



Ohio Administrative Code

Rule 4101:9-4-04 Allowance of contributions to a fund, plan, or program.

Effective: November 1, 2024

(A) Pursuant to division (E)(2) of section 4115.03 of the Revised Code, an employer will allow credit for the "rate of contribution" irrevocably made by an employer to a trustee or to a third person pursuant to a fund, plan, or program. No credit will be allowed to the extent the employer will be able to recapture this rate of contribution or in any way divert said funds to his or her own use or benefit, except where the employer can demonstrate that he or she has erroneously contributed an excessive amount, he or she may recapture said amount without affecting the credit previously given, provided that he or she received no credit for the amount he or she seeks to recapture. In order for an employer to receive the credit, a trustee or third person must act in a fiduciary capacity and must assume the usual fiduciary responsibilities imposed upon trustees by applicable state or federal law. The terms fund, plan, or program are intended to recognize the various types of arrangements commonly used to provide the funded benefits contemplated by division (E)(2) of section 4115.03 of the Revised Code.

(B) Fringe benefits credits shall be presumed to be paid at a rate not to exceed the amount of contributions for fringe benefits set forth in the applicable prevailing wage rate schedule for the locality. In the event that an employer seeks fringe benefit credit that exceeds the amount set forth in the applicable prevailing wage rate schedule, the employer shall provide the department with documentation that supports such excess credit.

(C) Funds, plans, or programs that violate applicable state or federal law will not be recognized for the purposes of determining the allowable credit.
