

Renumbered 5/12/2015

63M-1-2405 Qualifications for tax credit -- Procedure.

- (1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this section.
- (2) A business entity or local government entity seeking to receive a tax credit shall provide the office with:
 - (a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;
 - (b)
 - (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during the preceding calendar year; or
 - (ii) for a local government entity, documentation of the new state revenues from the new commercial project within the local government entity that were paid during the preceding calendar year;
 - (c) known or expected detriments to the state or existing businesses in the state;
 - (d) if a local government entity seeks to assign the tax credit to a community development and renewal agency in accordance with Section 63M-1-2404, a statement providing the name and taxpayer identification number of the community development and renewal agency to which the local government entity seeks to assign the tax credit;
 - (e)
 - (i) with respect to a business entity, a document that expressly directs and authorizes the State Tax Commission to disclose the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office;
 - (ii) with respect to a local government entity that seeks to claim the tax credit:
 - (A) a document that expressly directs and authorizes the State Tax Commission to disclose the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office; and
 - (B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the local government, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:
 - (I) expressly directs and authorizes the State Tax Commission to disclose the returns of that new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office; and
 - (II) lists the taxpayer identification number of that new or expanded industrial, manufacturing, distribution, or business service; or
 - (iii) with respect to a local government entity that seeks to assign the tax credit to a community development and renewal agency:
 - (A) a document signed by the members of the governing body of the community development and renewal agency that expressly directs and authorizes the State Tax Commission to disclose the returns of the community development and renewal agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office; and

- (B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the community development and renewal agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:
 - (I) expressly directs and authorizes the State Tax Commission to disclose the returns of that new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office; and
 - (II) lists the taxpayer identification number of that new or expanded industrial, manufacturing, distribution, or business service; and
- (f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the agreement described in Subsection 63M-1-2404(3)(a), including:
 - (i) significant capital investment;
 - (ii) the creation of high paying jobs;
 - (iii) significant purchases from Utah vendors and providers; or
 - (iv) any combination of Subsections (2)(f)(i), (ii), and (iii).
- (3)
 - (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.
 - (b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).
- (4) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:
 - (a)
 - (i) deny the tax credit; or
 - (ii) terminate the agreement described in Subsection 63M-1-2404(3)(a) for failure to meet the performance standards established in the agreement; or
 - (b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.
- (5) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:
 - (a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit in accordance with Section 63M-1-2404, to the community development and renewal agency to which the local government entity assigns the tax credit;
 - (b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit in accordance with Section 63M-1-2404, to the community development and renewal agency to which the local government entity assigns the tax credit; and

- (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.
- (6) A business entity, local government entity, or community development and renewal agency may not claim a tax credit unless the business entity, local government entity, or community development and renewal agency has a tax credit certificate issued by the office.
- (7)
 - (a) A business entity, local government entity, or community development and renewal agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.
 - (b) A business entity, local government entity, or community development and renewal agency that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.