

EDUCATIONAL IMPROVEMENT TAX CREDIT (EITC)

Frequently Asked Questions — a Guide for the Business Community

What is the Educational Improvement Tax Credit (EITC)?

The EITC, established by Act 4 (H.B. 996, P.N. 1878, Session 2001), potentially allows businesses to significantly reduce their state tax liability (e.g., Corporate Net Income Tax, Capital Stock Franchise Tax, Bank and Trust Company Shares Tax, Title Insurance Companies Shares Tax, Insurance Premiums Tax, Mutual Thrift Institution Tax) by contributing/donating (cash, personal property, or services) to a nonprofit educational improvement or nonprofit scholarship organization.

The EITC program is administered by the Department of Community and Economic Development (DCED) on a first-come-first-serve basis. Total tax credits approved shall not exceed \$30 million in a fiscal year (with no less than \$20 million for contributions to scholarship organizations, and no less than \$10 million for contributions to educational improvement organizations).

Who may receive an Educational Improvement Tax Credit?

An EITC may be granted to a business providing proof of a donation to a scholarship organization or educational improvement organization equal to 75% of the total amount contributed during the taxable year by the business. A tax credit may be granted equal to 90% of the total amount contributed, if the business provides a written commitment to contribute the same amount for two consecutive years. Tax credits shall not exceed the tax liability of a business for a given taxable year, nor shall credits exceed \$100,000 annually per business. A tax credit must be applied in the taxable year the contribution is made. Unused portions of tax credits may not be carried forward or backward.

How do you apply for an Educational Improvement Tax Credit?

A business must complete and submit an EITC application annually with DCED, which will then determine whether the firm qualifies for the credit. Applications are processed by DCED on a first-come-first-serve basis by day submitted. All applications received on a specific day will be processed by DCED on a random basis before moving onto the next day's applications. A confirmation letter will be sent by DCED to confirm the business's status (approval or disapproval).

When does a business that commits to the same contribution for two consecutive years apply for the EITC in the second year?

Applications for the second year of a two-year contribution commitment will be accepted beginning May 15 of the applicable year, and if received by DCED on or before July 1, will be processed prior to any other applications for tax credits received by the Department of Community and Economic Development. Applications for the second year of a two-year commitment received after July 1, will be processed on a first-come-first-serve basis by day submitted, along with all other business applications received for that fiscal year.

Must I Contact the PA Department of Revenue upon receipt of notification of the credit?

No, DCED will acknowledge the credit following confirmation of the qualified contribution. DCED will simultaneously provide the PA Department of Revenue with a copy of your confirmation letter. The PA Department of Revenue will immediately post the credit to the taxable year in which the contribution was made and will consider tax credits awarded under this program to be effective on

the first day of the taxable year. Therefore, the credit will generally be on record well before the filing of the applicable tax report.

How do I claim the credit when filing a Corporate Tax Report?

On the face page of the Corporate Tax Return there is a matrix in which you record the tax liability, payments and credits of record. You may include the EITC in the payment/credit column.

Must I adjust Federal taxable income for the amount of approved EITC in the calculation of Pennsylvania taxable income?

No. Unlike Employee Incentive Tax Credit, there is no provision in the statute requiring an adjustment to Federal taxable income for the amount of EITC for purposes of calculating Pennsylvania taxable income. However, questions regarding how an EITC might affect Federal taxable income for Federal taxation purposes should be addressed to the Internal Revenue Service (IRS).

May I elect to not use a net operating loss deduction in the calculation of the businesses corporate taxes?

No. There is no provision in the statute that modifies the calculation of Capital Stock Franchise Tax or Corporate Net Income Tax.

Which is used first to pay the tax, the EITC or cash?

Generally, the EITC will be employed first, to offset taxes owed for the year in which the qualifying contribution occurred. The remaining tax deficiency (if any) will then be resolved using cash monies on deposit in the account.

I had submitted cash payments to satisfy quarterly prepayment requirements. Can the EITC be used to substitute for the cash payments?

Yes, any cash payment submitted as prepayment of taxes is available for refund or transfer upon written request to the PA Department of Revenue, Bureau of Corporation Taxes, Accounting Division, Department 280701, Harrisburg, PA 17128-0701, ATTN: Refund Section.

May I assign all or a portion of the EITC to another account?

No, this credit is nontransferable and nonrefundable. Application of the EITC is limited to taxes due in the year in which the qualified contribution occurred. The PA Department of Revenue will monitor business's account and evaluate the appropriate application of the credit upon receipt of the appropriate tax report. Any EITC in excess of the self-assessed tax value will be removed from the account. The PA Department of Revenue will again revisit the business's account following settlement (review of the tax report) at which time the PA Department of Revenue will reinstate the credit, if appropriate, or remove further amounts of credit should the business's tax be reduced.

May I transfer all or a portion of the EITC within a business's account for a prior or future year tax liability?

No, the credit is limited to the taxable year in which the qualified contribution was made. Unused portions of the credit may not be carried forward or backward.

Who can I call to verify postings of credits approved by DCED?

You can call the PA Department of Revenue, Bureau of Corporation Taxes, Accounting Division to review the status of the business's tax account. The telephone number is (717) 705-6225.

Who do I call regarding the status of my application for EITC?

Contact Mr. Ted Knorr of DCED at (717) 720-1420.

I promise to provide the same contribution to a qualified organization for 2 consecutive years and receive a credit for 90 percent of the qualified contributions made in the first year. Subsequently I do not fulfill my promise to sustain the same level of contribution in the second taxable year. Is the amount of EITC credit adjusted in year one?

Yes, to sustain the 90 percent level, the business must fulfill its promise to sustain the same level of contribution to a qualified organization for two consecutive years. The PA Department of Revenue will be notified by DCED if this promise is not fulfilled. Upon notification, the PA Department of Revenue will adjust the amount of credit awarded in year one to be 75 percent of the qualified contribution. Should that adjustment create an unpaid tax balance, you, the taxpayer, will be subject to satisfying that unpaid tax by cash payment or the transfer of other available credits within your business's tax account. Interest on the late payment will be imposed from the annual due date of the tax period to the date repaid.

It is also possible that you will be subject to an underpayment penalty for failure to adequately and/or timely prepay your taxes.

The PA Department of Revenue will not make an adjustment where DCED has waived the repayment requirement based on the finding that the failure to make the 2nd. year payment is deemed to be due to unusual circumstances beyond the control of your business.