total, the taxpayer created 55 new jobs from the time of their first JCTC agreement and will received credits totaling \$242,000 for 50 of those jobs; provided all program terms are met.

- 3) A taxpayer, with a base employment number of 10, filed its first JCTC application on December 1, 2014 for the creation of 20 New Jobs in Philadelphia and signed a fully executed Commitment Agreement with the City accordingly. The taxpayer had created 5 New Jobs on September 1, 2014, another 5 on October 15, 2014 and 17 more on July 1, 2015. The average hourly rate for each of the 27 new jobs created was \$15.00. In September 2016, the taxpayer requested issuance of a Job Creation Tax Credit Certificate and the Department has verified creation of the jobs.

Question: Determine the JCTC amount the Revenue Department shall issue to the taxpayer.

Answer:

The 5 jobs the taxpayer created on September 1, 2014 do not count toward the job creation under the JCTC Commitment Agreement the taxpayer signed with the City and, as such, the taxpayer is not entitled to any JCTC for these 5 jobs. This is because these jobs were created prior to the Start Date, the date on which a business may begin creating New Jobs that may be eligible for JCTC under the JCTC Commitment Agreement the Taxpayer signed with the City. Under the JCTC ordinance, the Start Date shall be the first day of the calendar quarter in which an application is submitted. In this case, the application is submitted on December 1, 2014 and, therefore, the Start Date is October 1, 2014.

The 5 jobs the taxpayer created on October 15, 2014 were created after the Start Date and would count towards the job creation under the Agreement. However, since these jobs were created not in Tax Year 2015, the taxpayer cannot take advantage of the Special Tax Credit provision for job creation in 2015 under subparagraph 502(F)(1)(e) and shall only receive one-time \$5,000 for each of these 5 jobs under subparagraph 502(F)(1)(d).

Under the Commitment agreement, the taxpayer signed to create 20 New Jobs beginning at the Start Date, created 5 new jobs in October, 2014 and shall receive JCTC for these 5 jobs as indicated above. Out of the 17 new jobs the taxpayer created in Tax Year 2015, only 15 would qualify the taxpayer for JCTC. The taxpayer shall not receive any JCTC for the remaining 2 jobs as these are in excess of the maximum 20 jobs the taxpayer is allowed to receive JCTC under the Agreement. Accordingly, the taxpayer shall receive, in accordance with subparagraph 502(F)(1)(e) of this Section, \$5,000 for each of these 15 new jobs (a total of \$75,000) for Tax Year 2015. As long as the taxpayer maintains the level of employment and timely requests for issuance of the JCTC certificate, the taxpayer shall receive \$75,000 JCTC for these 15 jobs for 4 more years.

In total, the taxpayer created 22 new jobs and, under JCTC agreement, will receive credits totaling \$400,000 for 20 of those jobs ((5 jobs x \$5,000) + (15 jobs x \$5,000 x 5 years)), provided all program terms are met.

H) Limitations¹⁰⁵

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 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.
4. An Applicant may not receive tax credits for relocating operations from one location in Philadelphia to another location in Philadelphia.
5. Tax credits may not be converted to cash.
6. No business may claim or receive a tax credit under this section unless the business is in full compliance with all Philadelphia tax laws, ordinances and regulations.
7. The total amount of all Job Creation Tax Credits available in any year for commitment under § 19-2604(7)(c)(3) of the Code shall not exceed 2% of all revenues collected by the City through the gross receipts and net income components of the Business Income and Receipts Tax during the previous year.¹⁰⁶

I) Penalties

1. Failure to maintain operations. An Applicant that receives Job Creation Tax Credits and fails to substantially maintain existing operations and the operations related to the Job Creation Tax Credits in the City of Philadelphia for a period of five (5) years from the date the Applicant first submits a Job Creation Tax Credit Certificate to the Department shall be required to refund to the City of Philadelphia the total amount of credit or credits granted.
2. Failure to create New Jobs. An Applicant that receives Job Creation Tax Credits and fails to create the approved number of New Jobs within five (5) years of the Start Date will be required to refund to the City of Philadelphia the total amount of credit or credits granted.

¹⁰⁵ Amended by regulation submitted to the Department of Records on June 22, 2005 (effective July 22, 2005).

¹⁰⁶ Amended by regulation submitted to the Department of Records on June 11, 2013 (effective July 11, 2013).

3. Waiver. The Department may waive the penalties outlined in subsections (1) and (2) above if it is determined that an Applicant's operations were not maintained or the New Jobs were not created because of circumstances beyond its control. Such circumstances include natural disasters, acts of terrorism, unforeseen industry trends, or a loss of a major supplier or market.