

SECTION 1. Chapter Comm 101 is created to read:

### **Chapter Comm 101**

#### **TAX CREDITS FOR JOBS AND TRAINING**

**Comm 101.10 Authority and purpose.** Pursuant to s. 560.2055 (5) (f), Stats., this chapter sets forth the requirements for obtaining the following from the department:

(1) A certification that a taxpayer is eligible for the jobs tax credit under s. 71.07 (3q), 71.28 (3q), or 71.47 (3q), Stats.

(2) A determination of the maximum amount of tax credit that a taxpayer may claim for increasing net employment in a business, after receiving the certification in sub. (1).

**Comm 101.20 Definitions.** In this chapter:

(1) “Business” has the meaning given in s. 560.2055 (1) (a), Stats.

**Note:** See the Note at the end of this chapter for a reprint of section 560.2055 (1) to (5) (e) of the Statutes.

(2) “Department” means the department of commerce.

(3) “Full-time job” has the meaning given in s. 560.2055 (1) (c), Stats.

**Note:** See the Note at the end of this chapter for a reprint of section 560.2055 (1) to (5) (e) of the Statutes.

(4) “Tier I county or municipality” means a county or municipality so designated by the department. In designating a Tier I county or municipality, the department will consider the most current data available for the area and state using the following indicators:

(a) Unemployment rate.

(b) Percentage of families with incomes below the poverty line established under 42 USC 9902 (2).

(c) Median family income.

(d) Median per capita income.

(e) Other significant or irregular indicators of economic distress, such as a natural disaster, or plant closings and layoffs.

(f) Whether there exists a reasonable prospect of job loss of a magnitude that would measurably impact the criteria in pars. (a) to (e).

(5) “Tier II county or municipality” means a county or municipality that is not a Tier I county or municipality.

**Comm 101.30 Applications and departmental response.** (1) A person who desires to receive the tax credits under this chapter and s. 560. 2055, Stats., may apply for certification and receipt of the credits only on a valid form prescribed by the department.

**Note:** The application form that is currently valid can be obtained from the Department at P.O. Box 7970, Madison, WI, 53707.

(2) Upon receipt of an application, the department shall consider one or more of the following factors in determining whether to certify the person and allocate tax credits:

1. Whether the requirements in s. 560.2055 (1) to (4), Stats., would be met.

**Note:** See the Note at the end of this chapter for a reprint of section 560.2055 (1) to (5) (e) of the Statutes.

2. Whether the project might not occur without the allocation of tax credits.

3. The extent to which the project will increase employment in this state.

4. The extent to which the project will contribute to the economic growth of this state.

5. The extent to which the project will increase geographic diversity of available tax credits throughout this state.

6. The financial soundness of the business.

7. The ability of the business to utilize state tax credits.

8. Any previous financial assistance that the business received from the department.

(2) (a) The department shall notify each applicant of whether they have become certified for tax credits.

(b) A certified business may qualify for tax credits only for eligible activities that occur after an eligibility date established by the department.

(c) Additional tax benefits for job training may be earned according to the following schedule:

**Schedule 101.30**

Qualifying Person and Credit	Amount of Tax Credit
Any certified business – tax credits related to job training	Up to 100% of the eligible training costs

**Comm 101.40 Contract.** The certified business shall enter into a contract with the department for the tax credits under this chapter, prior to their verification by the department.

**Note:** See chapter Comm 149 for additional requirements relating to (1) contracts between the Department and recipients of economic-development tax credits; and (2) penalties for submitting false or misleading information, or for failing to comply with the terms of a contract.

**Comm 101.50 Filing with the department of revenue. (1)** A certified business may file with the department of revenue for tax credits under this chapter using forms acceptable to that department.

(2) Prior to filing for tax credits under sub. (1), a certified business shall complete and file with the department an annual project report supporting the tax credits that are to be claimed, on a valid form prescribed by the department. The annual project report shall include all of the following:

(a) The status of the certified business's project, which may include the number of full-time jobs created; the number of employees in full-time jobs who are trained, if applicable, and documentation of eligible training expenses; the total amount invested, and documentation of eligible investments; and other supporting information relating to the tax credits to be claimed by the certified business.

(b) Documentation of whether the certified business met the minimum benchmarks and outcomes identified in the contract under s. Comm 101.40.

**Note:** The annual project-report form that is currently valid can be obtained from the Department at P.O. Box 7970, Madison, WI, 53707.

(c) The department shall verify the tax credits that are to be claimed, and may request additional information from the certified business to support them. No person may file with the department of revenue for tax credits under this chapter without the written verification of the department.

**Comm 101.60 Period of time jobs must be maintained. (1)** Positions that are created as a result of the tax credits claimed under this chapter shall be maintained for at least five years after the certification date.

(2) Any failure to comply with sub. (1) shall be subject to penalties prescribed in the contract under s. Comm 101.40.

**Comm 101.80 Revocation or repayment.** The department may revoke a certification or require repayment of a tax credit upon occurrence of any of the following events:

(1) Any breach of any material covenant, agreement or obligation of the certified business, as addressed in the contract under s. Comm 101.40.

(2) Any breach of any material representation or warranty made in the application submitted under s. Comm 101.30.

(3) Any material adverse change in the project.

(4) Any other action or omission by the business, which in the Department's reasonable and good faith discretion, materially jeopardizes the business's ability to fulfill its material obligations as addressed in the contract under s. Comm 101.40.

**Note:** Section 560.2055 (1) to (5) (e) of the Statutes reads as follows: "(1) DEFINITIONS. In this section: (a) 1. Except as provided in subd. 2., 'business' means any organization or enterprise operated for profit, including a sole

proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, limited liability company, or association.

2. 'Business' does not include a store or shop in which retail sales is the principal business.

(b) 'Eligible employee' means a person employed in a full-time job by a person certified under sub. (2).

(c) 'Full-time job' means a regular, non-seasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150 percent of the federal minimum wage and benefits that are not required by federal or state law. 'Full-time job' does not include initial training before an employment position begins.

(d) 'Tax benefits' means the jobs tax credit under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q).

(2) CERTIFICATION. The department may certify a person to receive tax benefits under this section if all of the following apply:

(a) The person is operating or intends to operate a business in this state.

(b) The person applies under this section and enters into a contract with the department.

(3) ELIGIBILITY FOR TAX BENEFITS. A person certified under sub. (2) may receive tax benefits under this section if, in each year for which the person claims tax benefits under this section, the person increases net employment in the person's business and one of the following apply:

(a) In a tier I county or municipality, an eligible employee for whom the person claims a tax credit will earn at least \$20,000 but not more than \$100,000 in wages from the person in the year for which the credit is claimed.

(b) In a tier II county or municipality, an eligible employee for whom the person claims a tax credit will earn at least \$30,000 but not more than \$100,000 in wages from the person in the year for which the credit is claimed.

(c) In a tier I county or municipality or a tier II county or municipality, the person improves the job-related skills of any eligible employee, trains any eligible employee on the use of job-related new technologies, or provides job-related training to any eligible employee whose employment with the person represents the employee's first full-time job.

(4) DURATION, LIMITS, AND EXPIRATION. (a) The certification of a person under sub. (2) may remain in effect for no more than 10 cumulative years.

(b) 1. The department may award to a person certified under sub. (2) tax benefits for each eligible employee in an amount equal to up to 10 percent of the wages paid by the person to that employee if that employee earned wages in the year for which the tax benefit is claimed equal to one of the following:

a. In a tier I county or municipality, at least \$20,000 but not more than \$100,000.

b. In a tier II county or municipality, at least \$30,000 but not more than \$100,000.

2. The department may award to a person certified under sub. (2) tax benefits in an amount to be determined by the department by rule for costs incurred by the person to undertake the training activities described in sub. (3) (c).

(c) Subject to a reallocation by the department pursuant to rules promulgated under s. 560.205 (3) (d), the department may allocate up to \$5,000,000 in tax benefits under this section in any calendar year.

(5) DUTIES OF THE DEPARTMENT. (a) The department of commerce shall notify the department of revenue when the department of commerce certifies a person to receive tax benefits.

(b) The department of commerce shall notify the department of revenue within 30 days of revoking a certification made under sub. (2).

(c) The department may require a person to repay any tax benefits the person claims for a year in which the person failed to maintain employment required by an agreement under sub. (2) (b).

(d) The department shall determine the maximum amount of the tax credits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q) that a certified business may claim and shall notify the department of revenue of this amount.

(e) The department shall annually verify the information submitted to the department by the person claiming tax benefits under ss. 71.07 (3q), 71.28 (3q), and 71.47 (3q).

**(END)**

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#### EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall become effective on the first day of the month commencing after publication in the Wisconsin administrative register.

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