



Ohio Administrative Code Rule 122:16-1-01 Definitions.

Effective: July 28, 2016

As used in rules 122:16-1-02 to 122:16-1-07 of the Administrative Code:

- (A) "Affiliated entities" means any person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, the taxpayer. For purposes of this definition, the term "own" means to own an equity interest (or the equivalent thereof) of fifty per cent or more.
- (B) "Amendment" means any change to the terms and/or conditions of a tax credit agreement following approval from the authority.
- (C) "Authority" means the tax credit authority created pursuant to division (M) of section 122.17 of the Revised Code and subject to rules 122:7-1-02 and 122:7-1-03 of the Administrative Code.
- (D) "Capital investment project" means a plan of investment as defined in division (A) of section 122.171 of the Revised Code and includes but is not limited to the acquisition, construction, renovation or repair of buildings, machinery, or equipment that has not been used in business in this state by the taxpayer that owns it, or by a taxpayer that is a related member or predecessor of such a taxpayer, other than as inventory, prior to being used in business at the project site.
- (E) "Director" means the director of the development services agency of the state of Ohio.
- (F) "Effective date" means January first of the first year of the term of the tax credit as approved by the authority.
- (G) "Excess income tax revenue" means the total amount to be withheld under section 5747.06 of the Revised Code by the taxpayer throughout the term of the agreement from the compensation of each new employee to be created at the project location.



(H) "Executive director" means the executive director of the tax credit authority.

(I) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the tax year from the compensation of each employee at the project location.

(J) "Maintain operations" means the continuation of operations of the taxpayer as described in the tax credit agreement.

(K) "Metric evaluation date" means the date by which the taxpayer must meet certain commitments included in the tax credit agreement.

(L) "Payroll" means the aggregate taxable income paid to full-time equivalent employees at the project site. Payroll does not include employer contributions to fringe benefits that are provided to employees.

(M) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal tax purposes, and any other entities.

(N) "Post-term reporting period" means the time period a taxpayer must report to the authority and director to verify that the maintenance of operations at the project site. The post-term reporting period begins at the conclusion of the tax credit term and continues for a minimum of three years as set forth in the tax credit agreement corresponding to the taxpayer's obligation to maintain operations at the project site.

(O) "Relocated employees" means the full-time equivalent employees or employment positions employed by the taxpayer or an affiliated entity at a location elsewhere in the State other than the project site that are relocated to the project site, and whose positions are not replaced within the same calendar year, or, if the employees or employment positions are relocated in the final quarter



of the calendar year, within that calendar year or the following calendar year.

(P) "Retail" means operations that include point-of-final-purchase transaction at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to transfer title to of possession of the item sold,

(Q) "Significant retention" means the project proposes to and actually retains at least forty million dollars of annual payroll at the project site for the term of the tax credit.

(R) "Substantial number of employment positions" means employees whose collective annual gross payroll is at least two hundred thousand dollars. In reaching the "substantial number of employment positions" threshold, the taxpayer must aggregate the payroll from all relocated employees under paragraph (B) of rule 122:16-1-07 of the Administrative Code over the entire term of the tax credit agreement.

(S) "Substantially maintain" with respect to division (J)(1)(b) of section 122.171 of the Revised Code means at least fifty per cent of the commitments identified in the tax credit agreement.

(T) "Tax year" means the calendar year in and for which the tax imposed by section 5725.18, 5726.02, 5729.03, 5736.02 or 5747.02 or levied under Chapter 5751. of the Revised Code is required to be paid.

(U) "Taxable year" means the annual tax reporting period of the taxpayer prescribed by division (M) of section 5751.01 of the Revised Code with respect to persons subject to the Ohio commercial activities tax, and prescribed by division (M) of section 5747.01 of the Revised Code with respect to persons subject to individual income tax. With respect to insurance companies, taxable year means the calendar year subject to the franchise tax return required pursuant to section 5725.18 of the Revised Code, or subject to the tax required pursuant to section 5729.03 of the Revised Code.

(V) "Taxpayer" means a business entity that has entered into an agreement for tax credit pursuant to division (E) of section 122.171 of the Revised Code.

(W) "Transferred payroll" means the payroll attributed to all relocated employees at the project site,



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if any.