



Ohio Revised Code

Section 5709.64 Applying for tax incentive qualification certificate.

Effective: December 31, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, it may apply, on or before the thirtieth day of April of that year, to the director of development, on a form prescribed by the director, for a tax incentive qualification certificate. The enterprise qualifies for an initial certificate if, on or before the last day of the calendar year immediately preceding that in which application is made, it satisfies all of the following requirements:

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to the agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code.

(2) The enterprise has hired new employees to fill nonretail positions at the facility, at least twenty-five per cent of whom at the time they were employed were at least one of the following:

(a) Unemployed persons who had resided at least six months in the county in which the enterprise's project site is located;

(b) JPTA eligible employees who had resided at least six months in the county in which the enterprise's project site is located;

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, financial assistance under former Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located;

(d) Eligible individuals with disabilities, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located;



(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located.

The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility.

(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the enterprise in the municipal corporation during each period of the calendar year immediately preceding the calendar year in which application is made must exceed only the maximum number of positions attributable to the enterprise in each corresponding period of the calendar year immediately preceding the first year the enterprise satisfies the requirements of divisions (A)(1) and (2) of this section. The director of development shall, by rule, prescribe methods for determining whether an enterprise is engaged in a seasonal business and for determining the length of the corresponding periods to be compared.

(4) The enterprise has not closed or reduced employment at any place of business in the state for the primary purpose of establishing, expanding, renovating, or occupying a facility. The legislative authority of any municipal corporation or the board of county commissioners of any county that concludes that an enterprise has closed or reduced employment at a place of business in that municipal corporation or county for the primary purpose of establishing, expanding, renovating, or occupying a facility in a zone may appeal to the director to determine whether the enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and make such a determination before issuing an initial or renewal tax incentive qualification certificate under this section.

Within sixty days after receiving an application under this division, the director shall review,



investigate, and verify the application and determine whether the enterprise qualifies for a certificate. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section, and shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise qualifies for a certificate. If the director finds the enterprise qualified, the director shall issue a tax incentive qualification certificate, which shall bear as its date of issuance the thirtieth day of June of the year of application, and shall state that the applicant is entitled to receive, for the taxable year that includes the certificate's date of issuance, the tax incentives provided under section 5709.65 of the Revised Code with regard to the facility to which the certificate applies. If an enterprise is issued an initial certificate, it may apply, on or before the thirtieth day of April of each succeeding calendar year for which it has been granted an incentive under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, for a renewal certificate. Subsequent to its initial certification, the enterprise qualifies for up to three successive renewal certificates if, on or before the last day of the calendar year immediately preceding that in which the application is made, it satisfies all the requirements of divisions (A)(1) to (4) of this section, and neither the zone's designation nor the zone's certification has been revoked prior to the fifteenth day of June of the year in which the application is made. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section. An enterprise with ten or more supervisory personnel at the facility to which a certificate applies qualifies for any subsequent renewal certificates only if it meets all of the foregoing requirements and, in addition, at least ten per cent of those supervisory personnel are employees who, when first hired by the enterprise, satisfied at least one of the criteria specified in divisions (A)(2)(a) to (e) of this section. If the enterprise qualifies, a renewal certificate shall be issued bearing as its date of issuance the thirtieth day of June of the year of application. The director shall send copies of the initial certificate, and each renewal certificate, by certified mail, to the enterprise, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate applies is located.

(B) If the director determines that an enterprise is not qualified for an initial or renewal tax incentive qualification certificate, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. Within thirty days after receiving such a notice, an enterprise may



request, in writing, a hearing before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's qualification for a certificate. If the enterprise is found to be qualified, the director shall proceed in the manner provided under division (A) of this section. If the enterprise is found to be unqualified, the director shall send notice of this finding, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. The director's redetermination that an enterprise is unqualified may be appealed to the board of tax appeals in the manner provided under section 5717.02 of the Revised Code.