

280-RICR-20-20-15

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 20 – TAX CREDITS/DEDUCTIONS

PART 15 – Tax Incentives for Employers

15.1 General

Effective January 1, 1998, an incentive in the form of a deduction or modification is available to businesses who hire employees who are Rhode Island residents and who have been "unemployed" as defined in § 15.2(A)(2) of this Part. Once each employee has been employed by the business for a minimum of 52 consecutive calendar weeks, has a minimum of 1,820 hours of paid employment and is certified by the Department of Labor and Training, the business shall be entitled to an incentive of 40% of the employee's first year wages up to a maximum of \$2,400 per employee.

15.2 Procedure

- A. If a business hires an employee who has been unemployed as defined herein and who has been a domiciled resident of Rhode Island for at least 52 consecutive calendar weeks before the date of hire seeks the tax incentives provided herein, the following procedure shall be followed:
1. Upon being hired the employee must attest to the employer that he or she has been both unemployed and a domiciled resident for the required time.
 2. Within 30 days from the first day the employee begins work, the business must file with the Department of Labor and Training for confirmation of the employee's unemployment status. The Department of Labor and Training shall notify the business of its findings as soon as practicable. If the employee was "unemployed" by being a recipient of Rhode Island Aid to Families with Dependent Children (Family Independence Program) for the required period, the business shall request confirmation from the Rhode Island Department of Human Services.

3. After the employee has been employed for at least 52 consecutive weeks and a minimum of 1,820 hours of paid employment, the business shall request the Department of Labor and Training to provide final certification for that employee. If the employee has achieved both minimum standards above, the Department shall issue a certificate for that employee to the business. When claiming the incentive, the business shall attach the certificate to its return.
4. Once the certificate is received, the business shall calculate and claim the incentive on its tax return for the tax year in which the minimum standards are met.

15.3 Definitions

- A. "Business" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint stock company, joint venture or any other legal entity through which business is legally conducted or the successors or assigns thereof.
- B. "Unemployed" means and refers to an individual who attests that he or she is not working and
 1. has received unemployment compensation benefits under R.I. Gen. Laws Chapter 28-44 or any similar laws of another state any time within a one-year period before the date of hire; or
 2. has been a recipient of Rhode Island Aid to Families with Dependent Children (R.I. Gen. Laws Chapter 40-6) for a minimum of one year before the date of hire.
- C. "Paid employment" shall mean a period of time during which any employee has been hired by a business and is receiving Rhode Island wages or salaries for his or her service.
- D. "Tax incentives or incentive" means a deduction or modification in the computed taxes owed by a claimant business.
- E. "First year wages" shall mean the Rhode Island wages or Rhode Island salary of the newly-hired employee and actually paid by the business for a period of 365 days from the employee's first day of work as evidenced by the W-2's provided

by the claimant's business for the calendar years into which such time period falls. Wages subject to the incentive shall be reduced by any direct state or federal assistance.

15.4 The Employee

- A. The incentive shall be applied only once for any given employee.
- B. The employee must be a first-time hire of the business and cannot have worked for any company that subsequently merges with or is acquired by the claimant business.
- C. Leased or temporary employees do not qualify.
- D. The employee cannot be a relative of any controlling shareholder, director, or officer of the claimant corporation; nor controlling shareholder, officer, or manager of the claimant limited liability company; nor partner or owner of any claimant partnership, joint venture, sole proprietorship or any other type of legal business entity claiming this incentive.
- E. If the hiring of the employee will be used to obtain any other tax incentive/tax benefit for the business, then that employee cannot be used in the computation of this tax incentive.

15.5 Calculation of the Incentive

- A. At the end of the business' tax year, the employer claims the incentive for each employee who has been finally certified during that tax year by the Department of Labor and Training.
- B. The incentive is calculated using the W-2's for each employee to determine the "first year wages". Since the "first year wages" are the Rhode Island wages or Rhode Island salary of the newly-hired employee and actually paid by the business for a period of 365 days from the employee's first day of work, the W-2's for more than one year will be used.
- C. For most certified employee, the calculation involves:
 - 1. the first W-2 for the employee's first year of employment;

2. a determination of how many days of pay (of the mandated 365) were present during that calendar year;
 3. the W-2 for the employee's second year of employment;
 4. a determination of how many days remained (of the mandated 365) during that (second) calendar year; and
 5. a proration (or specific identification if details are available for review) to determine the remaining portion of the "first year wages".
- D. Depending upon the date of hire, the calculation of the "first year wages" may involve more than 2 years' W-2's for the certified employee.
- E. Once the "first year wages" have been determined, the employer must reduce that amount by any direct state or federal assistance received for that employee.
- F. The incentive is then calculated using Form 107 at forty percent (40%) of the employee's first year wages up to a maximum of \$2,400 and the employer attaches a copy of the certification from the Department of Labor and Training for each employee claimed to the Form 107; attaches the Form 107 to the tax return being filed for that year and enters the incentive where appropriate in the tax calculation.

15.6 Employee Tax Credit Examples

- A. Example 1 - Calendar year Employer
1. the incentive shall be applied only once for any given employee
 2. Employee John Doe is hired on January 1, 1998 and the employer is a calendar year end taxpayer. Since the 365 day requirement is satisfied in 1 year, the stated total wages on the 1998 W-2 for the employee may then be used for the calculation of the modification or deduction.

John Doe 1998 W-2 Total	\$12,000
Wages for his Employer	
Incentive rate (40%)	X .40

Total \$4,800

3. Maximum incentive of \$2,400 for John Doe may be utilized a modification or adjustment on year end 12/31/98 tax return of his employer.

B. Example 2 - Calendar Year Employer:

1. Employee Jane Doe is hired on April 28, 1998 and the employer is a calendar year end taxpayer. Jane Doe 1998 W-2 Total Wages from this Employer \$ 7,400.00 Jane Doe 1999 W-2 Total Wages from this Employer 12,600.00. Since the 365 day requirement is satisfied in 2 different years, the measure calculation is:

04/28/98 through 12/31/98 =	247 days
01/01/98 through 04/28/99 =	118 days
Total	365 days
1998 Wages Total =	\$ 7,400.00
1999 Wages $118/365 \times \$12,600 =$	4,073.42
Total Eligible Wages	\$11,073.42
Incentive Rate (40%)	X .40
Total	\$ 4,589.37

2. Maximum incentive of \$2,400 for Jane Doe may be utilized as a modification or adjustment on year end 12/31/99 tax return of her employer.

C. Example 3 - Fiscal Year Employer:

1. Under the same facts, except the taxpayer is a fiscal year end June 30th filer, the incentive is calculated as follows:

- a. For John Doe, the calculation and incentive amount would remain the same; however, the taxpayer would not be able to modify or adjust until the June 30, 1999 filing since the 365 days of employment would not be reached until the middle of the employer's fiscal year.
- b. For Jane Doe, since the 365 day criteria will be met within the June 30, 1999 fiscal year and before Jane's W-2 is prepared for 1999, the calculation will use Jane's 1998 W-2 wages and her actual wages for the first 118 days of 1999.

D. Example 4 - Fiscal year Employer:

- 1. Employee Jane Smith is hired on July 30, 1998 and the employer is a June 30 fiscal year end.

Jane Smith 1998 W-2 wages from this Employer	\$4,580.00
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Jane Smith 1999 W-2 wages from this Employer	7,050.00
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Measure Calculation

07/30/98 through 12/31/98 =	154 days
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01/1/99 through 07/30/99 =	211 days
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Total	365 days
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1998 Wages from this Employer	\$4,580.00
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1999 Wages $211/365 \times \$7050.00 =$	4,075.48
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Total Eligible Wages	\$8,555.48
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Incentive Rate (40%)	X .40
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Total \$3,462.19

2. Maximum incentive of \$2,400.00 for Jane Smith may be utilized as a modification or adjustment on the year end June 30, 2000 tax return since the 365 day criteria is not met until that fiscal year of the return filer.

15.7 Minimum Tax and Carryover

- A. The incentive cannot reduce the business' tax for that year below the minimum (if any) for the chapter under which the business is filing.
- B. Any amount of incentive not used in the business' tax year may not be carried over to any following year.

15.8 Limitations and Miscellaneous

- A. The incentive (deduction or modification) is not refundable.
- B. The incentive may be used by the claimant business for taxes levied under R.I. Gen. Laws Chapter 44-11 (Business Corporation Tax); under R.I. Gen. Laws Chapter 44-13 (Public Service Corporation Tax) but not under R.I. Gen. Laws § 4-13-13; under R.I. Gen. Laws Chapter 44-14 (Bank Excise Tax); under R.I. Gen. Laws Chapter 44-15 (Bank Deposits Tax); under R.I. Gen. Laws Chapter 44-17 (Taxation of Insurance Companies); and under R.I. Gen. Laws Chapter 44-30 (Personal Income Tax).
- C. If the business is liable for both Bank Excise and Bank Deposits taxes (under R.I. Gen. Laws Chapters 44-14 and 44-15), the taxpayer must elect only one tax in which to claim the incentive and may not divide the incentive between the two taxes.
- D. If the business is a Sub-chapter S corporation, limited liability company, partnership or joint venture, the incentive is to be divided in the same manner as income.

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