

EDUCATIONAL IMPROVEMENT TAX CREDIT PROGRAM

Business Guidelines and Applications | May 2018

*Award of Tax Credits to Business Firms for Contributions to Scholarship Organizations,
Educational Improvement Organizations and Pre-Kindergarten Scholarship Organizations*



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Educational Improvement Tax Credit

Award of Tax Credits to Business Firms

I. Purpose

Under Article XX-B of the Public School Code of 1949, 24 P.S. Section 20-2001-B, et seq., the Educational Improvement Tax Credit (EITC) is to be administered by the Department of Community and Economic Development (the Department). Tax credits may be awarded to operating business firms that make contributions to Scholarship Organizations and/or Educational Improvement Organizations and/or Pre-Kindergarten Scholarship Organizations contained on a list published by the Department.

II. Eligibility

Entities eligible to apply for EITC are operating business firms authorized to do business in the Commonwealth of Pennsylvania that are subject to the following taxes: Personal Income Tax, Capital Stock/Foreign Franchise Tax, Corporate Net Income Tax, Bank Shares Tax, Title Insurance & Trust Company Shares Tax, Insurance Premiums Tax (excluding unauthorized, domestic/foreign marine), Mutual Thrift Tax, Malt Beverage Tax or Surplus Lines Tax. Such business firms include pass-through entities and special purpose pass-through entities. Special purpose pass-through entities are created for the purpose of making contributions under Article XX-B of the Public School Code of 1949 and whose shareholders, partners or members are composed of owners or employees of other business firms. To receive tax credits, businesses must be approved to make contributions to Scholarship Organizations (SO) and/or Educational Improvement Organizations (EIO) and/or Pre-Kindergarten Scholarship Organizations (PKSO) that are on the list of such organizations published by the Department.

For purposes of the EITC, a "contribution" from a business firm is a donation of cash, personal property or services the value of which is the net cost of the donation to the donor or the pro rata hourly wage, including benefits, of the individual performing the services. No tax credits shall be approved for activities that are part of the applicant business's normal course of business.

The current list of Scholarship Organizations, Educational Improvement Organizations and Pre-Kindergarten Scholarship Organizations can be found on the Department's web site at www.dced.pa.gov/EITC.

III. Application and Approval

A. Business Firm SO and EIO Application

All applications for the Educational Improvement Tax Credit Program must be completed and submitted online using DCED's Single Application for Assistance which can be accessed at dced.pa.gov or www.esa.dced.state.pa.us. Paper applications will not be accepted. To ensure timely consideration of applications, applicants should carefully follow instructions outlined in the online Single Application, and provide all requested information at the time of application.

A business firm may submit multiple applications, per the type of organization to which the business firm would like to make its contribution. The combined total may not exceed \$750,000 in tax credits.

At the time of application, a business firm may elect that its application for a particular type of credit be deemed an application for an alternative tax credit under the Opportunity Scholarship Tax Credit (OSTC) Program if the business's preferred choice of tax credit under EITC is not available. When an applicant does not receive its preferred choice of tax credit, it shall be promptly considered for the alternative tax credit per its application. By checking the alternative tax credit box via the Single Application for Assistance an applicant that originally applied for an EITC and does not get approved must understand they will now be approved for an OSTC. If approved for the alternative tax credit the applicant is responsible for confirming via the published list of approved Opportunity Scholarship Organizations that their intended recipient is an approved organization. Once approved for the alternative tax credit under OSTC, the applicant's original application submission for EITC will no longer be part of the Department's Educational Improvement Tax Credit wait list. The business firm will also not be eligible to renew as an Educational Improvement Tax Credit applicant the following year on May 15 and must wait to apply as an initial applicant on July 2.

New for 2018, the Department of Revenue will be evaluating all applications for State Tax Compliance.

- Entities seeking the credit must obtain state tax compliance with the laws and regulations of the Commonwealth of Pennsylvania, to the satisfaction of the Department of Revenue.
- Notification of Non-Compliance: Applications identified by the Department of Revenue as non-compliant will be ineligible for the credit, unless the applicant resolves the non-compliant issues in the determination period set by the Department of Revenue and communicated to the applicant.

B. Business Firm SO and EIO Application Requirements

Applicants will be required to complete all required fields within the online Single Application. For applicants who are applying from out-of-state please select "Statewide Project" under the required county dropdown menu on the addenda tab of the application.

C. Business Firm SO and EIO Application Approval

An eligible business firm that submits an application to the Department and agrees to make a contribution to an organization whose name is set forth on the current list of Scholarship Organizations or Educational Improvement Organizations maintained by the Department shall be awarded Educational Improvement Tax Credits to the extent that such tax credits remain available for the fiscal year in which application is made.

A business firm will be approved for a tax credit equal to 75% of its contribution(s) to listed organization(s), up to a maximum of \$750,000 per taxable year. The tax credit may be increased to 90% of the contribution(s) made, up to a maximum of \$750,000 per taxable year, if the business firm agrees at the time of application to provide the same amount of contribution for two consecutive tax years. To ensure the receipt and retention of the 90% tax credit, the business firm must make the same amount of contribution in each of the two consecutive tax years.

Applications for tax credits for program fiscal year 2018-19 (July 1, 2018 through June 30, 2019) will be accepted beginning July 2, 2018. Tax credit applications will be processed on a first-come-first-served basis by submission date. All applications received on a specific day will be processed on a random basis prior to acceptance of the next day's applications. Applications will be approved until the amount of available tax credits is exhausted.

A business firm that has been approved for tax credits (at 90%) based upon a consecutive two-year commitment, must submit another application to the Department no later than June 30 of the first program fiscal year to ensure the availability and application of tax credits for the second consecutive year. Applications for the second year of a two-year commitment will be accepted beginning May 15, and, if received by the Department on or before June 30, will be processed prior to any other applications for tax credits received by the Department. Applications for the second year of a two-year commitment that are not received on or before June 30 will be processed on a first-come-first-served basis by submission date, along with all other business firm applications received by the Department, with no assurance that tax credits will remain available at the time of processing.

A business firm that has fulfilled a two-year commitment in the most recently completed fiscal year may renew its application beginning May 15 for another two-year commitment. Applications submitted after June 30 to renew a two-year commitment which was fulfilled in the most recently completed fiscal year will be processed on a first-come-first-served basis by day submitted. There is no assurance that tax credits will remain available for applications submitted as part of a two-year commitment renewal.

Beginning October 1 through November 30, if all tax credits have not been awarded applicants are eligible to apply for additional tax credits beyond the maximum credit limit of \$750,000 per taxable year. Applications received during this timeframe will be recognized as a one-year commitment and will only be eligible for a 75% tax credit. The Department will accept applications for additional tax credit awards during this timeframe and will award credits at the conclusion of the 60 day application period. Applications received during this timeframe from applicants who have not exceeded the \$750,000 maximum credit limit shall be approved on a first-come first-served basis. All maximum tax credit limitations shall be reinstated as of December 1. To inquire about the availability of additional tax credits during the 60 day application period please, contact the Department at that time to discuss.

Beginning January 1, if Opportunity Scholarship Tax Credits remain available they shall be reallocated to Educational Improvement Tax Credits under the categories of Scholarship Organization and Pre-Kindergarten Scholarship Organization. The Department will notify applicants on either of these wait lists that credits have been made available and, if the applicant elects it will be approved for its desired tax credit. After the Department has awarded reallocated tax credits to wait list applicants the Department shall accept new applications for reallocated tax credits. The reallocation of Opportunity Scholarship Tax Credits shall not be made available to the category of Educational Improvement Organization.

D. Business Firm Pre-Kindergarten Tax Credit Application

All applications for the Pre-Kindergarten component of the Educational Improvement Tax Credit Program must be completed and submitted online using DCED's Single Application for Assistance which can be accessed at dced.pa.gov or www.esa.dced.state.pa.us. Paper applications will not be accepted. To ensure timely consideration of applications, applicants should carefully follow instructions outlined in the online Single Application, and provide all requested information at the time of application.

E. Business Firm Pre-Kindergarten Application Requirements

Applicants will be required to complete all required fields within the online Single Application. For applicants who are applying from out-of-state please select "Statewide Project" under the required county dropdown menu on the addenda tab of the application.

F. Business Firm Pre-Kindergarten Application Approval

An eligible business firm that submits an application to the Department and that agrees to make a contribution to an organization whose name is set forth on the current list of Pre-Kindergarten Scholarship Organizations maintained by the Department shall be awarded tax credits to the extent that such tax credits remain available for the fiscal year in which the application is made.

A business firm may receive a tax credit equal to 100% of the first \$10,000 contributed to a Pre-Kindergarten Scholarship Organization(s) during the taxable year, and may receive a tax credit equal to 90% of any additional amount contributed during the taxable year, up to a maximum of \$200,000 of tax credits per taxable year. Agreeing to a two-year commitment will have no impact on the tax credit calculations outlined in this section.

Applications for tax credits for program fiscal year 2018-19 (July 1, 2018 through June 30, 2019) will be accepted beginning July 2, 2018. Tax credit applications will be processed on a first-come-first-served basis by day submitted. All applications received on a specific day will be processed on a random basis before moving on to the next day's applications. Applications will be processed until the amount of available tax credits is exhausted.

A business firm that has been approved for tax credits based upon a consecutive two-year commitment, must submit another application to the Department no later than June 30 of the first program fiscal year to ensure the availability and application of tax credits for the second consecutive year. Applications for the second year of a two-year commitment will be accepted beginning May 15, and, if received by the Department on or before June 30, will be processed prior to any other applications for tax credits received by the Department. Applications for the second year of a two-year commitment that are not received on or before June 30 will be processed on a first-come-first-served basis by submission date, along with all other business firm applications received by the Department, with no assurance that tax credits will remain available at the time of processing.

IV. Earning of Tax Credits

Upon receipt of written notification from the Department that the business firm has been approved for tax credits, the business firm must make its contribution(s) to an approved Scholarship Organization(s) and/or Educational Improvement Organization(s) and/or Pre-Kindergarten Scholarship Organization(s) within 60 days of the date of the letter, and must provide proof of the contribution in the form of a written acknowledgment from the organization to the Department within 90 days of the date of the approval letter. A business firm will only receive tax credits for donating to the type of organization and amount that is specified in the application and approval letter. For services donated to an organization that will not be performed until after the 60-day period, the business firm must submit a copy of a letter sent by the business firm to the recipient organization, dated within 60 days of the date of the approval letter and signed and accepted by the recipient organization committing the business firm to donate the services described. The Department of Revenue will consider tax credits awarded under this program to be effective on the first day of the taxable year in which the contribution was made.

If the business firm does not make the contribution within 60 days of the date on the approval letter, or the Department does not receive proof of contribution within 90 days of the letter, the approval of tax credits will be rescinded.

No tax credits shall be approved for activities that are part of the applicant business' normal course of business.

V. Use of Tax Credits - As administered by the PA Department of Revenue

The EITC Irrevocable Election to Pass Through form (REV-1123) is available at www.revenue.pa.gov
(Reference: Forms Publications, Forms for Business, Corporation Tax)

For questions regarding utilization of the Educational Improvement Tax Credit, contact the PA Department of Revenue at (717)772-3896. For questions regarding the REV-1123 call (717)787-8285.

Upon receipt of proof of a contribution, the Department of Community and Economic Development will notify the Department of Revenue that the entity has been awarded a credit within the program.

Business firms may apply the credit against the following:

- Personal Income Tax
- Capital Stock/Foreign Franchise Tax
- Corporate Net Income Tax
- Bank Shares Tax
- Title Insurance & Trust Company Shares Tax
- Insurance Premiums Tax (excluding surplus lines, unauthorized, domestic/foreign marine)
- Mutual Thrift Tax
- Malt Beverage Tax
- Surplus Lines Tax

Please note, the definition of a business firm includes pass-through entities and special purpose pass-through entities, but it does not include sole proprietorships or entities not subject to tax.

The entity decides if the tax credit will be applied towards corporation tax and/or passed through to its partners, shareholders or members. The tax credit cannot be sold or assigned.

Credit awarded within the program may be applied against the business firm's tax liability for use in the taxable year in which the contribution is made. An EITC granted for any one taxable year may not exceed the combined tax liability of the entity and its owners.

If the business firm is a pass-through entity or special purpose pass-through entity, it may make an irrevocable election in writing, prior to the due date of the entity's tax return, to pass through any remaining EITC to its owners in proportion to the share of the entity's distributive income to which the owners are entitled, for use by the owners in the year the contribution was made, or in the taxable year immediately following the year in which the contribution was made. A pass through EITC can be applied to all classes of income earned by the owners.

An EITC not used in the taxable year in which the contribution was made may not be sold, assigned, carried forward or carried back and it is not refundable or transferable, except for an approved election by a pass-through entity to apply any unused EITC to the tax liability of the owners in the taxable year immediately following the year in which the contribution is made. If an election is not made to pass through any unused EITC to the owners, the EITC will expire.

To make an irrevocable election to pass through an EITC to partners, shareholders or members, a business firm should visit the Department of Revenue's website at www.revenue.pa.gov and complete REV-1123, Educational Improvement Tax Credit Election Form. This same form is used for the Opportunity Scholarship Tax Credit program.

New for 2018, the REV-1123 must be sent to the Revenue's Bureau of Individual Taxes by the tax return filing due date (including extensions) of the entity. However, REV-1123 must be sent separately from the entity's tax return.

- The amount of the tax credit passed through to partners, shareholders or members is based on the percentage of income distribution from the entity receiving the tax credit.
- The tax credit may be applied to 100 percent of the entity's liability or 100 percent of the entity owners' liabilities.
- Pennsylvania does not allow the deduction of certain expenses used to qualify for the Educational Improvement Tax Credit. If the expenses were deducted in calculating federal-taxable income, the amount should be reported as a reduction in expenses on PA-205/PA-65 Schedule M, Part B, Section E, Line F. Do not reduce Pennsylvania-taxable income by the amounts paid to qualify for the tax credit.
- The tax credit cannot be applied against any tax withheld by an employer from an employee under Article III of the Tax Reform Code.

After the REV-1123 has been accepted by the Department, partners, shareholders or members may claim the credit on their Individual Tax Return utilizing the PA Schedule OC – Other Credits, which can be found on the Department of Revenue website at: www.revenue.pa.gov.

For additional guidance, please refer to an informational notice on the Department of Revenue's website at: www.revenue.pa.gov, under the general tax information link to incentives credits and programs; tax credits page.

VI. Nondiscrimination

No assistance shall be awarded to a Business Firm under this program unless the Business Firm certifies that the Business Firm shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws.

VII. Contact Information

For program inquiries:

Department of Community and Economic Development
The Educational Improvement Tax Credit Program
Center for Business Financing - Tax Credit Division
400 North Street, 4th Floor
Commonwealth Keystone Building
Harrisburg, PA 17120-0225

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