



STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

COPY

FILED
Craig A. Griffith
State Tax Commissioner
2010 DEC -1 PM 3:35

ADMINISTRATIVE NOTICE 2010-32

SUBJECT: ECONOMIC OPPORTUNITY TAX CREDIT – Credit available for taxpayers who do not satisfy the new jobs percentage requirement.

W. Va. Code §11-13Q-22 allows any tax payer;

engaged in one or more of the industries or business activities specified in section nineteen [§11-13Q-19] of this article which does not satisfy the new jobs percentage requirement prescribed in subsection (c), section nine of this article [§11-13Q-9] or, if the taxpayer is a small business as defined in section ten of this article [§11-13Q-10], who are unable to create at least ten new jobs within twelve months after placing qualified investment into service as required by section ten of this article [§11-13Q-10], but which otherwise fulfills the requirements prescribed in this article, is permitted to claim a credit against the taxes specified in section seven of this article [§11-13Q-7] in the order so specified that are attributable to and the consequence of the taxpayer's business operations in this state which result in the creation of net new jobs. Credit allowed under this section shall be allowed beginning in the tax year when the new employee is first hired: Provided, That each new job:

- 1) Pays at least \$32,000 annually.;
- 2) Provides health insurance and may offer benefits including child care, retirement or other benefits; and
- 3) Is a full-time, permanent position, as those terms are defined in section three of this article.

The minimum annual pay of the new job is subject to annual adjustment for inflation. This adjustment is determined by the Tax Commissioner using the methodology described in subsection 11-13Q-22(b)(1) through (4). The 2011 inflation adjustment factor is based on the percentage by which the Consumer Price Index (CPI) for calendar year 2010 exceeds the CPI for calendar year 2009. For this purpose, the CPI for any calendar year is the average of the Federal Consumer Price Index for the twelve-month period ending on August 31st of such calendar year. W. Va. Code § 11-13Q-22(b)(2). The CPI for 2010 is 217.163 and the CPI for 2009 is 214.002. Based on these figures, the inflation adjustment factor, for purposes of W. Va. Code § 11-13Q-22, for tax years beginning in calendar year 2010, is 1.0147708900.

Accordingly, for tax years beginning during calendar year 2011;

“That each new job:


- 1) Pays at least \$32,450 annually;
- 2) Provides health insurance and may offer benefits including child care, retirement or other benefits; and
- 3) Is a full-time, permanent position, as those terms are defined in section three of this article.”

A summary of the applicable inflation-adjusted Economic Opportunity Tax credit criteria, by calendar year, for tax years beginning in such years, follows;

Constraints Year	Minimum Compensation
2009	\$32,000
2010	\$32,000
2011	\$32,450

Notice of this determination will be filed in the West Virginia Register.

Issued: November 29, 2010



Craig A. Griffith
State Tax Commissioner

State Tax Department
Compliance and Taxpayer Services Division
P.O. Box 3784
Charleston, WV 25337-3784

Operator on duty 8:30 am – 5:00 p.m.
Monday through Friday
Phone: (304) 558-3333 or 1-800-982-8297
Fax: (304) 558-3269
TDD Service/Hearing Impaired 1-800-282-9822