

## CHAPTER 2. EMPLOYMENT INCENTIVE PAYMENT CREDIT

- Sec.
- 2.1. General explanation.
  - 2.1a. Definitions.
  - 2.2. Taxes applicable.
  - 2.3. Issuance of certificate (Form REV-1601).
  - 2.4. Amount of credit.
  - 2.5. Total limit of credit against tax.
  - 2.6. Qualification for and computation of credit.
  - 2.7. Application of credits.
  - 2.8. Accounting for credits.
  - 2.9. Returns and reports.
  - 2.10. Verification of credit.
  - 2.11. Appeals.

### Authority

The provisions of this Chapter 2 issued under section 491(e) of the Public Welfare Code (62 P. S. § 491(e)), unless otherwise noted.

### Source

The provisions of this Chapter 2 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292, unless otherwise noted.

### § 2.1. General explanation.

Under the act of April 8, 1982 (P. L. 231, No. 75) (62 P. S. §§ 201, 403, 404.1, 405.1, 405.2, 408, 408.1, 422, 423, 432, 432.2—432.7A, 432.9, 432.11, 432.12, 432.15, 432.16, 432.19—432.21, 442.1, 443.6, 475, 481, 487 and 489) a tax credit is available for persons who employ certain welfare recipients, with additional tax credit for those who provide day care services for the welfare recipient's child or children. This chapter explains the scope and effect of the employment incentive payment tax credit (the "EIP credit"), the manner in which it is validated, procedures established by the Department for verification and application of tax credits, and the manner in which they may be used by employers.

### Authority

The provisions of this § 2.1 amended under section 491 of the Public Welfare Code (62 P. S. § 491); and section 6 of the Fiscal Code (72 P. S. § 6).

### Source

The provisions of this § 2.1 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292; amended August 22, 1997, effective August 23, 1997, 27 Pa.B. 4322. Immediately preceding text appears at serial page (131505).

### § 2.1a. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Closely-related person*—The term includes the following:

- (i) A son, daughter or a descendant of a son or daughter.
- (ii) A stepson or stepdaughter.
- (iii) A brother, sister, stepbrother or stepsister.
- (iv) A father, mother or an ancestor of either.
- (v) A stepfather or stepmother.
- (vi) A nephew or niece.
- (vii) An uncle or aunt.
- (viii) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law.

*EIP*—The Employment Incentive Payment credit program.

#### Authority

The provisions of this § 2.1a issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); section 491(e) of the Public Welfare Code (62 P. S. § 491(e)); and section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)).

#### Source

The provisions of this § 2.1a adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866.

### § 2.2. Taxes applicable.

Tax credits are available as a credit against the taxes imposed by Article III of the TRC (72 P. S. §§ 7301—7361), the personal income tax, with respect to employers who are individuals, partnerships or proprietorships. The credit is available with respect to taxes imposed by Articles IV, VII, VIII and IX of the TRC (72 P. S. §§ 7401—7412, 7701—7706, 7801—7806 and 7901—7906) with respect to employers which are corporations, banks and financial institutions, and title insurance and trust companies as well as against the tax imposed by the Mutual Thrift Institutions Tax Act (72 P. S. §§ 1986.1—1986.6) with respect to savings and loan company employers. The credit may be used in the year in which it is validated or may be carried over by the taxpayer and used in any of the 3 subsequent years.

#### Authority

The provisions of this § 2.2 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 491(e) of the Public Welfare Code (62 P. S. § 491(e)); and section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)).

#### Source

The provisions of this § 2.2 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866. Immediately preceding text appears at serial pages (105749) to (105750).

**§ 2.3. Issuance of certificate (Form REV-1601).**

(a) The issuance of EIP certificates and verification of entitlement thereto is the responsibility of the Department of Public Welfare. The criteria for issuance of EIP certificates is established by the act of December 19, 1985 (P. L. 356, No. 102) (72 P. S. § 8701-A) and by 55 Pa. Code (relating to Public Welfare).

(b) An EIP Program Certificate shall be issued upon request to an employer who hires a person who is receiving Temporary Assistance to Needy Families or any form of General Assistance at the time of employment. The employer shall request the certificate from the Department of Public Welfare in writing no later than 21 days following the actual date upon which the newly-employed welfare recipient began work. Requests shall be considered to be timely in compliance with this subsection if either:

(1) Received on and date-stamped by a Department of Public Welfare-approved facsimile machine, computer or other electronic device no later than 21 days following the actual date the person began work.

(2) Postmarked by the United States Postal Service no later than 21 days following the actual date the person began work.

(c) An employer may not request an EIP certificate for the employment of the following persons:

(1) A person who displaces another individual, unless the individual was discharged for cause as certified by the Office of Employment Security.

(2) A closely related person to the employer.

(3) A domestic or other household employe in the home of the employer.

(4) Subject to the provisions of subsection (d), a person for whom the employer is simultaneously receiving Federal or State funded job training payments.

(5) An individual who is the employer, such as self-employed.

(6) A shareholder who owns more than 50% of the value of the outstanding stock of the employing corporation, bank, savings institution, company, insurance company or mutual thrift institution.

(7) A member of an employing partnership.

(8) An employe of an estate or trust if the employe is a grantor, beneficiary or fiduciary of the estate or trust.

(d) If for a period an employer receives State or Federally funded payments for on-the-job training for an employe, none of the wages paid to that employe for the training qualify for EIP credit. Wages paid to the employe after completion of the State or Federally funded job training may qualify for EIP credit. In such cases, the EIP certificate shall be requested in writing under subsection (b) no later than the date upon which the employe begins training.

(e) Within 30 days of the date of issuance of the EIP certificate by the Department of Public Welfare, the employer shall forward a copy of the completed certificate to the Department.

**Authority**

The provisions of this § 2.3 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); section 491 of the Public Welfare Code (62 P. S. § 491); section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)); and section 6 of the Fiscal Code (72 P. S. § 6).

**Source**

The provisions of this § 2.3 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866; amended August 22, 1997, effective August 23, 1997, 27 Pa.B. 4322. Immediately preceding text appears at serial pages (131507) to (131508).

**§ 2.4. Amount of credit.**

The EIP credit shall be equal to 30% of the first \$6,000 of qualified first-year wages for the first year of employment, 20% of the first \$6,000 of wages for the second year of employment, and 10% of the first \$6,000 of wages for the third year of employment. If the employer provides or pays for approved day care services for a child of the employe, the employer shall be eligible for an additional credit of \$600 for the first year of employment, \$500 for the second year of employment, and \$400 for the third year of employment. For purposes of this chapter, the term “wages” will include salary.

**Source**

The provisions of this § 2.4 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292.

**§ 2.5. Total limit of credit against tax.**

An employer may not use EIP credits exceeding 90% of its tax liability in a given year; however, excess EIP credits may be applied to any of the 3 immediate succeeding years if total EIP credits applied in a year do not exceed 90% of its tax liability for that year. For the purposes of this section, “tax liability” is defined as the tax liability less credits not prepaid in the form of withholding, estimated or tentative tax prepayments.

*For example:*

(1) On July 15, 19X0, John Taxpayer hires Employee at \$3.35 an hour. Total wages paid until December 31, 19X0 amount to \$3,334. On April 15, 19X1 Taxpayer files his personal income tax and his (line 12) income tax liability is \$1,200. He has no other credits to offset against this liability. To calculate the actual credit to be taken, the taxpayer must first prorate the maximum annual wage allowance for the partial year. To accomplish this, he takes the proration factor (in this case 5/12, based on 5 full months of employment) and multiplies it times the maximum annual wage allowance (\$6,000). Accordingly, the taxpayer’s maximum annual wage allowance for credit purposes would be \$2,500. Therefore, the taxpayer’s actual credit would be \$2,500 x 30% or \$750 (since \$750 does not exceed 90% of his tax liability).

During the second taxable year, the employe was paid \$3,634 in wages from January 1, 19X1 to July 14, 19X1 and \$4,000 in wages from July 15, 19X1 to December 31, 19X1. The taxpayer's EIP credit for 19X1 is \$1,550, computed as follows:

Remaining maximum first year qualified wages $(\$3,500) \times 30\% =$	\$1,050
Total qualified second year wages prorated as above $(\$2,500) \times 20\% =$	<u>\$ 500</u>
Total	\$1,550

On April 15, 19X2, the Taxpayer's (line 12) personal income tax liability is \$1,020. In addition, the taxpayer has an out-of-State credit of \$770. To arrive at the Taxpayer's actual tax credit, the Taxpayer would subtract the out-of-State credit (\$770) from his tax liability (\$1,020), resulting in a tax liability of \$250. The credit which may be taken would then be \$225 ( $\$250 \times 90\%$ ). The Taxpayer may carry over the remainder of this credit ( $\$1,550 - \$225$  or  $\$1,325$ ) and use it in any of the 3 subsequent years.

(2) Taxpayer Corporation has an EIP credit of \$1,800. Taxpayer's page 1 Schedule Line 6 or 14 corporation net income tax is \$2,500 and it has a Neighborhood Assistance Credit of \$1,000. Therefore, Taxpayer Corporation has an EIP credit of \$1,350. ( $\$2,500 - \$1,000 = \$1,500 \times 90\%$ ). The corporation may carry over the remainder of its credit ( $\$1,800 - \$1,350$  or  $\$450$ ) and use it in any of the 3 subsequent years.

#### Source

The provisions of this § 2.5 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292.

### § 2.6. Qualification for and computation of credit.

#### (a) *Qualification for credit.*

(1) The employer is not qualified to claim the credit until employment has continued for at least 1 full year, unless prior thereto, the employe:

- (i) Has voluntarily left the employment of the employer.
- (ii) Becomes disabled or dies.
- (iii) Has been terminated for cause—the termination for cause as defined by the Department of Labor and Industry Office of Employment Security Regulations and Standards. See section 402(e) of The Unemployment Compensation Law (43 P. S. § 802(e)).

(2) If an event listed in paragraph (1) occurs prior to the expiration of 1 year, the EIP credit shall be reduced to the fraction of the year which corresponds to each full month that the eligible employe has worked. *For example:*

assume that an employer is eligible for an \$1,800 EIP credit. However, 1 month prior to having worked a full year, the employe voluntarily quits. In this case the employer's EIP credit is  $11/12 \times 1,800/1$  or \$1,650. Employment initiated during 1 year may be claimed as an EIP credit at the conclusion of the term of employment or 1 year, whichever first occurs.

(b) *Conditional credit.* An employer may conditionally take an EIP credit at the time it files its annual return for the portion of the tax year completed by an employe, computed under subsection (a). As to a qualified employe who is working but who has not completed a full year, should the employer subsequently not be qualified for the EIP credit because the employe has terminated prior to the expiration of a full year for any reason other than one set forth in subsection (a)(1) the conditional credit shall be disallowed and interest and additions or penalties shall become payable from the due date of the tax as provided by law. *For example:* John Taxpayer hired Employe and paid him \$6,000 from July 1, 19X0 to December 31, 19X0. Taxpayer's (line 12) personal income tax is \$1,000 and he has no other credits. His employment incentive tax credit is \$900 ( $\$6,000 \times 30\% \times 6/12 = \$900$ ). In this example, as the taxpayer has already reached his maximum qualified first year's wage (\$6,000), the taxpayer may take the balance ( $\$1,800 - \$900 = \$900$ ) in the subsequent taxable year, provided the employe is employed until July 1, 19X1. Note, if the employe is discharged on January 1, 19X1, the conditional credit will be disallowed.

#### Authority

The provisions of this § 2.6 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); section 491(e) of the Public Welfare Code (62 P. S. § 491(e)); and section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)).

#### Source

The provisions of this § 2.6 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866. Immediately preceding text appears at serial page (105752).

### § 2.7. Application of credits.

(a) An employer is entitled to claim the EIP credit only against a tax which he is required to pay as an employer. Thus, a corporate employer, other than a Pennsylvania S Corporation employer, may not assign an EIP credit to a shareholder for use as a credit against the shareholder's personal income tax. Similarly, a parent corporation may not assign an EIP credit to a subsidiary corporation or *vice versa*. Further, an employer may not use EIP credits against taxes withheld from employes.

(b) Taxpayers who are required to prepay their taxes may apply EIP credits against the payments.

(c) In the case of a partnership the EIP credit shall be allocated among the partners as income is allocated.

(d) Married taxpayers who wish to use the EIP credit against personal income tax are required to file a separate tax report and may not file jointly with a spouse.

(e) In computing wages as a business expense for State tax purposes, the wage cost item shall be reduced by any EIP credit taken by the employer and the Federal wage cost item, if also used for State purposes, shall be increased by the Federal Targeted Jobs Tax Credit taken by the employer.

(f) In the case of a Pennsylvania S Corporation, the EIP credit shall be allocated among the shareholders as income is allocated.

#### Authority

The provisions of this § 2.7 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); section 491(e) of the Public Welfare Code (62 P. S. § 491(e)); and section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)).

#### Source

The provisions of this § 2.7 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866. Immediately preceding text appears at serial pages (105752) and (126619).

### § 2.8. Accounting for credits.

(a) [Reserved].

(b) If an employe terminates employment prior to the expiration of 3 years, the employer shall notify the Department at the time of tax filing by indicating the employe's termination date and reason for termination in the appropriate date and reason for termination in the appropriate section of the EIP certificate.

(c) The employer shall maintain the certificate (Form REV-1601) and copies of W-2 Forms issued to the employe for the same period of time that the employer is required to maintain tax records.

#### Authority

The provisions of this § 2.8 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); section 491(e) of the Public Welfare Code (62 P. S. § 491(e)); and section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)).

#### Source

The provisions of this § 2.8 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292; amended October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866. Immediately preceding text appears at serial page (126619).

### § 2.9. Returns and reports.

Copies of certificates (Forms REV-1601) and W-2 Forms relating thereto which have been issued by the employer, together with other supporting information as the Department may require, shall accompany each tax return with respect to which an EIP credit is claimed.

**Source**

The provisions of this § 2.9 adopted July 16, 1982, effective July 17, 1982, 12 Pa.B. 2292.

**§ 2.10. Verification of credit.**

The Department will not allow an EIP credit claimed by an employer unless the credit is verified by the Department's receipt of an EIP certificate which:

- (1) Was properly issued by the Department of Public Welfare.
- (2) Contains information required to be provided by the employer.

**Authority**

The provisions of this § 2.10 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); section 491(e) of the Public Welfare Code (62 P. S. § 491(e)); and section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)).

**Source**

The provisions of this § 2.10 adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866.

**§ 2.11. Appeals.**

Determinations made with respect to the employment incentive payments provided in this section may be reviewed and appealed in the same manner which the law provides for appealing and disallowance of other personal income tax or corporate tax credits. See Chapter 7 (relating to Board of Appeals).

**Authority**

The provisions of this § 2.11 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); section 491(e) of the Public Welfare Code (62 P. S. § 491(e)); and section 1701-A(e) of the Tax Reform Code of 1971 (72 P. S. § 8701-A(e)).

**Source**

The provisions of this § 2.11 adopted October 28, 1988, effective October 29, 1988, 18 Pa.B. 4866.

[Next page is 3-1.]