

**Effective 5/12/2015**

**Part 8**  
**Technology and Life Science Economic Development Act**

**63N-2-801 Title.**

This part is known as the "Technology and Life Science Economic Development Act."

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-802 Definitions.**

As used in this part:

- (1) "Claimant" means the same as that term is defined in Section 59-10-1002.
- (2) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:
  - (a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-10-1025; and
  - (b) receives a tax credit certificate from the office in accordance with this part.
- (3) "Life science establishment" means the same as that term is defined in Section 59-10-1025.
- (4) "Tax credit" means a tax credit under Section 59-10-1025.
- (5) "Tax credit applicant" means a person that applies to the office to receive a tax credit certificate under this part.
- (6) "Tax credit certificate" means a certificate issued by the office that:
  - (a) lists the name of the tax credit certificate recipient;
  - (b) lists the tax credit certificate recipient's taxpayer identification number;
  - (c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and
  - (d) includes other information as determined by the office.
- (7) "Tax credit certificate recipient" means an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025.

Amended by Chapter 354, 2016 General Session

**63N-2-803 Tax credits issued by office.**

- (1) The office may issue tax credit certificates under this part only to the extent that the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates under this part for a fiscal year.
- (2)
  - (a) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit certificates in accordance with this part.
  - (b) For fiscal year 2016-17 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.
  - (c) For fiscal year 2017-18 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.
- (3) If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.

Amended by Chapter 354, 2016 General Session

**63N-2-804 Person may not claim or pass through a tax credit without tax credit certificate.**

A person may not claim or pass through a tax credit unless the person has received a tax credit certificate from the office for the taxable year for which the person claims or passes through the tax credit.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-805 Application process.**

- (1) A tax credit applicant may apply to the office to receive a tax credit certificate by filing an application with the office:
  - (a) on or before the quarterly deadline established by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (b) on a form and in the manner prescribed by the office.
- (2) The application shall include:
  - (a) tax return information as required by the office that is necessary for the office to determine eligibility for and the amount of a tax credit; and
  - (b) other documentation as required by the office.
- (3) As part of the application required by this section, a tax credit applicant shall sign a separate document that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit certificate recipient's tax returns and other information concerning the tax credit certificate that:
  - (a) would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
  - (b) are necessary for the office to determine eligibility for and the amount of a tax credit under this part.
- (4) Upon receipt of the document described in Subsection (3), the State Tax Commission shall provide the office with the tax returns and other information requested by the office that the tax credit applicant directed or authorized the State Tax Commission to provide to the office, including information necessary to determine eligibility for the amount of a tax credit.
- (5) If the office determines that the information a tax credit applicant provides is inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:
  - (a) deny the tax credit; or
  - (b) inform the tax credit applicant that the information is inadequate and ask the tax credit applicant to submit new or additional documentation.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-806 Criteria for tax credits.**

- (1) A tax credit applicant shall establish as part of the application required by Section 63N-2-805 that the tax credit applicant:
  - (a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate; and
  - (b) will provide a long-term economic benefit to the state.
- (2) The office may not issue a tax credit certificate to a tax credit applicant if:
  - (a) the tax credit applicant fails to meet the requirements of Subsection (1)(a); and

- (b) the life science establishment does not enter into an agreement described in Section 63N-2-808 with the office.

Amended by Chapter 354, 2016 General Session

**63N-2-807 Rulemaking authority.**

The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish:

- (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a manner consistent with this part; and
- (2) procedures for documenting the office's application of the criteria described in Subsection (1).

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-808 Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.**

- (1)
  - (a) The office, with advice from the board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.
  - (b) The agreement described in Subsection (1)(a) shall:
    - (i) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;
    - (ii) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and
    - (iii) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.
- (2)
  - (a) The office, with advice from the board, shall enter into an agreement with the life science establishment in which the tax credit applicant invested for purposes of claiming a tax credit.
  - (b) The agreement described in Subsection (2)(a):
    - (i) shall provide the office with a document that expressly and directly authorizes the State Tax Commission to disclose to the office the life science establishment's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
    - (ii) shall authorize the Department of Workforce Services to disclose to the office the employment data that the life science establishment submits to the Department of Workforce Services;
    - (iii) shall require the life science establishment to provide the office with the life science establishment's current capitalization tables; and
    - (iv) may require the life science establishment to provide the office with other data that:
      - (A) ensure compliance with the requirements of this chapter; and
      - (B) demonstrate the economic impact of the tax credit applicant's investment in the life science establishment.

Amended by Chapter 354, 2016 General Session

**63N-2-809 Issuance of tax credit certificates.**

- (1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax credit certificate to the tax credit applicant:
  - (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office;
  - (b) for two taxable years immediately following the taxable year described in Subsection (1)(a); and
  - (c) for the seven taxable years immediately following the last of the two taxable years described in Subsection (1)(b) if:
    - (i) the agreement with the office described in Section 63N-2-808 includes a provision that the tax credit applicant will make new capital expenditures of at least \$1,000,000,000 in the state; and
    - (ii) the tax credit applicant makes new capital expenditures of at least \$1,000,000,000 in the state in accordance with the agreement with the office described in Section 63N-2-808.
- (2) The office shall provide a duplicate copy of each tax credit certificate to the State Tax Commission.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-810 Reports on tax credit certificates.**

The office shall include the following information in the annual written report described in Section 63N-1-301:

- (1) the total amount listed on tax credit certificates the office issues under this part;
- (2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and
- (3) the economic impact on the state related to providing tax credits under this part.

Amended by Chapter 1, 2016 Special Session 3

**63N-2-811 Reports of tax credits.**

- (1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) the total amount listed on tax credit certificates the office issues under this part; and
  - (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.
- (2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) each new agreement entered into by the office since the last report;
  - (b) the total amount listed on tax credit certificates the office issues under this part; and
  - (c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

Renumbered and Amended by Chapter 283, 2015 General Session