



COMPTROLLER
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Serving the People

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Comptroller

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Director

Bureau of Revenue Estimates

January 20, 2009

Honorable Martin O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21404

Honorable Thomas V. Miller, Jr.
President of the Senate
State House
Annapolis, Maryland 21404

Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21404

Dear Governor O'Malley:

Article 88A §54(i) requires me to report to you and the General Assembly detailed information about the Employment Opportunity Tax Credit. This law requires that I, as well as the Department of Labor, Licensing, and Regulation and the Department of Human Resources, report on the following items:

1. marketing activities;
2. the coordination of interagency activities;
3. the number of business entities who hired employment opportunity employees during the preceding year, and a separate account of the number of organizations who hired eligible employees that are exempt from taxation under §501(c)(3) or (4) of the Internal Revenue Code;
4. the number of employment opportunity employees hired in each business sector and the number employed for less than one year;
5. a summary of the wages paid to employment opportunity employees;
6. the total number and amount of job certifications issued and credits claimed, and the number of certifications and enhanced §54(c)(2) credits claimed;
7. the number and amount of credits claimed for child care or transportation expenses incurred, including a summary of the types of transportation expenses incurred by business entities; and
8. the number of employment opportunity employees employed for more than one year but less than two years, more than two years but less than three years, and three years or more.

Background

The Work Opportunity Tax Credit was created by the Chapter 492, Acts of 1995--Work, Not Welfare, Tax Incentive Act. Under this law, a credit could be taken for a portion of wages paid during the first three years of the employment of a Maryland resident that, immediately preceding employment, received temporary cash assistance (Aid to Families with Dependent

Children or Family Investment Program) for at least three months. A credit could also be taken for a portion of child care expenses paid that allow the employee to work for the employer. The wage portion of the credit was 30% of the first \$6,000 paid in the first year of employment and 20% of the first \$6,000 for the second year. A previous credit of 10% for the third year was repealed, but was replaced by a Special AFDC/FIP credit. Businesses that hire an individual who is receiving Aid to Families with Dependent Children (AFDC) or Family Investment Program (FIP) entitlements, may earn a credit of 40% of the first \$10,000 paid for these employees. In addition to these credits for employment opportunity employees, up to \$600 could be taken for child care expenses, reduced to \$500 for the second year. The credit of \$400 for the third year was repealed.

Chapter 626 in 1996 clarified that non-profit entities could take the credit against unrelated business taxable income. Chapter 379 reduced the length of time that a qualified employee must have received assistance from six months to three months and extended the credits to payers of the tax on insurance premiums. In 1998, Chapters 598 and 599 added the aforementioned enhanced credit for long-term welfare recipients (first year only for 40% of the first \$10,000 of wages paid) and a credit for expenses paid on behalf of the employee for transportation to and from work of up to \$600 for the first year and \$500 for the second year (combined with the child care expenses). These chapters also repealed the credit for a third year of employment for both the wage and child care/transportation portions, and extended the sunset for the credit by three years. Chapter 730 permitted tax exempt non-profit organizations to take the credit against State withholding taxes.

Chapter 448, Acts of 2000, extended the sunset by an additional year, changed the minimum amount of time that an employee must have received welfare benefits to any three months during the 18 month period before employment, and added the transportation expense portion of the credit for the 2nd year of employment.

Chapter 454, Acts of 2003, Chapter 394, Acts of 2006, and Chapter 370, Acts of 2007, and Chapter 391, Acts of 2008 again extended the sunset by another six years. The credit is now allowable for employees hired before July 1, 2009.

Information Requested

1. Marketing activities

Several years ago, the Comptroller's Office produced the first "Guide to Business Tax Credits" to provide a one-stop resource for businesses to determine what credits the State offers. The guide provides a brief summary of each tax credit, the types of organizations that may take the credit, what must be done to qualify for the credit, what documentation is required to qualify for the credit and whom to contact for additional requirements and more information.

The guide is revised after each session of the Maryland General Assembly in order to provide the most current and accurate information possible. A press release is disseminated before the release of each new issue.

Copies of the guides are provided to the administering agencies, in all offices of the Comptroller and on our website so that they are easily obtained by businesses. The guides are also provided to attendees at all Comptroller's Office functions that may involve the business community, and are available by mail upon request.

2. The coordination of interagency activities

Processing of tax returns does not require assistance from other agencies; any audits of taxpayers who have claimed these credits may require contact with DLLR and DHR, but no difficulties have been reported. The Guide to Business Tax Credits is reviewed by the administering State and local agencies to be sure that all descriptions, requirements and contact information are accurate and reflect current practice by their offices.

3. The number of business entities that hired employment opportunity employees during the preceding year, including a separate account of the number of organizations that are exempt from taxation under §501(c)(3) or (4) of the Internal Revenue Code

The following information is from income tax returns filed through December 22, 2008. Data is collected cumulatively as returns are filed. Because of the extensive use of automatic extensions for filing returns by businesses, tax year 2007 was particularly incomplete and thus excluded from this year's report. Note that the number of returns likely overstates the number of business entities claiming the return, since data for a pass-through-entity (PTE) with more than one owner is reported on more than one separate individual income tax return. In addition, there have been no Employment Opportunity Tax Credits claimed by tax exempt, non-profit entities for tax year 2006. Prior to tax year 2001, data was unavailable for such entities. Note also that we cannot comply with the requirement to provide information "for the preceding year" by January 15, as tax returns for the preceding year are not due until March 15 at the earliest.

Tax Year	Number of Returns	Number of Employees					Child Care/Transport.
		1st Year	2nd Year	3rd Year/ Special AFDC	Total		
1997	60	215	73	17	305	0	
1998	46	196	93	76	365	0	
1999	64	446	128	178	752	*	
2000	91	245	46	17	308	0	
2001	60	294	68	21	383	*	
2002	60	226	41	43	310	12	
2003	78	518	97	188	803	*	
2004	72	754	133	213	1,099	0	
2005	52	239	112	69	420	0	
2006	35	347	186	66	599	0	

* Disclosure restrictions prevent display.

Note: Beginning with tax year 1999, data are collected for all returns filed with a Maryland Form 500CR for Business Tax Credits. For previous years, data was collected only for returns with a tax liability.

Tax Year	Enhanced Tax Credit								
	# Returns			# Employees			Credit Earned		
	Personal	Corporate	Total	Personal	Corporate	Total	Personal	Corporate	Total
1997	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1998	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1999	7	9	16	59	59	118	68,094	114,151	182,245
2000	10	18	28	110	59	169	59,799	87,067	146,866
2001	*	*	11	*	*	13	*	*	19,826
2002	5	10	15	14	29	43	20,679	53,493	74,172
2003	16	20	36	22	166	188	46,744	261,791	308,534
2004	5	21	26	36	177	213	65,783	397,613	463,396
2005	*	*	10	*	*	69	*	*	98,559
2006	0	9	9	0	66	66	0	156,983	156,983

N/A=The enhanced credit was not available prior to tax year 1999.

* Disclosure restrictions prevent display.

Note: Beginning with tax year 1999, data are collected for all returns filed with a Maryland Form 500CR for Business Tax Credits. For previous years, data was collected only for returns with a tax liability.

4. The number of employment opportunity employees hired in each business sector for the preceding year and hired during the preceding year and employed for less than one year

Any count of employees from tax return data are likely overstated for the same reason as counts of business entities (the PTE issue, as mentioned above). "Business sector" is not collected on an individual income tax return (even if it were, there would be complications if an owner of a PTE or sole proprietorship is involved in more than one business sector). Corporate business sector information from returns is not reliable; even if it were, so few returns actually claim the tax credit in any tax year that a distribution by business sector generally cannot be provided due to disclosure restrictions.

5. A summary of the wages paid to employment opportunity employees for the preceding year

The amount of wages paid is not collected on Form 500CR. The credit calculated and reported on this form is based on only a portion of the wages paid to qualifying employees, thus cannot be used in determining the total amount paid.

6. The total number and amount of job certifications issued and credits claimed, and the number of certifications and enhanced §54(c)(2) credits claimed

Information for job certifications is not collected on Form 500CR; the Comptroller is not involved in the certification process. The following information for income tax credits claimed is from returns filed through December 22, 2008.

Tax Year	Credit Earned by Year of Employment			Total
	1st Year	2nd Year	3rd Year/ Special AFDC	
1997	117,659	41,930	3,386	162,975
1998	101,363	37,297	20,100	158,760
1999	225,116	99,998	197,135	522,249
2000	89,433	20,897	5,517	115,833
2001	230,773	50,061	26,975	338,564
2002	148,600	33,012	74,172	244,620
2003	363,059	66,242	308,534	758,823
2004	673,814	78,261	463,396	1,215,471
2005	180,873	89,004	98,559	368,436
2006	320,899	136,337	156,983	630,815

Note: The sum of the first and second tax years and the third tax year and/or Special AFDC credits may not equal the total shown because not all lines are completed on Form 500CR for all taxpayers. Beginning with tax year 1999, data are collected for all returns filed with a Maryland Form 500CR for Business Tax Credits. For previous years, data was collected only for returns with a tax liability.

7. The number and amount of credits claimed for child care or transportation expenses incurred, including a summary of the types of transportation expenses incurred by business entities

This portion of the tax credit is not broken down by type of expense on Form 500CR, and therefore cannot be obtained through income tax filings. From 1997 through 2006, only a small number of taxpayers have taken advantage of this credit, and in six of the years, no credits of this type were reported. Due to disclosure restrictions, the exact number of credits claimed cannot be revealed.

8. The number of employment opportunity employees employed for more than one year but less than two years, more than two years but less than three years, and three years or more

The following information is from income tax returns filed through December 22, 2008. It is likely an overcount of the actual number of employees due to the PTE issue. Moreover, it only represents the number of individuals who earned any amount eligible for the credit during the year, up to the amount of the full credit (\$6,000 or \$10,000 of wages). Tax return data cannot be used to determine the number of individuals employed for more than three years, as no credit is available for such employment.

Tax Year	Number of Employees by Year of Employment			Total
	1st Year	2nd Year	3rd Year/ Special AFDC	
1997	215	73	17	305
1998	196	93	76	365
1999	446	128	178	752
2000	245	46	17	308
2001	294	68	21	383
2002	226	41	43	310
2003	518	97	188	803
2004	754	133	213	1,099
2005	239	112	69	420
2006	347	186	66	599

Note: Beginning with tax year 1999, data are collected for all returns filed with a Maryland Form 500CR for Business Tax Credits. For previous years, data was collected only for returns with a tax liability.

Comments

The tax return data presented in this report should be used cautiously. Every attempt is made to present the data as accurately as possible, however, the inevitable double-counting of credits claimed and employees hired that results from credits claimed by the owners of pass-through entities (partnerships, subchapter S corporations, business trusts and limited liability companies) significantly overstates the use and effectiveness of the credit. The credit is actually calculated at the entity level, but claimed as a flow-through to the personal income tax returns of the owners (partners, shareholders and members). Many owners complete their Forms 500CR as if they hired all of the employees and earned the entire credit, rather than just their proportionate share. Alternatively, the credit would be understated by owners that report only their share of the credit, but do not have the information from the pass-through entity for the number of qualified employees hired.

As with most (but not all) tax credits, the administering agencies are the ones which can most efficiently collect and analyze data relating to the efficacy and efficiency of the program as a whole. My staff is always available, however, to provide our data and otherwise assist in these endeavors.

If you have any questions about the above information, please contact David Roose, Director of the Bureau of Revenue Estimates, under whose direction this report was prepared. They can be reached at (410) 260-7450.

Sincerely,



Peter Franchot