

Effective 5/10/2016

63N-2-105 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 part.
- (2) A business entity or local government entity seeking to receive a tax credit as provided in this part 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 area of 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 reinvestment agency as described in Section 63N-2-104, a statement providing the name and taxpayer identification number of the community reinvestment 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 to the office 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;
 - (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 to the office 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; 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 area of the local government entity, 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 to the office the returns of the 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; and
 - (II) lists the taxpayer identification number of the 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 reinvestment agency:
 - (A) a document signed by the members of the governing body of the community reinvestment agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community reinvestment agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; 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 reinvestment 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 to the office the returns of the 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; and
 - (II) lists the taxpayer identification number of the 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 written agreement described in Subsection 63N-2-104(3)(a), including:
 - (i) the creation of new incremental jobs that are also high paying jobs;
 - (ii) significant capital investment;
 - (iii) significant purchases from Utah vendors and providers; or
 - (iv) a combination of these benchmarks.
- (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 63N-2-104(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 as described in Section 63N-2-104, to the community reinvestment 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 as described in Section 63N-2-104, to the community reinvestment 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 reinvestment agency may not claim a tax credit unless the business entity, local government entity, or community reinvestment agency has a tax credit certificate issued by the office.
- (7)
 - (a) A business entity, local government entity, or community reinvestment 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 reinvestment 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.

Amended by Chapter 350, 2016 General Session