

RHODE ISLAND HUMAN RESOURCE INVESTMENT COUNCIL
Regulations for the Application and Administration of
Certification for Jobs Training Tax Credits Pursuant to R.I.G.L. 42-64.6-1 et al.

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I. PURPOSE

The Rhode Island Jobs Training Tax Credits Act (R.I.G.L. 42-46.6-1 et. al.) provides certain employers tax credits for job training of employees. To qualify for such credit(s) an employer must first file an application ("Application") for election ("Election") with the Rhode Island Human Resource Investment Council ("HRIC") evidencing to the satisfaction of the HRIC that (a) the employer is a "qualified" employer, (b) the employee(s) are "qualified" employees and (c) that the training program is "qualified" and (d) that the expenses of training are "qualified" expenses, all as set forth in the Act and these regulations.

The regulations herein are enacted to clearly delineate the HRIC's administration of the qualification process and to provide prospective applicant employers specific standards for the evaluation of Application.

II. HUMAN RESOURCE INVESTMENT COUNCIL AS APPROVING AGENCY

R.I.G.L. 42-64.6-3 delegates the HRIC as the Agency empowered with determining which employers, employees, training programs and expenses qualify for the tax credit.

Pursuant to its own enabling legislation, and its existing by-laws, the HRIC hereby delegates the authority for reviewing and approving/disapproving the Applications to its Executive Director.

III. APPLICATION PROCESS

Each and every employer shall submit such information as the HRIC deems necessary for evaluating such Application, including but not limited to a description of the program for training and/or retraining employees, the duration of the program, a description of the amounts to be spent to implement the program, the nature of the program to be provided to employees, an estimate of the number of the employees who shall be covered by the program, and the relationship, if any, of the employer to the party or parties offering the program.

Upon receipt of an Application, the Executive Director, or the Executive Director's designee, shall review the Application and issue a written decision either approving the Election or rejecting the Application as not being complete or in conformance with the Act or the regulations. If an Election is approved, the effective date of the Election shall be deemed to be the filing date of the Application ("Effective Date"). Subsequent to the filing of an Application, the HRIC staff shall be entitled to request such additional information as it deems necessary to adequately evaluate the Application, and where appropriate, meet with the employer to informally review the Application.

Subsequent to the approval of the Election, the HRIC staff shall be entitled to request such additional information as it deems necessary to adequately monitor compliance with the Election.

IV. RECORD KEEPING

The employer shall maintain and preserve all financial, training attendance, training progress, and payment records relating to the tax credits, together with pertinent employee records and information, for a three (3) year period from the date of filing of its tax return claiming said credit for review by the HRIC; and for three (3) years thereafter upon advance reasonable notice give access to and the right to examine any directly pertinent books, documents, papers and records of the applicant involving transactions relating to this tax credit.

In any event, the duty set forth herein shall cease six (6) years from the date of filing of the employer's tax return which utilizes this tax credit.

V. CONFIDENTIALITY OF INFORMATION

All information provided by employers to the HRIC shall remain confidential in the same manner as information supplied to the Department of Labor and Training pursuant to R.I.G.L. 28-39-19 and 28-42-38, except that the HRIC shall communicate to the Division of Taxation such information as it deems necessary for the employer's tax return to be properly examined.

Further, the HRIC hereby reserves the right and is empowered to compile information provided by individual employers into statistical reports to be published as it deems necessary and/or required by law.

VI. EMPLOYER ELIGIBILITY

Jobs Training Tax Credits are available to all employers meeting the requirements contained herein.

The only employers not eligible to apply for such credits are physicians and those whose principle business is that of providing legal, accounting, engineering, architectural, or other similar professional services.

VII. QUALIFYING EMPLOYEES

Each employee offered by the employer for job training tax credit status must meet all qualifying criteria as follows:

1. The employee cannot be an individual treated as a "highly compensated employee" under United States Code Section 414(c);
2. The employee cannot be a physician or veterinarian;
3. The employee must work a minimum of thirty (30) hours per week within the boundaries of the State (at the time training commences and for a period of eighteen (18) months following the employees completion of the training program). The definition shall include certain employees, such as sales people and technicians that spend portions of their work week out of state, provided said employees work out of the employer's office located in Rhode Island and both the employer and employee declare at least thirty (30) hours per week as taxable income on a Rhode Island tax return and not some other state for the eighteen (18) month period required by these regulations; and

4. The employee must earn immediately upon completion of the training at least one hundred fifty (150%) of the hourly minimum wage prescribed by Rhode Island law (and continue to do so for a period of 18 months).

VIII. QUALIFYING TRAINING

Qualifying training shall be such training or retraining, conducted or sponsored by an employer following the Effective Date of the employer's Election, that are directly attributable to improving the skills required of such qualifying employees necessary to improve their work performance. For purposes of these regulations, training and retraining which are not directly attributable to improving the skills required of such qualifying employees necessary to improve their work performance include, but are not limited to, orientation programs, general health programs, and seminars/conferences not directly related to the employee's job description shall not be allowed.

Training programs designed for employees with disabilities, including those "recognized by the Office of Rehabilitation Services and/or the Department of Mental Health, Retardation and Hospitals", shall be allowed and encouraged provided that said training meets all other requirements of these regulations.

Except in extreme cases all training shall take place at a location or locations within the State of Rhode Island. Should a training program be required to take place outside of the State of Rhode Island the employer shall have the burden of demonstrating to the satisfaction of the Executive Director that said training either (a) is not available at any location within the State of Rhode Island; or (b) that the training, including reasonably related expenses, may be obtained out of the state at a lower price.

IX. QUALIFYING TRAINING EXPENSES

Qualifying expenses shall include all reasonable amounts paid, following the Effective Date of the employer's Election, by the employer to public or private degree granting educational institutions or directly to instructors to provide such training and/or retraining and any other reasonable direct cash expenses incurred, following the Effective Date of the employer's Election, by the employer to provide such training and/or retraining. To the extent the wages and other benefits paid or provided to a qualifying employee while that employee is enrolled in a program covered by this chapter, are attributable to the time the employee spent participating in the program, the qualifying expenses of the employer attributable to the employee shall include the portion (but not in excess of one thousand dollars (\$1,000.00)) of the wages and other benefits paid or provided to the employee that are directly attributable to the time spent by the employee participating in the program.

In any event, non-allowable expenses shall include employers capital expenses; equipment, materials and software that is used beyond the training program (including any value attributed to loss of equipment productivity during training); expenses for out-of-state travel; and lost worker productivity. Convention and/or conference expenses shall not qualify unless the same qualify as a qualifying training program.

X. REQUIREMENT OF CERTIFICATE OF GOOD STANDING

Along with the Application, the employer must obtain and file with the HRIC a Certificate of Good Standing from the Rhode Island Division of Taxation. The requirement of any additional Certificate of Good Standing may be waived, at the sole discretion of the Executive Director, in the event an employer applies for modifications to already approved training programs or files multiple applications for the same or similar training programs. In this regard, the Executive Director's decision shall be final.

XI. REQUEST BY EMPLOYER TO MODIFY PREVIOUS ELECTIONS

From time to time an employer may deem it appropriate to modify an Election previously approved by the HRIC. All such modification requests shall require the filing of a new Application with the HRIC subject to the same criteria as the original Application. Where appropriate, HRIC staff may meet with the employer informally to streamline the process and/or evaluate the new or additional information. If such modified Elections are approved, the Effective Date of the Election, or Effective Dates for different portions of the Election shall be determined by the HRIC.

XII. PROCEDURE FOR APPEALING DENIAL OF APPLICATION

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1. In the event an employer's Application, or any part thereof, shall not be approved, the employer shall have the right to appeal said decision in accordance herein.
2. Upon written notification of said denial or partial denial the employer shall within thirty (30) days submit in writing a request for hearing to the Executive Director, Rhode Island Human Resource Investment Council.
3. Hearings shall be conducted by a hearing officer appointed by the Executive Director who Tax Credit Appeals subcommittee as appointed by the Chair of HRIC which shall have authority to examine witnesses, rule on motions, and to rule on the admissibility of evidence.
4. The Administrative Appeals Act, Rhode Island General Laws, Chapter 35, Title 42, including the rules of evidence contained therein, shall be followed in all appeals.
5. An employer may, at its option, request an informal conference with the HRIC staff in an effort to exchange information and reasoning for the denial or partial denial, and to offer changes and/or modifications which would allow the Executive Director to approve the Election. All such requests shall be made by the employer in writing within thirty (30) days of the original notification of denial or partial denial. All informal conferences shall be non-binding on both the employer and the HRIC.
6. In the event an employer requests an informal conference, said employer shall have thirty (30) days from the date of said informal conference to file a formal appeal as set forth above.

**XIII. REGULATIONS HEREIN ARE IN ADDITION TO ALL DIVISION OF TAXATION LAWS,
RULES AND REGULATIONS**

The Regulations enacted herein are non-inclusive and remain in addition to any and all Division of Taxation laws, rules and regulations. Likewise, the regulations contained herein are severable and independent of each other and should any words, sentence or section herein be declared null and void, it shall not effect the validity of the remaining regulations contained herein.

XIV. RETROACTIVE EFFECT OF REGULATIONS

The HRIC shall have the authority to review and approve Elections concerning training programs commenced between August 6, 1996 (the date of enactment of the Job Training Tax Credit Act) and the date of passage of these regulations, provided the Application for said Election is filed within one hundred twenty (120) days of passage of these regulations, and provided the Application meets all other criteria contained herein notwithstanding any other provisions contained herein to the contrary. If such an Election is approved, the Effective Date shall be as determined by the HRIC.