



Peter Franchot
Comptroller

David Roose
Director
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February 8, 2011

Honorable Martin O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401

Honorable Thomas V. "Mike" Miller, Jr.
President, Senate of Maryland
State House
Annapolis, Maryland 21401

Honorable Michael E. Busch
Speaker, Maryland House of Delegates
State House
Annapolis, Maryland 21401

Dear Governor, President and Speaker:

Tax-General Article §10.704.3 requires the Comptroller's Office, in conjunction with the Department of Labor, Licensing, and Regulation and the Department of Human Resources to report to you and the General Assembly detailed information about the Employment Opportunity Tax Credit. We are required to 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.

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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 of the Acts of 2003, Chapter 394 of the Acts of 2006, and Chapter 370 of the Acts of 2007, and Chapter 391 of the Acts of 2008 again extended the sunset by another six years. Legislation was proposed to extend the sunset of the credit by another year; the bill was passed unanimously by the Senate, but was never voted on by the House. At this time, the credit is allowable for employees hired before July 1, 2009.

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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 who to contact for additional requirements and more information. The guide is revised after each Maryland General Assembly session in order to provide the most current and accurate information possible.

Copies of the Guide to Business Tax Credits are provided to the administering agencies and are available through the Comptroller's website; www.marylandtaxes.com. The guides are also 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 October 15, 2010. Data is collected cumulatively as returns are filed. Because of the extensive use of automatic extensions for filing returns by businesses, tax year 2009 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. Note also that we cannot comply with the requirement to provide information "for the preceding year"

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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			Total	Child Care/Transport.
		1st Year	2nd Year	3rd Year/ Special AFDC		
1999	64	446	128	178	752	*
2000	91	663	84	186	933	0
2001	60	295	68	21	384	3
2002	60	226	41	43	310	*
2003	78	518	97	188	804	*
2004	76	754	133	213	1,099	0
2005	66	270	117	405	792	0
2006	38	347	186	66	599	0
2007	39	223	78	60	361	0
2008	26	323	93	40	456	*

- Disclosure restrictions prevent display.
- Beginning with tax year 1999, data is collected for all returns filed with a Maryland Form 500CR for Business Tax Credits. For previous years, data was collected only from returns with a tax liability.

Tax Year	Enhanced Tax Credit								
	# Returns			# Employees			Credit Earned		
	Personal	Corporate	Total	Personal	Corporate	Total	Personal	Corporate	Total
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	65,953	397,613	463,396
2005	*	10	13	331	74	405	*	*	118,320
2006	0	10	10	0	66	66	0	161,512	161,512
2007	0	7	7	0	60	60	0	180,749	180,749
2008	*	*	4	*	*	40	*	*	81,162

- Disclosure restrictions prevent display.
- Beginning with tax year 1999, data is collected for all returns filed with a Maryland Form 500CR for Business Tax Credits. For previous years, data was collected only from 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 October 15, 2010.

Credit Earned by Year of Employment				
Tax Year	1st Year	2nd Year	3rd Year/ Special AFDC	Total
1999	225,116	99,998	197,135	522,249
2000	260,375	69,565	152,383	541,108
2001	231,373	50,061	26,975	338,564
2002	154,612	33,012	74,172	527,729
2003	363,509	67,092	308,534	800,331
2004	673,814	78,261	463,396	1,594,560
2005	213,403	89,043	118,320	1,055,919
2006	319,892	135,467	161,512	616,871
2007	182,654	54,747	180,749	418,150
2008	287,745	78,832	81,862	448,439

- 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 is collected for all returns filed with a Maryland Form 500CR for Business Tax Credits. For previous years, data was collected only from 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 1999 through 2007, only a small number of taxpayers have taken advantage of this credit, and in seven 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 October 15, 2010. The actual number of employees due to the PTE issue is likely over-counted. 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.

Number of Employees by Year of Employment				
Tax Year	1st Year	2nd Year	3rd Year/ Special AFDC	Total
1999	446	128	178	751
2000	663	84	186	933
2001	295	68	21	384
2002	226	41	43	310
2003	518	98	188	804
2004	754	133	213	1,099
2005	270	117	405	420
2006	347	186	66	599
2007	216	76	60	352
2008	323	93	40	456

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

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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. Comptroller's staff are always available 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. He can be reached at (410) 260-7450.

Sincerely,



David F. Roose