

## **Frequently Asked Questions Regarding the Engineer Tax Credit Program for the Oklahoma Aerospace Industry**

(UPDATE as of 10/11/2010): During the 2010 legislative session, state lawmakers placed the following moratorium on the Aerospace Industry Engineer Tax Credits:

No tax credit may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the engineer tax credit would otherwise be allowable. Beginning July 1, 2012, the tax credit may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012.

Below are the emergency rules that enforce the moratorium. Please note the portion that is underlined.

### **Emergency Rules:**

**710:50-15-109. Credit for qualified employers and employees of the aerospace sector**

(a) **General provisions.** For tax years beginning after December 31, 2008 three (3) credits are allowed against the tax imposed by Section 2355 of Title 68 for the employment of qualified employees in the aerospace sector. The three (3) credits are as follows:

- (1) Credit for qualified employers for tuition reimbursement to qualified employees.
- (2) Credit for qualified employers for compensation paid to qualified employees.
- (3) Credit for qualified employees.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "**Aerospace sector**" is a private or public organization that is:
  - (A) a manufacturer of aerospace or defense hardware and/or software;
  - (B) provides aerospace maintenance, repair or overhaul;
  - (C) supplies parts to the aerospace industry;
  - (D) provides services and/or support relating to the aerospace industry;
  - (F) provides research and development of aerospace technology and systems, or
  - (G) provides education or training of aerospace personnel.
- (2) "**Compensation**" includes salary or other remuneration, wages subject to withholding tax paid to either a part-time employee or full-time employee and payments in the form of contract labor for which the payor is required to provide a Form 1099 to the person paid. Compensation does not include any employer-provided benefits, including but not limited to retirement, medical or health-care benefits; reimbursement for travel, meals, lodging or any other expense.
- (3) "**Institution**" is any institution included within The Oklahoma State System of Higher Education or any other public or private college or university that is accredited by a national accrediting body.
- (4) "**Qualified employer**" is an entity whose principal business activity involves the aerospace sector. This includes sole proprietors, general partnerships, limited partnerships, limited liability companies, corporations, or any other legally recognized business entity, or public entity.
- (5) "**Qualified employee**" is any person newly employed by or contracting with a qualified employer on or after January 1, 2009 employed in Oklahoma. Further, the person must have been awarded an undergraduate or graduate degree from a qualified program by an institution. Qualified employees do not include person employed in the aerospace sector in this state immediately preceding employment or contracting with a qualified employer.
- (6) "**Qualified program**" is any program that awards undergraduate or graduate degrees and has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET)
- (7) "**Tuition**" is the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program. Tuition does not include the cost of books, any other fees or the cost of room and board.

(c) **Credit for tuition reimbursement.**

- (1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes based on the amount of tuition reimbursed to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.
- (2) The credit for tuition reimbursement may only be claimed if the qualified employee

has been awarded an undergraduate or graduate degree within one (1) year of starting employment with the qualified employer. The undergraduate or graduate degree must be from a qualified program.

(3) The credit for tuition reimbursement is equal to fifty percent (50%) of the tuition reimbursed to a qualified employee and may be claimed for the first through fourth years of employment with the qualified employer. The credit is only allowed to be claimed in the tax year that the tuition was reimbursed to the qualified employee and may not exceed in any taxable year fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

(4) The credit for tuition reimbursement may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for tuition reimbursement may not be claimed after the fourth year of employment of the qualified employee.

**(d) Credit for compensation paid.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for compensation paid to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for compensation paid equals:

(A) Ten percent (10%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located in this state.

(B) Five percent (5%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located outside this state.

(3) The credit for compensation paid cannot exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) for each qualified employee annually.

(4) The credit for compensation paid may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for compensation paid may not be claimed after the fifth year of employment.

**(e) Credit for qualified employees.**

(1) For taxable years beginning after December 31, 2008, a qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes of up to Five Thousand Dollars (\$5,000.00) per year for a period of time not to exceed five (5) years.

(2) The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(3) Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

**(f) Tax credit moratorium.**

(1) No credit may be claimed for any tuition reimbursed by a qualified employer to a qualified employee for the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. For example:

(A) Qualified employee is hired by qualified employer on January 1, 2010. Qualified employer may receive a tax credit for tuition reimbursed from January 1, 2010 to June 30, 2010. Qualified employer shall not receive a tax credit for tuition reimbursed for the period of July 1, 2010 to June 30, 2012. Qualified

employer may receive a tax credit for tuition reimbursed for the period of July 1, 2012 to December 31, 2013. Qualified employer shall not receive a tax credit for tuition reimbursed to the qualified employee on or after January 1, 2014 because it is outside the four (4) year limitation.

(B) Qualified employee is hired by qualified employer on July 1, 2010. Qualified employer shall not receive a tax credit for tuition reimbursed for the period of July 1, 2010 to June 30, 2012. Qualified employer may receive a tax credit for tuition reimbursed for the period of July 1, 2012 to June 30, 2014. Qualified employer shall not receive a tax credit for tuition reimbursed to the qualified employee on or after July 1, 2014 because it is outside the four (4) year limitation.

(2) No credit may be claimed for compensation paid to a qualified employee for the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. For example:

(A) Qualified employee is hired by qualified employer on January 1, 2010. Qualified employer may receive a tax credit for compensation paid for the period of January 1, 2010 to June 30, 2010. Qualified employer shall not receive a tax credit for compensation paid for the period of July 1, 2010 to June 30, 2012. Qualified employer may receive a tax credit for compensation paid for the period of July 1, 2012 to December 31, 2014. Qualified employer shall not receive a tax credit for compensation paid to a qualified employee on or after January 1, 2015 because it is outside the five (5) year limitation.

(B) Qualified employee is hired by qualified employer on July 1, 2010. Qualified employer shall not receive a tax credit for compensation paid for the period of July 1, 2010 to June 30, 2012. Qualified employer may receive a tax credit for compensation paid for the period of July 1, 2012 to June 30, 2015. Qualified employer shall not receive a tax credit for compensation paid to a qualified employee on or after July 1, 2015 because it is outside the five (5) year limitation.

(3) No credit may be claimed by a qualified employee for the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. For example:

(A) Qualified employee is hired by qualified employer on January 1, 2010. Qualified employee may receive an income tax credit for tax years 2010, 2012, 2013 and 2014. Employee shall not receive an income tax credit for tax year 2011 due to the tax credit moratorium. Employee shall not receive an income tax credit for tax year 2015, or subsequent tax years, due to the five (5) year limitation.

(B) Qualified employee is hired by qualified employer on July 1, 2010. Qualified employee may receive an income tax credit for tax years 2012, 2013 and 2014. Employee shall not receive a tax credit for tax years 2010 and 2011 due to the tax credit moratorium. Employee shall not receive a tax credit for tax year 2015, or subsequent tax years, due to the five (5) year limitation.

**Below are the frequently asked questions concerning the original tax credits:**

**1. What is the purpose of the program and what does it do?**

**It provides income tax credits to engineers hired by or contracting with aerospace companies after December 31, 2008, and the companies that hire them, with the**

**purpose of enhancing the state's ability to attract and retain a top-notch workforce pool for the Oklahoma aerospace industry.**

**2. When did the program become effective?**

**January 1, 2009**

**However, a moratorium was placed on the tax credit on Jul 1, 2010. The moratorium expires on Jul 1, 2012.**

**3. What are the specific tax credits?**

**a. Employee Tax Credit**

**Provides an income tax credit for qualified employees of up to \$5,000 per year for a maximum of 5 years. Any amount of unused credit can be carried over to the following year. If there is still an amount of credit remaining after 5 years, that unused amount may be carried over to subsequent years. However, the qualified employee stops accruing the \$5,000 tax credit per year after the 5<sup>th</sup> year.**

**b. Employer Tax Credit for Compensation Paid**

**Provides an annual income tax credit of up to 5 years for qualified employers of 10% of the compensation paid to a qualified employee if the employee received his degree from a university or college in Oklahoma and 5% if the employee received his degree from outside Oklahoma. This credit cannot exceed \$12,500 for each qualified employee annually.**

**c. Employer Tax Credit for Tuition Reimbursement**

**Provides an annual income tax credit of up to 4 years for qualified employers for tuition reimbursed to qualified employees. This credit shall be 50% of the tuition reimbursed to a qualified employee but cannot exceed 50% of the average annual tuition in a qualified program at a public university in Oklahoma. This credit may only be claimed if the qualified employee received his undergraduate or graduate degree within 1 year of beginning employment with the qualified employer.**

*Note: None of these income tax credits may be used to reduce the tax liability of the qualified employee or qualified employer to less than zero.*

#### **4. Who qualifies for these tax credits?**

The legislation (House Bill 3239) provides that “qualified employees” and “qualified employers” may claim these tax credits.

- a. A “qualified employee” is any person hired by or contracting with a “qualified employer” after December 31, 2008, who has been awarded an undergraduate or graduate degree from a “qualified program” by a college or university, and who was not employed in the aerospace sector in this state immediately preceding employment or contracting with a qualified employer. Aerospace, mechanical, industrial, electrical engineers in addition to other that are qualified employees are also eligible for these tax credits.
- b. A “qualified employer” is any legally recognized business entity such as a general or limited partnership, or a corporation, or a public entity whose principal business activity involves the aerospace sector.
- c. A “qualified program” is a program that has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, and awards an undergraduate or graduate degree. A 2-year Associate’s Degree does not qualify.

**5. With respect to the compensation-based tax credit for the qualified employers, is there a cap on the number of qualified employees (engineers) the employer can claim on an annual basis?**

**No.**

**6. What agency will administer this tax credit program?**

The Oklahoma Tax Commission -- call (405) 521-3160.

**7. Where are the tax guidelines that define the eligibility for this tax credit? What forms need to be filled out and to whom are they submitted? What additional documentation is required and when is it due? How do I file my Oklahoma Tax return as it pertains to this incentive?**

The Oklahoma Tax Commission has prepared guidelines (rules) that are described on the following tax forms used to file for this credit.

- Form 564 – “Credit for Employees in the Aerospace Sector” – tax form is located at: [www.tax.ok.gov/it2010/564-10.pdf](http://www.tax.ok.gov/it2010/564-10.pdf)
- Form 565 – “Credits for Employers in the Aerospace Sector” – tax form is located at: [www.tax.ok.gov/it2010/565-10.pdf](http://www.tax.ok.gov/it2010/565-10.pdf)

Once again, if you have questions concerning the preparation of your tax return and claiming these credits, contact your tax preparer or the Oklahoma Tax Commission at the contact information provided above.

**8. Will this lower my taxable income or my tax liability?**

**These are income tax credits; therefore, they will reduce your tax liability. That is much better for you, the taxpayer.**

**9. What happens to the tuition rebate and the employee tax credit if an employee moves to another company within the first four years of his/her employment?**

**If the new employer gives a tuition rebate, the tax credit base upon that rebate applies until a total of four years of credit for the employee is reached. Also, if you are working for an Oklahoma aerospace company and subsequently get hired by a second Oklahoma company, you do not qualify for the tax credit.**

**10. Can I resign from my current job with an Oklahoma aerospace company and get rehired by the same company, therefore, qualifying me for this tax credit?**

**An engineer choosing this path would not qualify in view of the language in the law defining a “qualified employee.” If a reasonable amount of time passes before the engineer is rehired (2-3 months), the engineer will qualify for the tax credit because it would not violate the “immediately preceding” requirement in the definition of “qualified employee.”**

**11. Where can I find more information?**

**The Oklahoma Aeronautics Commission at (405) 604-6900 or [oac@oac.ok.gov](mailto:oac@oac.ok.gov)**

**12. Where can I read House Bill 3239 that establishes this tax credit program?**

**The Oklahoma Aeronautics Commission website, [www.aeronautics.ok.gov](http://www.aeronautics.ok.gov), or the Oklahoma Aerospace Alliance website, [www.okaero.com](http://www.okaero.com)**

### ***SPECIAL NOTES:***

***The information included in this FAQ is not based upon an official interpretation or rules of the Oklahoma Tax Commission.***

***The information included in this FAQ is current as of January 26, 2010.***