



## Ohio Revised Code

### Section 5733.42 Credit for eligible employee training costs.

Effective: November 15, 2015

Legislation: Senate Bill 208 - 131st General Assembly

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(A) As used in this section:

(1) "Eligible training program" means a program to provide job skills to eligible employees who are unable effectively to function on the job due to skill deficiencies or who would otherwise be displaced because of their skill deficiencies or inability to use new technology, or to provide job skills to eligible employees that enable them to perform other job duties for the taxpayer. Eligible training programs do not include executive, management, or personal enrichment training programs, or training programs intended exclusively for personal career development.

(2) "Eligible employee" means an individual who is employed in this state by a taxpayer and has been so employed by the same taxpayer for at least one hundred eighty consecutive days before the day an application for the credit is filed under this section. "Eligible employee" does not include any employee for which a credit is claimed pursuant to division (A)(5) of section 5709.65 of the Revised Code for all or any part of the same year, an employee who is not a full-time employee, or executive or managerial personnel, except for the immediate supervisors of nonexecutive, nonmanagerial personnel.

(3) "Eligible training costs" means:

(a) Direct instructional costs, such as instructor salaries, materials and supplies, textbooks and manuals, videotapes, and other instructional media and training equipment used exclusively for the purpose of training eligible employees;

(b) Wages paid to eligible employees for time devoted exclusively to an eligible training program during normal paid working hours.

(4) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours per week, or who renders any other standard of service generally accepted by custom or



specified by contract as full-time employment.

(5) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for taxpayers for which a tax credit certificate is issued under division (C) of this section. The credit may be claimed for tax years 2004, 2005, 2006, 2007, and 2008. The amount of the credit for tax year 2004 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 1999, 2000, and 2001, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2005 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2002, 2003, and 2004, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2006 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2003, 2004, and 2005, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2007 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2004, 2005, and 2006, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2008 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2005, 2006, and 2007, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years.

The credit claimed by a taxpayer each tax year shall not exceed one hundred thousand dollars.

(C) A taxpayer who proposes to conduct an eligible training program may apply to the director of job and family services for a tax credit certificate under this section. The taxpayer may apply for such a certificate for tax years 2004, 2005, 2006, 2007, and 2008 subject to division (L) of this section. The



director shall prescribe the form of the application, which shall require a detailed description of the proposed training program. The director may require applicants to remit an application fee with each application filed with the director. The fee shall not exceed the reasonable and necessary expenses incurred by the director in receiving, reviewing, and approving such applications and issuing tax credit certificates. Proceeds from fees shall be used solely for the purpose of receiving, reviewing, and approving such applications and issuing such certificates.

After receipt of an application, the director shall authorize a credit under this section by issuing a tax credit certificate, in the form prescribed by the director, if the director determines all of the following:

- (1) The proposed training program is an eligible training program under this section;
- (2) The proposed training program is economically sound and will benefit the people of this state by improving workforce skills and strengthening the economy of this state;
- (3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the training program;
- (4) Authorization of the credit is consistent with division (H) of this section.

The credit also is allowed for a taxpayer that is a partner in a partnership that pays or incurs eligible training costs. Such a taxpayer shall determine the taxpayer's credit amount in the manner prescribed by division (K) of this section.

(D) If the director of job and family services denies an application for a tax credit certificate, the director shall send notice of the denial and the reason for denial to the applicant by certified mail, return receipt requested. If the director determines that an authorized training program, as actually conducted, fails to meet the requirements of this section or to comply with any condition set forth in the authorization, the director may reduce the amount of the tax credit previously granted. If the director reduces a tax credit, the director shall send notice of the reduction and the reason for the reduction to the taxpayer by certified mail, return receipt requested, and shall certify the reduction to the tax commissioner or, in the case of the reduction of a credit claimed by an insurance company,



the superintendent of insurance. The tax commissioner or superintendent of insurance shall reduce the credit that may be claimed by the taxpayer accordingly. Within sixty days after receiving a notice of denial or notice of reduction of the tax credit, an applicant or taxpayer may request, in writing, a hearing before the director to review the denial or reduction. Within sixty days after receiving a request that is filed within the prescribed time, the director shall hold such a hearing at a location to be determined by the director. Within thirty days after the hearing is adjourned, the director shall issue a redetermination affirming, reversing, or modifying the denial or reduction of the tax credit and send notice of the redetermination to the applicant or taxpayer by certified mail, return receipt requested, and shall issue a notice of the redetermination to the tax commissioner or superintendent of insurance. If an applicant or taxpayer is aggrieved by the director's redetermination, the applicant or taxpayer may appeal the redetermination to the board of tax appeals in the manner prescribed by section 5717.02 of the Revised Code.

(E) A taxpayer to which a tax credit certificate is issued shall retain records indicating the eligible training costs it pays or incurs for the eligible training program for which the certificate is issued for four years following the end of the tax year for which the credit is claimed. Such records shall be open to inspection by the director of job and family services upon the director's request during business hours.

Financial statements and other information submitted by an applicant to the director of job and family services for a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the director of job and family services, the tax commissioner, or superintendent of insurance may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credits allowed under this section and sections 5725.31 and 5729.07 of the Revised Code.

(F) The director of job and family services, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section and sections 5725.31 and 5729.07 of the Revised Code. The rules shall be adopted after consultation with the tax commissioner and the superintendent of insurance. The rules shall require that if a taxpayer to which a tax credit certificate is issued under any of those sections permanently relocates or transfers employees trained under the tax credit certificate to another state or country within two years of receiving the certificate, the



taxpayer shall repay the total amount of the tax credit received by the taxpayer for any employees permanently relocated or transferred. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons and ranking minority members of the standing committees in the senate and the house of representatives to which legislation on economic development matters are customarily referred.

(G) On or before the thirtieth day of September of 2001, 2003, 2004, 2005, 2006, 2007, and 2008 the director of job and family services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section and sections 5725.31 and 5729.07 of the Revised Code. The report shall include information on the number of training programs that were authorized under those sections during the preceding calendar year, a description of each authorized training program, the dollar amounts of the credits granted, and an estimate of the impact of the credits on the economy of this state.

(H) The aggregate amount of credits authorized under this section and sections 5725.31 and 5729.07 of the Revised Code shall not exceed twenty million dollars per calendar year. No more than ten million dollars in credits per calendar year shall be authorized for persons engaged primarily in manufacturing. No less than five million dollars in credits per calendar year shall be set aside for persons engaged primarily in activities other than manufacturing and having fewer than five hundred employees. Subject to such limits, the director of job and family services shall adopt a rule under division (F) of this section that establishes criteria and procedures for distribution of the credits.

(I) A nonrefundable credit allowed under this section shall be claimed in the order required under section 5733.98 of the Revised Code.

(J) The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is first claimed under this section.

(K) A taxpayer that is a partner in a partnership on the last day of the third calendar year of the three-year period during which the partnership pays or incurs eligible training costs may claim a credit



under this section for the tax year immediately following that calendar year. The amount of a partner's credit equals the partner's interest in the partnership on the last day of such calendar year multiplied by the credit available to the partnership as computed by the partnership.

(L) The director of job and family services shall not authorize any credits under this section and sections 5725.31 and 5729.07 of the Revised Code for eligible training costs paid or incurred after December 31, 2007.