

State of Rhode Island - Division of Taxation

Business Corporation Tax

Regulation CT 01-11

Rhode Island Jobs Development Act

Chapter 42-64.5 grants incremental income tax rate reductions to companies that create new employment in this state.

I. DEFINITIONS:

For purposes of this regulation, the following definitions apply:

"Adjusted Current Employment", means for any taxable year ending on or after July 1, 1995, the aggregate of the average daily number of full-time equivalent active employees employed within the state by an eligible company and its eligible subsidiaries during such taxable year.

"Affiliated entity" means any corporation owned or controlled by the same persons or shareholders who own or control an eligible company.

"Base employment" means the aggregate number of full-time equivalent active employees employed within the State by an eligible company and its eligible subsidiaries on July 1, 1994, or at the election of the eligible company, an alternative date provided by R.I.G.L. 42-64.5-5.

"Eligible subsidiary" means each corporation 80% or more of the outstanding common stock of which is owned by an eligible company.

"Eligible company" means any corporation, state bank, federal savings bank, trust company, national banking association, bank holding company, loan and investment company, mutual savings bank, credit union, building and loan association, insurance company, investment company, broker-dealer company or surety company or an eligible subsidiary of any of the foregoing. An eligible company does not have to be qualified to do business in the state or have any employees in this state at the time its base employment is determined.

"Full time equivalent active employees" means any employee of an eligible company who (1) works a minimum of 30 hours per week within the State, or two or more part-time employees whose combined weekly hours equal or exceed 30 hours per week within the State and (2) earns no less than 150% of the hourly minimum wage prescribed by Rhode Island law.

"New employment" means for each taxable year the amount of adjusted current employment for such taxable year minus the amount of base employment, but in no event less than zero, provided however, no eligible company is permitted to transfer, assign or hire employees who are already employed within the State by such eligible company from itself or any affiliated entity or utilize

any other artifice or device for the purpose of artificially creating new employees in order to qualify for the rate reduction provided for in this chapter.

"Small business concern" means any eligible company which has a base employment level of less than one hundred (100).

"Units of new employment" means (i) for eligible companies, which are not small business concerns, the amount of new employment divided by fifty (50) rounded down to the nearest multiple of fifty (50), and (ii) for eligible companies which are small business concerns, the amount of new employment divided by ten (10), rounded down to the nearest multiple of ten (10); provided, however, that an eligible company with adjusted current employment of one hundred (100) or more employees in its first year of operation or in any other period following the date its base employment is determined shall determine its units of new employment by dividing the first one hundred (100) employees less its base employment by ten (10), rounded down to the nearest multiple of ten (10), and by dividing the number of additional employees in excess of one hundred (100) by fifty (50), rounded down to the nearest multiple of fifty (50).

"Average daily number of full time equivalent active employees employed within this state" shall be calculated as follows:

$$\frac{\text{\# of full time equivalent employees}}{\text{\# of business days}}$$

"Business days" shall be determined by the number of days the employer is operating as a normal day whereby all full time equivalent employees are eligible to work.

II. TAX RATE REDUCTION

EXAMPLE of rate reduction for company with over 100 full time equivalent active employees:

Adjusted Current Employment 1,000
Less Base Employment 560

New Employment 440
Rounded Down to Nearest (50) $400/50 = 8$
 $8 \times .0025 = .02$

A 2% reduction in rate is in order

EXAMPLE for companies with less than 100 full time equivalent active employees:

Adjusted Current Employment 90
Less Base Employment 64

New Employment 26

Rounded Down to Nearest (10) $20/10 = 2$
 $2 \times .0025 = .005$

A 0.5% reduction in rate is in order

III. MAXIMUM RATE REDUCTION

No rate reduction shall exceed six (6) percent.

IV. RATE REDUCTION APPLIED TO NET INCOME

Credit unions and insurance companies do not qualify for a rate reduction since they do not pay a tax based upon income, however, they will be able to pass the rate reduction on to an "eligible subsidiary."

In the case of a Subchapter S Corporation, there is no pass through to the shareholder since there is no provision for a rate reduction under Chapter 30 of Title 44 of the General Laws of Rhode Island.

V. EXPIRATION OF RATE REDUCTION

A rate reduction calculation must be made for each year after a base employment period is elected in accordance with section 42-64.5-5. The reduction in place at the end of the third taxable year following the base employment period election shall be permanent unless the level of employment drops below the level in place at the end of the third taxable year. If the level is not maintained the rate reduction provided for shall expire permanently. Only one base employment period can be elected for purposes of rate reduction by an eligible company.

R. GARY CLARK
TAX ADMINISTRATOR

EFFECTIVE: January 1, 2001

THIS REGULATION AMENDS AND SUPERCEDES CT 00-11 PROMULGATED
JANUARY 1, 2000.