HOUSE BILL 632

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; CREATING A HIGH-WAGE JOBS TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

A. A taxpayer who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for wages paid to each eligible employee in a new high-wage job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The amount of the high-wage jobs tax credit that may be claimed and allowed is an amount equal to the sum of:

(1) five percent of the wages paid to each eligible employee in a new high-wage job, whose average annual wage for the qualifying period is at least one hundred ten percent but less than one hundred twenty-five percent of the

average annual wage in the county in which the job is performed or based; and

(2) ten percent of the wages paid to each eligible employee in a new high-wage job, whose average annual wage for the qualifying period is at least one hundred twenty-five percent of the average annual wage in the county in which the job is performed or based.

C. The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage job performed or based at a location in the following classes of municipalities and counties for the following number of qualifying periods:

(1) for three qualifying periods, if the job is performed or based at a location within the boundaries of a small municipality or outside municipal boundaries in a small county, which means a municipality or county with a population of less than fifteen thousand according to the most recent federal decennial census;

(2) for two qualifying periods, if the job is performed or based at a location within the boundaries of a medium-sized municipality or outside municipal boundaries in a medium-sized county, which means a municipality or county with a population of fifteen thousand or more but less than thirty thousand according to the most recent federal decennial census; or

(3) for one qualifying period, if the job is

performed or based at a location within the boundaries of a large municipality or outside municipal boundaries in a large county, which means a municipality or county with a population of thirty thousand or more according to the most recent federal decennial census.

D. A new high-wage job shall not be eligible for a credit pursuant to this section unless the eligible employer's total number of employees employed on the last day of the qualifying period at the location at which the job is performed or based is at least one more than the number on the day prior to the date the job was created.

E. With respect to each new high-wage job for which an eligible employer seeks the high-wage jobs tax credit, the employer shall certify:

(1) the amount of wages paid to each eligible employee in a new high-wage job during each qualifying period;

(2) the number of weeks the position was occupied during the qualifying period;

(3) whether the new high-wage job was in a small, medium-sized or large municipality or county as those terms are used in Subsection C of this section; and

(4) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period.

F. To receive a high-wage jobs tax credit with respect to any qualifying period, an eligible employer must apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification made pursuant to Subsection E of this section. If all the requirements of that subsection have been met, the taxation and revenue department may issue to the applicant a document granting a tax credit for the respective qualifying period. The tax credit document shall be numbered for identification and shall declare its date of issuance and the amount of high-wage jobs tax credit allowed for the respective new high-wage jobs created. Such tax credit documents may be sold, exchanged or otherwise transferred and may be carried forward for a period of three years from the date of issuance. The parties to the transaction shall notify the department of the sale, exchange or transfer within ten days of that sale, exchange or transfer.

G. The holder of a tax credit document may apply all or a portion of the high-wage jobs tax credit against the taxpayer's modified combined tax liability, personal income tax liability or corporate income tax liability. Any unused portion of the high-wage jobs tax credit may be carried forward for a period of up to three years from the date the credit was approved.

H. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, upon the request of an eligible employer who has received a high-wage jobs tax credit, the taxation and revenue department may disclose to any person the balance of high-wage jobs tax credit remaining on that employer's tax credit document and the balance of credit remaining on that document for any period.

I. As used in this section:

(1) "average annual wage in the county" means the average annual wage per job in the county as available in the most recent local area personal income data released by the bureau of economic analysis of the United States department of commerce;

(2) "eligible employee" means an individual who is employed by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the state or

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trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust; or

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer, or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust;

(3) "eligible employer" means an employer who made more than fifty percent of its sales to persons outside New Mexico during the most recent twelve months of the employer's modified combined tax liability reporting periods ending prior to claiming a high-wage jobs tax credit;

(4) "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross

receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the high-wage jobs tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes;

(5) "new high-wage job" means a job created by an eligible employer on or after July 1, 2003 and prior to July 1, 2008 that is occupied for at least forty-eight weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least one hundred ten percent of the average annual wage in the county in which the job is performed or based;

(6) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage job; and

(7) "wages" means wages as defined in Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c).

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2003.