



## Ohio Revised Code

### Section 5709.66 Applying for employee tax credit certificate.

Effective: November 15, 2015

Legislation: Senate Bill 208 - 131st General Assembly

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(A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered into pursuant to section 5709.62 or 5709.63 of the Revised Code and satisfies both of the requirements described in divisions (A)(1) and (2) of this section at the time of application, it may apply to the director of development, on a form prescribed by the director, for the employee tax credit certificate under division (B) of this section.

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to an agreement under section 5709.62 or 5709.63 of the Revised Code in a zone that is certified by the director of development as having one of the characteristics described in divisions (A)(1)(a) or (b) and at least one of the characteristics described in divisions (A)(1)(c) to (h) of section 5709.61 of the Revised Code.

(2) The enterprise or any predecessor enterprise has not closed or reduced employment at any place of business in this state within the twelve months preceding application unless the enterprise, since the date the agreement was formally approved by the legislative authority, has hired new employees equal in number to not less than fifty per cent of the total number of employees employed by the enterprise at other locations in this state on that date. The legislative authority of any municipal corporation or county that concludes that an enterprise or any predecessor enterprise has closed or reduced employment at a place of business in that municipal corporation or county may appeal to the director to determine whether the enterprise or any predecessor enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and determine whether the enterprise satisfies the requirement of division (A)(2) of this section before proceeding under division (B) of this section.

Within sixty days after receiving an application under this section, the director shall review, investigate, and verify the application and determine whether the enterprise is eligible for the employee tax credit certificate under division (B) of this section. The application shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise is



eligible for the certificate. On finding that the enterprise is eligible, the director shall proceed under division (B) of this section.

On determining that an enterprise is not eligible for the certificate under division (B) of this section, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have been given 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 eligibility for the incentives. If the enterprise is found to be eligible, the director shall proceed under division (B) of this section. If the enterprise is found to be ineligible, the director shall send notice of this finding, by certified mail, to the applicant, the board of commissioners of the county or the chief executive of the municipal corporation in which the facility to which the certificate would have been given is located. The director's redetermination that an enterprise is ineligible may be appealed to the board of tax appeals under section 5717.02 of the Revised Code.

(B)(1) If the director determines an enterprise to be eligible under division (A) of this section, the director shall determine if the enterprise is entitled to an employee tax credit certificate. An enterprise is entitled to an employee tax credit certificate for each eligible employee the enterprise hires. A taxpayer who is issued an employee tax credit certificate under this section may claim a nonrefundable credit of one thousand dollars against the taxpayer's aggregate tax liability under either section 5733.06 or 5747.02 of the Revised Code for each taxable year of the agreement entered into under section 5709.62 or 5709.63 of the Revised Code in which an eligible employee is employed for the taxpayer's full taxable year. If the eligible employee is employed for less than the taxpayer's full taxable year, the taxpayer may claim a reduced credit against the aggregate amount of tax due under either section 5733.06 or 5747.02 of the Revised Code. The reduced credit shall be computed by dividing the total number of days in the taxable year into one thousand dollars and multiplying the quotient by the number of days the eligible employee was employed in the taxable year. For purposes of the computation, the eligible employee shall be deemed to have been employed for each day of the taxable year commencing on the date of employment or ending on the date of termination of employment.



The credit provided under this division to a noncorporate enterprise or an enterprise that is an S corporation as defined in section 1361 of the Internal Revenue Code shall be divided pro rata among the owners or shareholders of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based on their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the tax commissioner, a statement showing the total available credit and the portion of that credit attributed to each owner or shareholder. The statement shall identify each owner or shareholder by name and social security number and shall be filed with the tax commissioner by the date prescribed by the tax commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

The taxpayer shall claim the credit in the order required under section 5733.98 or 5747.98 of the Revised Code. If the credit provided under this division exceeds the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, the credit may be carried forward for the next three succeeding taxable years, but the amount of any excess credit allowed in any such year shall be deducted from the balance carried forward to the succeeding taxable year.

(2) As used in this division:

(a) "Eligible employee" means a new employee at a facility who, at the time the employee was hired to work at the facility, was a participant 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 a recipient of general assistance under former Chapter 5113. of the Revised Code and resided for at least one year in the county in which the facility is located. "Eligible employee" does not include any employee of the enterprise who is a new employee, as defined under section 122.17 of the Revised Code, on the basis of whom the enterprise has claimed a credit under that section.

(b) "Taxable year" has the same meaning as in section 5733.04 or 5747.01 of the Revised Code, as applicable to the enterprise claiming the credit.



*The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.*