

Section 100.2120 Jobs Tax Credit; Enterprise Zone, Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))

- a) A taxpayer conducting a trade or business in an enterprise zone, or a High Impact Business designated by the Department of Commerce and Economic Opportunity conducting a trade or business in a federally designated foreign trade zone or sub-zone, or in a river edge redevelopment zone established pursuant to the River Edge Redevelopment Zone Act [65 ILCS 115] shall be allowed a credit against the tax imposed by Section 201(a) and (b) of the Illinois Income Tax Act in the amount of \$500 per eligible employee hired to work in the zone during the taxable year.
 - 1) In general, the credit is available for eligible employees hired on or after January 1, 1986, or for taxable years ending prior to July 25, 2013, the effective date of PA 98-109, which repealed IITA Section 201(g).
 - 2) The credit is not allowed for an eligible employee hired to work in an enterprise zone in a taxable year ending on or after August 7, 2012, the effective date of PA 97-905, which repealed the credit as it relates to enterprise zones.
- b) To qualify for the credit:
 - 1) The taxpayer must hire 5 or more eligible employees to work in an enterprise zone or federally designated foreign trade zone or sub-zone or a river edge redevelopment zone during the taxable year.
 - 2) The taxpayer's total employment within the enterprise zone or federally designated foreign trade zone or sub-zone or a river edge redevelopment zone must increase by 5 or more full-time employees beyond the total employed in that zone at the end of the previous tax year for which a jobs tax credit under this Section was taken, or beyond the total employed by the taxpayer as of December 31, 1985, whichever is later.
 - A) If a taxpayer was in business in 1985 at a location, has never before taken the credit, and is located in an enterprise zone created before or during 1985, the taxpayer would use 1985 as the base year.
 - B) If a taxpayer was in business in 1985 at a location, has never before taken the credit, and is located in an enterprise zone created after 1985, the taxpayer's base year for calculating the increase in employment is the total employed at the end of the calendar year in which the enterprise zone was created. The law is clear that the credit is a reward for increasing employment in enterprise zones.

To use 1985 as a base year, even if no enterprise zone was then in existence, is not consistent with this clear goal of the law. In such a situation, a taxpayer would not always be able to show that there was job creation in the enterprise zone. For example, while employment may have increased over 1985 levels, there may not have been an increase in employment from the end of the calendar year in which the zone was created. Therefore, to accept 1985 as the base year no matter whether there was an enterprise zone in existence at that time, could result in providing a credit for job creation that did not occur in an enterprise zone. Such a result would be contrary to law.

- 3) The eligible employees must be employed 180 consecutive days in order to be deemed hired for purposes of this subsection (b)(3).

EXAMPLE: An otherwise eligible employee is hired to work in an enterprise zone on August 1, 1987. The employer's tax year ends on December 31, 1987. The employee would have worked 153 days during the 1987 tax year and, therefore, would not be considered to be "deemed hired" in 1987. Even if all other requirements were met, the employer would not be eligible for the jobs tax credit for 1987. Once the employee has been employed for 180 consecutive days, the employee is deemed hired. Therefore, in this instance the employee would be "deemed hired" in 1988. If all other requirements were met, the employer could claim the Jobs Tax Credit for this employee for the 1989 tax year.

- c) An "eligible employee" means an employee who is:
 - 1) certified by the Department of Commerce and Economic Opportunity (DCEO) as "eligible for services" pursuant to regulations promulgated in accordance with Title II of the Job Training Partnership Act, Training Services for the Disadvantaged or Title III of the Job Training Partnership Act, Employment and Training Assistance for Dislocated Workers Program. Whenever an employee is certified, a voucher is completed by the applicant and approved by DCEO. The vouchers are entitled "Illinois Department of Commerce and Community Affairs, Enterprise Zone Program, Jobs Tax Credit Certification Voucher." Taxpayers should request a copy of the voucher to verify that the employee is DCEO certified. Taxpayers should maintain a copy of the voucher in their files to document eligibility status of employees in the event of an audit;
 - 2) hired after the enterprise zone, federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone was designated or the trade or business was located in that zone, whichever is later. The term "hired" means hired by the particular employer claiming the credit. Employees transferred from another facility of the employer to a facility located in an

enterprise zone, federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone are not deemed "hired" upon transfer to a facility located in the enterprise zone, federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone;

- 3) employed in the enterprise zone, foreign trade zone or sub-zone, or a river edge redevelopment zone. An employee is employed in an enterprise zone, federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone if his or her services are rendered there or the zone is the base of operations for the services performed; and
 - 4) a full-time employee working 30 or more hours per week.
- d) For tax years ending on or after December 31, 1985, and prior to December 31, 1988, the credit shall be allowed for the tax year in which the eligible employees are hired. For tax years ending on or after December 31, 1988, the credit shall be allowed for the tax year immediately following the tax year in which the eligible employees are hired. If the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(Source: Amended at 38 Ill. Reg. 38 Ill. Reg. 9550, effective April 21, 2014)