

2000 ENTERPRISE ZONE HIRING CREDIT

References: 17053.74; 23622.7

The California Revenue & Taxation Code (CR&TC) provides a hiring credit for qualified taxpayers who employ qualified employees within a designated Enterprise Zone (EZ) and pay qualified wages to these employees. EZs were established in California to stimulate development in selected economically depressed areas.

The EZ hiring credit applies to those employees hired after the designation date of the EZ.

2100 Geographic Boundaries and Designation Dates

For a listing of EZs and designation dates, refer to EDAM Section 1310. To verify an address, refer to EDAM Section 1300.

2200 Qualified Taxpayer

References 17053.74(b) & (c); 23622.7(b) & (c)

A qualified taxpayer:

- A person or entity engaged in a trade or business within an EZ
- Obtains and retains certification as discussed in section 2430 which provides that a qualified employee meets the eligibility requirements applicable immediately preceding commencement of employment with the taxpayer as discussed in section 2400.

Note: Failure to obtain the voucher results in the taxpayer not meeting all the qualifications of a qualified taxpayer eligible for the hiring credit, thus no credit is allowed. A taxpayer must obtain a certification (voucher).

2210 Pass-Through Entities

The determination of whether a taxpayer is a qualified taxpayer is made at the entity level. The term pass-through entity means any partnership or S corporation. The hiring credit is allowed to the pass-through entity and passed through to the partners or shareholders.

2220 Controlled Groups

References 17053.74(d)(1)(A); 17053.74(d)(1)(C); 23622.7(d)(1)(A); 23622.7(d)(1)(C)

All employees of trades or businesses under common control, or members of the same controlled group of corporations, are treated as employed by a single taxpayer.

A controlled group of corporations is defined in IRC § 1563(a) as modified by the California Revenue & Taxation Code, to replace "*at least 80%*" with "*more than 50%*". The determination is made without regard to subsections (a)(4) and (e)(3)(C) of IRC § 1563.

Note: Controlled groups of taxpayers may not transfer employees between members to trigger or increase the credit.

2230 Acquired Businesses

References 17053.74(d)(2); 23622.7(d)(2)

For purposes of the hiring credit, if a major portion of a business is acquired from another employer, the employment relationship between the employee and the new employer shall not be treated as terminated if the employee continues employment in that business. Also, if a major portion of a separate unit of a business predecessor is acquired, the employment relationship between the employee and the new employer shall not be treated as terminated if the employee continues employment in that business.

Note: The new employer steps into the shoes of the old employer for purposes of incurring future credits.

2300 Qualified Wages

References 17053.74(b)(1); 17053.74(b)(2); 17053.74(f); 23622.7(b)(1); 23622.7(b)(2)

Qualified wages are wages paid or incurred to qualified employees during the consecutive 60-month period beginning with the first day the employee commences employment with the taxpayer. For qualified employees hired before the expiration date of the EZ, qualified wages paid or incurred within the 60-month period beginning with the first day the employee commences employment with the taxpayer shall continue to qualify for the credit after the zone expiration date, as if the EZ designation were still in existence and binding.

In general, qualified wages means that portion of hourly wage that does not exceed 150% of the minimum wage.

- For taxable years beginning on or after January 1, 1996, for taxpayers engaged in aircraft manufacturing activities within the Long Beach EZ, as described in the Standard Industrial Classification (SIC) Manual (1987 edition) Code sections 3721 through 3728, and 3812, qualified wages (for up to 1,350 qualified employees) means that portion of hourly wage that does not exceed 202% of the minimum wage.
- Minimum wage means the wage established by the Industrial Welfare Commission. When the California minimum wage is higher than federal minimum wage, use the California minimum wage for purposes of this credit.
- To determine a salaried employee's hourly wage, a reasonable method of doing so is to divide the total salary by the hours on which the salary is based, normally 2,000 hours per year.

2310 Estates and Trusts

In the case of an estate or trust, apportion the qualified wages between the estate/trust and the beneficiaries on the basis of the income allocable to each. Consequently, any beneficiary to whom wages are apportioned is treated as the employer with respect to those wages.

2320 Non-Qualified Wages

Qualified wages do not include any wages paid or incurred on or after the zone expiration date except as noted previously for qualified employees hired prior to the expiration of the EZ.

CALIFORNIA FRANCHISE TAX BOARD**2330 Minimum Wage Chart**

Effective Date	Minimum Wage	Maximum Hourly Wage (Hiring Credit)
July 1, 1988 to September 30, 1996	\$4.25	\$6.37 (150% of \$4.25)
October 1, 1996 to February 28, 1997	\$4.75	\$7.12 (150% of \$4.75)
March 1, 1997 to August 31, 1997	\$5.00	\$7.50 (150% of \$5.00)
September 1, 1997 to February 28, 1998	\$5.15	\$7.72 (150% of \$5.15)
March 1, 1998 to December 31, 2000	\$5.75	\$8.62 (150% of \$5.75)
January 1, 2001 to December 31, 2001	\$6.25	\$9.37 (150% of \$6.25)
January 1, 2002 to December 31, 2006	\$6.75	\$10.12 (150% of 6.75)
January 1, 2007 to December 31, 2007	\$7.50	\$11.25 (150% of 7.50)
Effective January 1, 2008	\$8.00	\$12.00 (150% of 8.00)

2400 Qualified Employee

References 17053.74(b)(4)(A); 23622.7(b)(4)(A)

A qualified employee is an individual who satisfies all of the following:

Annual Tests

- At least 90% of the individual's work for the taxpayer, during the taxable year, is directly related to the conduct of the taxpayer's trade or business located within an EZ.
- At least 50% of the individual's services for the taxpayer, during the taxable year, are performed within the boundaries of an EZ.

For employees who work in multiple locations for the same employer, the 50% test is met as long 50% of his/her services are performed within the boundaries of any EZ.

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Example: An employee works for the same employer in three different locations; 30% in EZ 1, 40% in EZ 2, 30% outside EZ. The employee meets the 50% test because at least 50% of the services are performed in an EZ.

Time of Hire Tests

- The individual is hired after the area was designated as an EZ (or after the expansion date of an area of an EZ)
- Immediately prior to commencement of employment with the taxpayer, the individual is any of the following:

For taxable years beginning on or after January 1, 1997:

1. Eligible for services under the federal Job Training Partnership Act (JTPA), or its successor¹.
2. Eligible as a voluntary or mandatory registrant under the Greater Avenues for Independence (GAIN) Act of 1985, or its successor.
3. An economically disadvantaged individual 14 years of age or older.
4. A qualified dislocated worker (refer to the CR&TC 23622.7(b)(4)(a)(iv)(IV) or the 3805Z EZ Business Booklet for an expanded definition).
5. A disabled individual who is eligible for, enrolled in, or who has completed a state rehabilitation plan.
6. A service-connected disabled veteran.
7. A veteran of the Vietnam era.
8. A veteran who recently separated from military service.
9. An ex-offender.
10. A person eligible for, or a recipient of any of the following:
 - Federal Supplemental Security Income (SSI) benefits.
 - Aid to Families with Dependent Children (AFDC).
 - Food stamps.
 - State and local general assistance.
11. A Native American.
12. A resident of a Targeted Employment Area (TEA), as defined in Section 7072 of the Government Code.
13. An employee who qualified the taxpayer for the EZ hiring credit under former CR&TC §17053.8 & 23622.
14. An employee who qualified the taxpayer for the Program Area hiring credit under former CR&TC §17053.11 & 23623.
15. A member of a targeted group, as defined in IRC § 51(d) or its successor.

¹ JTPA was effective for employees hired on or before 6/30/2000. Workforce Investment Act (WIA) was effective for employees hired on or after 7/1/2000. WIA is the successor to JTPA.

A taxpayer who moves his/her (or a) business into an EZ may qualify to claim the hiring credit for an employee hired prior to the business moving into an EZ. A voucher must be obtained based on the employee's original hire date. The hiring credit is computed using the appropriate percentage depending on the numbers years of employment.

Example: Assume the employee was hired on 01/01/2000, the taxpayer moved its business in an EZ on 07/30/2003, and the EZ was designated prior to 2000. Assuming the taxpayer obtains a voucher and the employee meets all other requirements of a qualified employee, the taxpayer may start claiming the hiring credit on qualified wages beginning 07/30/2003 at 30% (3rd year of employment).

2410 Seasonal Employees

References 17053.74(b)(1)(B); 17053.74(b)(6); 23622.7(b)(1)(B); 23622.7(b)(6)

Seasonal employment means employment that has regular and predictable substantial reductions in business operations.

Reemployment of an individual in connection with any increase (including a regularly occurring seasonal increase) in business operations does not constitute commencement of employment for purposes of the EZ hiring credit.

2420 Leased Employees

The employer is the qualified taxpayer and may qualify for the hiring credit for leased employees, employees contracted through a Temp Employee Agency, or under a contractual Professional Employee Organization arrangement. The employer can be either the leasing company or the subscriber to the arrangement. Generally, the employer has the legal obligation to pay the payroll taxes of the employee, and the right to control and direct the workers (employee's) services.

Internal Revenue Service (IRS) Publication 15-A, *Employer's Supplemental Tax Guide* provides guidelines for establishing an employment relationship and provides examples to consider in determining the employer-employee relationship.

2430 Vouchering Form HCD EZ1

References 17053.74(c); 23622.7(c)

The *Form HCD EZ1* or *VoucherApp 10-07* certifies the employee meets the eligibility requirements of a qualified employee as discussed in section 2400. The qualified taxpayer shall get *Form TCA EZ1* from one of the following applicable entities:

- The Employment Development Department (EDD)
- The local WIA administrative entity
- The local county GAIN office
- The local social services agency
- The local government administering the EZ

The qualified taxpayer needs to retain a copy of the certification and provide it upon request to the Franchise Tax Board.

Under the provisions of CR&TC §17053.74(c) and § 23622.7(c), a qualified employer is one that has obtained and retained a voucher to certify that their employee meets any one of the qualifying criteria. Failure to obtain the voucher results in the taxpayer not meeting all the qualifications of a qualified taxpayer eligible for the hiring credit, thus no credit is allowed. A taxpayer must obtain certification (voucher).

The Housing and Community Development Department (HCD) issued regulations with respect to vouchers issued on or after January 1, 2007. See the HCD website for further information. <http://www.hcd.ca.gov/fa/cdbg/ez/>

2500 Credit Computation

References 17053.74(a); 23622.7(a)

For each taxable year a hiring credit is allowed to a qualified taxpayer for hiring a qualified employee for employment within an EZ. The credit is equal to the sum of each of the following:

- 50% of the qualified wages during the first year of employment.
- 40% of the qualified wages during the second year of employment.
- 30% of the qualified wages during the third year of employment.
- 20% of the qualified wages during the fourth year of employment.
- 10% of the qualified wages during the fifth year of employment.

The credit percentage is based on the employee's date of employment and subsequent anniversary dates. The taxpayer's tax year does not control the applicable credit percentages. With the exception of the first and last year of the credit, within one tax year, two percentage ranges for the computation of the credit are generally used.

Example: An employee was hired 07/01/2004, and the taxpayer is completing the tax return for the year ending 12/31/2005. For the period 01/01/2005 to 06/30/2005, the hiring credit is based on 50% of qualified wages. For the period 07/01/2005 to 12/31/2005, the hiring credit is based on 40% of qualified wages.

Once the employee commences employment, the credit percentage range begins and generally is not interrupted in the event of a subsequent layoff and rehire of the employee.

Example: An employee is hired 07/01/2004, is temporarily laid off 02/01/2005, and is rehired 04/01/2005. The 50% credit range runs from 07/01/2004 to 06/30/2005 regardless of the layoff period between 02/01/2005 and 03/31/2005.

CALIFORNIA FRANCHISE TAX BOARD

2510 Reduction for Other Tax Credits

References 17053.74(h); 23622.7(h)

The EZ hiring credit is reduced by the credits allowed under the following sections for the same employee:

- CR&TC §17053.10 & §23625 - LARZ construction hiring credit
- CR&TC §17053.17 & §23623.5 - LARZ general hiring credit
- CR&TC §17053.46 & §23646 - LAMBRA hiring credit
- The federal credit allowed under IRC § 51 - Work Opportunity Tax Credit (WOTC)

The WOTC credit reduction depends upon the dates of our conformity IRC § 51 as follows:

Employees With Hire Dates	IRC Conformity Year	
After 12/31/2005	2005	No Reduction
01/01/2005-12/31/2005	2005	Reduction
07/01/1998-12/31/2004	2001 1998	No Reduction No Reduction
On or before 06/30/1998	1998	Reduction

2520 Wage Expense Reduction

References 17053.74(h); 23622.7(h)

The taxpayer must reduce any deduction for wages by the amount of the EZ hiring credit allowed (includes any current year credit carried forward).

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CALIFORNIA FRANCHISE TAX BOARD

2530 Business Income Activity Limitation

References 17053.74(j); 23622.7(j)

The amount of the hiring credit or the sales or use tax credit claimed (Section 3000), including any credit carryover from prior years, may not exceed the amount of tax on the taxpayer's EZ business income in any tax year. The EZ business income is that portion of the taxpayer's California source business income apportioned to the EZ. Non-business income or loss is not included in the calculation of business income from the EZ. Each taxpayer claiming the credit must compute the EZ business income and resulting tax.

Example: Corporation A operates entirely within an EZ. In order to determine the amount of hiring credit allowable, the business income and the tax on that business income must be determined. Corporation A has the following items of income and expense:

Income from business operations	\$30,000
Interest from investment which is unrelated to business operations	2,000
Business expenses	<u>(17,000)</u>
Net taxable income before taxes	\$15,000

Corporation A's income attributed to business operations is:

Income from business operations	\$30,000
Business expenses	<u>(17,000)</u>
Net Business Income	\$13,000

To determine the EZ hiring credit allowable, the net business income is multiplied by the current tax rate.

Net Business Income	\$13,000
x 8.84%	<u>x .0884</u>
Tax associated with business income	\$1,149

In this example, the taxpayer can offset the tax with the hiring credit available up to \$1,149.

Note: Net tax/tax and alternative minimum tax impose limitations on the allowable offset but were not considered a factor in this example.

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CALIFORNIA FRANCHISE TAX BOARD

2540 General Provisions – Apportionment of Business Income

References 17053.74(j)(2)&(3); 23622.7(j)(2)&(3)

If a business is located within and outside of an EZ or in more than one zone, the taxpayer must determine the portion of the business income that is attributable to each EZ.

- Business income is defined under the provisions of the Uniform Division of Income for Tax Purposes Act (UDITPA).
- Components of the factors are defined under the provisions of UDITPA.

For taxable years beginning on or after January 1, 1998, apportion business income to the EZ by multiplying the taxpayer's total California source business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two (2).

Note: For taxable years ending on or before December 31, 1997, refer to Sections 5700-5715.

Example: For the taxable year ending 12/31/2004, Corporation A operates within and outside an EZ. California business income of \$13,000 must be apportioned to the EZ. The following amounts apply to Corporation A's property and payroll:

EZ Property	\$	40,000
CA Property	\$	<u>100,000</u>
EZ Property/CA Property		0.40
EZ Payroll	\$	5,000
CA Payroll	\$	<u>10,000</u>
EZ Payroll/CA Payroll		0.50
Total EZ Factor (Property + Payroll)		<u>0.90</u>
EZ Apportionment Factor (90% / 2)		0.45
Business Income	\$	13,000
EZ Apportionment Factor		x <u>0.45</u>
EZ Business Income	\$	5,850
Current Tax Rate		x <u>.0884</u>
Tax Attributable to EZ	\$	517

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CALIFORNIA FRANCHISE TAX BOARD

Example: For the taxable year ending 12/31/2004, Corporation B operates in multiple locations, and in two EZs. California business income of \$200,000 must be apportioned to each of the EZs. The following amounts apply to Corporation B's property and payroll:

	EZ 1	EZ 2
EZ Property	\$ 40,000	\$ 20,000
CA Property	<u>\$100,000</u>	<u>\$ 100,000</u>
EZ Property/CA Property	0.40	0.20
EZ Payroll	\$ 5,000	\$ 3,000
CA Payroll	<u>\$ 10,000</u>	<u>\$ 10,000</u>
EZ Payroll/CA Payroll	0.50	0.30
Total EZ Factor (Property + Payroll)	<u>0.90</u>	<u>0.50</u>
EZ Apportionment Factor / 2	0.45	0.25
CA Business Income	200,000	200,000
EZ Apportionment Factor	<u>0.45</u>	<u>0.25</u>
EZ Income (Business Income x EZ Factor)	\$ 90,000	\$ 50,000
Current Tax Rate	x <u>.0884</u>	x <u>.0884</u>
Tax Attributable To Each EZ	\$ 7,956	\$ 4,420

2541 Property Factor – Income Apportionment

The property factor is a fraction. The numerator of the property factor is the average value of the real and tangible personal property owned or rented and used or available for use by the taxpayer within the EZ during the taxable year.

The denominator is the average value of all real and tangible personal property owned or rented and used or available for use by the taxpayer during the taxable year within California.

Rented property is valued at eight (8) times the net annual rental rate. The net annual rental rate is the total rent paid for the property, less any sub rental rates paid by subtenants.

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2542 Payroll Factor – Income Apportionment

The payroll factor is a fraction. The numerator of the payroll factor is the total compensation paid to the taxpayer's employees working within the EZ during the taxable year.

The denominator is the total compensation paid to employees working for the taxpayer in California during the taxable year.

2544 Apportionment – Combined Groups

For members of a combined group, the limitation is based on the intrastate apportioned business income for each taxpayer doing business within the EZ. The numerator of the apportionment formula is based on each EZ taxpayer's separate (EZ) property and payroll amounts and the denominator is based on each (EZ) taxpayer's separate California property and payroll amounts.

Example: For the taxable year ending 12/31/2004, parent corporation A has two subsidiaries, B and C. Corporations A and B operate within the EZ. The combined group operates within and outside California and apportions its income to California using Schedule R. Assume the combined group's business income apportioned to California was \$1,000,000 and corporation A and B's share of California business income is \$228,000 and \$250,000 respectively. Corporation A and B's separate EZ and separate California property and payroll factor amounts are shown below.

Business income apportioned to the EZ was determined as follows:

	A	B
<u>Property Factor</u>		
EZ Property	\$1,000,000	\$ 800,000
California Property	\$1,000,000	\$1,200,000
Apportionment %	100%	66.66%
 <u>Payroll Factor</u>		
EZ Payroll	\$800,000	\$ 800,000
California Payroll	\$800,000	\$1,000,000
Apportionment %	100%	80%
 Average Apport. % (Property + Payroll Factors)/2	 100%	 73.33%

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CALIFORNIA FRANCHISE TAX BOARD

Apportioned		
Business Income	\$228,000	\$250,000
EZ Income	\$228,000	\$183,333

Note: Corporations operating in multiple EZs must compute the business income activity limitation for each EZ (see example Section 2540)

2545 Apportioning for Personal Income Tax Taxpayers

The following examples show the application of the apportioning rules to personal income tax taxpayers.

Example: Ray Smith is vice president of an S corporation that has two locations, one within an EZ and one outside the EZ. Eighty percent (80%) of the S corporation’s business is attributable to the EZ.

Note: This percentage was determined by the S corporation, using Worksheet V from the FTB 3805Z Business Booklet, at the time the S corporation return was prepared). Ray divides his time equally (50% & 50%) between the two offices of the S corporation.

Mary Smith (Ray's spouse) works for the S corporation at its office located in the EZ.

Ray and Mary Smith have the following 2004 items of California income and expense:

Ray's salary from the S corp.	\$100,000
Mary’s salary from the S corp.	75,000
Interest on savings account	1,000
Dividends	3,000
Schedule K-1(100S) from the S corp.	
Ordinary income	40,000
EZ business expense deduction	(5,000)*
Ray's unreimbursed employee expenses from Schedule A	(2,000)

*The EZ business expense deduction is a separately stated item on Schedule K-1 (100S).

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CALIFORNIA FRANCHISE TAX BOARD

The Smith's EZ income is computed as follows:

Ray's EZ salary (\$100,000 x 50%)	\$50,000
Mary's EZ salary (\$75,000 x 100%)	75,000
Pass-through ordinary income from the S-Corp. (\$40,000 x 80%)	32,000
EZ business expense deduction from the S-Corp.	(5,000)
Ray's unreimbursed employee business expenses (2,000 x 50%)	<u>(1,000)</u>
Total EZ income	\$151,000

Ray and Mary must compute the tax on the total EZ income of \$151,000 (as if it represents all of their income). Using the tax rate schedule for the filing status married filing joint; the 2004 tax on \$151,000 is \$10,091. The \$10,091 is the first limitation on EZ credits for the 2004 tax year. The second limitation on the credits is the net tax on all income.

Note: The standard deduction and personal or dependency exemptions are not included in the computation of EZ income since they are not related to trade or business activities.

2550 S Corporations

References 23803(a)(1)(A); 23803(a)(1)(F)

An S corporation's hiring credit may reduce the EZ tax at both the corporate and shareholder levels. However, the S corporation may only use one-third (1/3) of the credit to reduce the tax on the S corporation's EZ income.

One hundred percent (100%) of the EZ credit is passed through to the S corporation shareholders. The full amount of the credit is reported on Schedule K (100S) and passed through to the shareholders on Schedules K-1 (100S).

The wage reduction for the S corporation is equivalent to the 1/3 credit amount. The wage reduction for the shareholders is 100% of the credit amount, equal to the amount of credit passing through to them.

Example: An S corporation computes a \$3,000 hiring credit. The S corporation's credit is \$1,000 and the wage reduction is \$1,000. The \$3,000 credit is passed through to the S corporation's shareholders, and the wage reduction recognized by the shareholders is \$3,000.

CALIFORNIA FRANCHISE TAX BOARD

2600 Credit Usage & Carryover

References 17039(d); 17053.74(i); 17053.74(j)(1); 17053.74(j)(4); 23036(f); 23622.7(i); 23622.7(j)(1); 23622.7(j)(4)

The total amount of the EZ hiring credit and sales or use tax credit, including any credit carryover from prior years that may reduce the net tax/tax for the taxable year, shall not exceed the amount of tax imposed on the taxpayer's business income attributable to the EZ, determined as if that income represented all of the income of the taxpayer.

The portion of the credit that exceeds the net tax/tax for the taxable year may be carried over and added to the credit, if any, in the following year. The credit may be carried over to succeeding years until it is exhausted.

If a credit carryover remains after the EZ has expired, is no longer binding, or becomes inoperative, the EZ shall be deemed to remain in existence for purposes of computing the taxpayer's business income attributable to the EZ.

Example: A taxpayer has a \$4,900 EZ hiring credit. Tax imposed on EZ business income is \$4,700 and the taxpayer's overall net tax/tax is \$4,000. The taxpayer would be eligible to claim a \$4,000 maximum hiring credit.

Total hiring credit	\$4,900
Tax on EZ income	\$4,700
<u>First limitation:</u>	
Lesser of total credit or tax on EZ income	\$4,700
<u>Second limitation:</u>	
Lesser of tax on EZ income or "net tax"/"tax"	\$4,000
<u>Maximum credit allowed:</u>	
Lesser of EZ tax limitation or "net tax"/"tax" limitation	<u>\$4,000</u>
Total hiring credit	\$4,900
Maximum credit allowed	<u>\$4,000</u>
Carryover	\$ 900

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2610 Credit Will Not Reduce Certain Taxes

The EZ hiring credit cannot reduce the:

- Minimum franchise tax (corporations, limited partnerships, limited liability partnerships, LLCs, and S corporations).
- Built-in gains tax (S corporations).
- Excess net passive income tax (S corporation).
- The annual tax (partnerships, LLCs classified as partnerships, and Q Subs).
- Alternative minimum tax (corporations, exempt organizations, individuals and fiduciaries).

The EZ hiring credit can reduce the regular tax below tentative minimum tax (TMT) for taxable years beginning on or after January 1, 1993.

2620 Credit Recapture

References 17053.74(e)(1); 17053.74(e)(3); 23622.7(e)(1); 23622.7(e)(3)

2621 Non-Seasonal Employees

Recapture of the hiring credit is required if the employee is terminated before the end of the longer of the following two periods (unless an exception is met):

- The first 270 days of employment (whether or not consecutive).
- Ninety (90) days of employment plus 270 calendar days.

To recapture the credit the taxpayer must add to the current year's tax the amount of credit claimed for the year of termination, as well as all prior year credit claimed for the terminated employee.

2622 Seasonal Employees

For taxable years beginning on or after January 1, 1998, for seasonal employees, the taxpayer must recapture the amount of the credit if employment is terminated before the completion of 270 days of employment" during the 60-month period beginning the day the employee commences employment with the taxpayer except as subsequently discussed.

To recapture the credit the taxpayer must add the amount of credit previously claimed in all years to the tax for the tax year that includes the 60th month of employment.

For all employees, a day of employment includes any day the employee was paid to work, regardless of whether the employee actually worked (including paid holidays, sick days, and vacation days).

Note: Any increase in tax due to credit recapture cannot be offset by the current year hiring credit.

2623 Credit Recapture – Exceptions

References 17053.74(e)(2)(A); 17053.74(e)(2)(B); 23622.7(e)(2)(A); 23622.7(e)(2)(B)

For both regular and seasonal employees, the credit recapture will not apply if the termination was:

- Voluntary on the part of the employee.
- Caused by the employee becoming disabled.
- Due to employee misconduct.
- Due to a substantial reduction in business.
- In order to enable other qualified employees to be hired, creating an increase in the number of qualified employees and the hours of employment.

2624 Change in the Form of the Trade or Business

References 17053.74(e)(2)(C); 23622.7(e)(2)(C)

The employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business. If the employee continues employment in that trade or business and the taxpayer retains a substantial interest in that trade or business, the employee shall not be treated as terminated. In addition, transactions in which IRC § 381(a) applies will not trigger recapture if the employee continues employment by the acquiring corporation.

2700 Enterprise Zone Expiration

A large number of EZs expired in 2006 and 2007 (refer to Section 1200 for a complete listing of expired EZs). The EZ Hiring Credit is allowed for a full five-year period of employment from the date of hire for those qualified employees hired on or before the expiration date (regardless of the ending date of a taxpayer's taxable year). Wages paid to such employees after the expiration of the EZ will continue to qualify for the hiring credit as if the EZ designation were still in existence and binding (CR&TC § 17053.74(b)(1)(C); § 23622.7(b)(1)(C))

Credits incurred prior to the expiration of the EZ and subject to carryover will continue to be allowed after the expiration of the EZ. The limitation on use of the credit (limited to tax on income attributed to the zone, as if the zone were still in existence) will also remain in effect.

2800 Record Keeping Requirements

For each qualified employee, documentation showing:

- Voucher
- Employee name
- Date employee was hired
- Number of hours the employee worked for each month of employment
- Wage rate paid for each month of employment
- Schedule calculating the hiring credit
- Overtime hours
- Location where services were performed
- Date employee was terminated, and reason why