

State of Rhode Island – Division of Taxation

Business Corporation Tax

Regulation CT 04-11

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, on July 1 of any year subsequent to 1994; provided, however, that an eligible company that is a telecommunication company shall determine its base employment on either July 1, 2001 or July 1, 2002; and provided, further, that an eligible company may not use July 1, 2003 or any subsequent date to determine its base employment unless a determination has been made by the board of directors of the Rhode Island Economic Development Corporation that (a) but for the incentives available under this act the company is not likely to retain, expand, or add employment in this state; and (b) that the company has provided reasonable evidence supporting a finding that the jobs retained, expanded, or added will generate new tax revenue for the state that is at least equivalent to the value of this incentive.

"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; provided, however, for tax years ending after the later of July 1, 2003 and the first tax year that an eligible company qualifies for a rate reduction pursuant to section 42-64.5-3, for purposes of this section, one hundred fifty percent (150%) of the hourly minimum wage prescribed by Rhode Island law shall mean one hundred fifty percent (150%) of the hourly minimum wage prescribed by Rhode Island law at (a) the time the employee was first treated as a full-time equivalent active employee during a tax year that the eligible company qualified for a rate reduction pursuant to section 42-64.5-3, or, if later (b) the time the employee first earned at least one hundred fifty percent (150%) of the hourly minimum wage prescribed by Rhode Island law as an employee of the eligible company.

"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. New employment shall not include employees already employed in this state who become employees of an eligible company as a result of an acquisition of an existing company by purchase, merger, or otherwise, if the existing company was eligible for a rate reduction.

"Small business concern" means any eligible company which has a base employment level of less than one hundred (100); provided, however, that a telecommunication company may not qualify as a small business concern.

"Telecommunications company" means any public service company or corporation whose rate of taxation is determined under subsection 44-13-4(4).

"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 (other than an eligible company that is a telecommunications 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	<u>560</u>
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	94
Less Base Employment	<u>64</u>
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, or in the case of a telecommunications company, one percent (1%).

IV. RATE REDUCTION APPLIED TO NET INCOME OR GROSS EARNINGS

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.

The amount of rate reduction for any eligible company that is a telecommunications company shall be determined by multiplying the numerical equivalent of one-hundredth of one percent (.01%) by the number of units of new employment and the amount of each rate reduction shall in no event be greater than one percent (1%).

Where an eligible telecommunications company has one or more affiliated entities that is an eligible company, the eligible company entitled to a rate reduction may assign its rate reduction, determined in the manner set forth in the prior paragraph, to the eligible telecommunications company. An entity that assigns the rate reduction shall not be eligible for the rate reduction.

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, 2004

THIS REGULATION AMENDS AND SUPERCEDES CT 02-11 PROMULGATED February 1, 2002