

Effective 5/13/2014

Part 3
Tax Credit for Employment of Persons Who Are Homeless Act

35A-5-301 Title.

This part is known as the "Tax Credit for Employment of Persons Who Are Homeless Act."

Enacted by Chapter 315, 2014 General Session

35A-5-302 Definitions.

As used in this part:

- (1) "Date of hire" means the date a person who is homeless first performs labor or services for compensation for an employer.
- (2) "Governmental entity" is as defined in Section 59-2-511.
- (3) "Permanent housing, permanent supportive, or transitional facility" means a facility:
 - (a) located within the state;
 - (b) that provides supervision of residents of the facility; and
 - (c) that is:
 - (i) a publicly or privately operated shelter:
 - (A) designed to provide temporary living accommodations, including a welfare hotel, congregate shelter, or transitional housing for the mentally ill; and
 - (B) that receives federal homeless assistance funding distributed by the United States Department of Housing and Urban Development; or
 - (ii) an emergency shelter that receives homeless assistance funding from a county, city, or town.
- (4) "Person who is homeless" means an individual whose primary nighttime residence is:
 - (a) a public or private place not designated for or ordinarily used as a regular sleeping accommodation for an individual, including a car, park, abandoned building, bus station, train station, airport, or camping ground; or
 - (b) a publicly or privately operated shelter designated to provide temporary living arrangements, including a permanent housing, permanent supportive, or transitional facility.
- (5) "Wage requirement" means that an employer pays a person who is homeless \$4,000 or more in wages during a time period that:
 - (a) begins on the date of hire; and
 - (b) ends no later than two calendar quarters after the calendar quarter in which the date of hire occurs.

Amended by Chapter 502, 2019 General Session

35A-5-303 Application for tax credit certificate.

- (1) An employer who employs a person who is homeless and seeks to receive a tax credit certificate under this part shall file an application with the department with respect to each person who is homeless that the employer employs.
- (2) The application shall be on a form the department provides to the employer.
- (3) The application shall require the employer to certify that:
 - (a) the person who the employer employs:

- (i) met the definition of a person who is homeless on the date of hire or at any time during the 60-day period immediately before the date of hire;
 - (ii) is an employee, and not an independent contractor, of the employer;
 - (iii) is legally eligible to work in the United States; and
 - (iv) has not worked for the employer for more than 40 hours during the 60-day period immediately before the date of hire; and
- (b) the employer:
- (i) complies with all state, federal, or local requirements related to the employment of the person who is homeless; and
 - (ii) is not a governmental entity.
- (4) The application:
- (a) shall list, for each person who is homeless that the employer employs:
 - (i) the person's name;
 - (ii) the person's social security number; and
 - (iii) the person's current address;
 - (b) shall list the employer's federal employer identification number; and
 - (c) may require additional information as determined by the department.
- (5) An employer shall provide documentation to the department to support the certifications and other information the employer provides in the application described in this section.
- (6) If the department determines that, on the basis of the documentation and other information the employer provides, the employer has satisfied the certification requirements of Subsection (3) and provided the information described in Subsection (4), the department shall enter into a participation agreement with the employer as provided in Section 35A-5-304 for each person who is homeless who the employer employs.
- (7) If the department determines that, on the basis of the documentation and other information the employer provides, the employer has not satisfied the certification requirements of Subsection (3) or provided the information described in Subsection (4), the department:
- (a) shall deny the application; or
 - (b) inform the employer that the documentation the employer provided is inadequate and request the employer to submit new or additional documentation.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with the provisions of this part, the department may make rules governing the administration of the tax credit described in this part.

Amended by Chapter 502, 2019 General Session

35A-5-304 Participation agreements.

- (1) If the department enters into a participation agreement with an employer, the participation agreement shall:
- (a) be provided by the department; and
 - (b) establish the requirements the employer is required to meet to be eligible to receive a tax credit certificate, including:
 - (i) requiring the employer to meet the certification requirements of Subsection 35A-5-303(3);
 - (ii) requiring the employer to provide written notice to the department when the employer meets the wage requirement; and
 - (iii) requiring the employer to provide documentation or other information the department requests:

- (A) to establish the hours and dates that the person who is homeless works for the employer;
and
 - (B) to support the employer's eligibility to receive a tax credit certificate under this part.
- (2) An agreement under this section does constitute a right to receive a tax credit certificate under this part.

Amended by Chapter 502, 2019 General Session

35A-5-305 Tax credit certificate.

- (1) An employer shall provide written notice to the department as provided in the participation agreement described in Section 35A-5-304.
- (2) The department shall determine whether an employer has met the requirements of the participation agreement under Section 35A-5-304 to receive a tax credit certificate after the employer provides the written notice described in Subsection (1) to the department.
- (3) Subject to the other provisions of this section, if the department determines that an employer has met the requirements of the participation agreement under Section 35A-5-304 to receive a tax credit certificate, the department may issue a tax credit certificate to the employer.
- (4) A tax credit certificate under this section:
 - (a) shall list the amount of tax credit allowable for the taxable year in an amount that does not exceed \$2,000;
 - (b) shall list the name and federal employer number of the employer;
 - (c) shall list the name, Social Security identification number, and current address of the person who is homeless with respect to whom the employer has met the wage requirement; and
 - (d) may include any other information required by the department.
- (5) Subject to Subsections (6) and (7), the department shall issue tax credit certificates under this section in the order that the department receives the written notice described in Subsection (1).
- (6) The department may not issue tax credit certificates that total more than \$100,000 in a fiscal year.
- (7)
 - (a) Subject to Subsection (7)(b), if the department would have issued tax credit certificates that total more than \$100,000 in a fiscal year but for the limit provided in Subsection (6), the department shall issue the tax credit certificates that exceed \$100,000 in the next fiscal year.
 - (b) If the department issues tax credit certificates in accordance with Subsection (7)(a):
 - (i) the tax credit certificates may not total more than \$100,000; and
 - (ii) the department may not issue tax credit certificates for an amount that exceeds the limit described in Subsection (7)(b)(i) in a future fiscal year.
- (8) The department shall provide a copy of a tax credit certificate the department issues under this section to the State Tax Commission.

Amended by Chapter 502, 2019 General Session

35A-5-306 Report to the Legislature.

Beginning with the 2016 interim, the department shall annually provide an electronic report to the Economic Development and Workforce Services Interim Committee and the Revenue and Taxation Interim Committee:

- (1) on or before the November interim meeting; and
- (2) on the amount of tax credits the department grants under this part.

Amended by Chapter 135, 2016 General Session