

1 AN ACT relating to the selling farmers tax credit.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 154.60-040 is amended to read as follows:

4 (1) ***As used in this section:***

5 ***(a) 1. "Agricultural assets" means:***

6 ***a. Agricultural land which has been appraised by an individual***
7 ***certified by the Real Estate Appraisers Board created under KRS***
8 ***324A.015; and***

9 ***b. Buildings, facilities, machinery, equipment, agricultural***
10 ***products, or horticultural products, if:***

11 ***i. Owned by the same selling farmer owning the agricultural***
12 ***land sold to a beginning farmer;***

13 ***ii. Purchased at the same time and in the same transaction***
14 ***with the agricultural land; and***

15 ***iii. Purchased with the intent to be used on the purchased***
16 ***agricultural land.***

17 ***2. "Agricultural assets" does not mean:***

18 ***a. A personal residence or any other residential structures; and***

19 ***b. Any agricultural assets that have been previously included in an***
20 ***approved application for the Kentucky selling farmer tax credit;***

21 ***(b) "Agricultural land" means:***

22 ***1. Any land located entirely in Kentucky that is zoned or permitted for***
23 ***farming, if the jurisdiction where the land is located has enacted an***
24 ***ordinance for zoning or permitting; and***

25 ***2. a. Is a tract of land of at least ten (10) contiguous acres in area for***
26 ***a farming operation for agricultural products; or***

27 ***b. Is a tract of land of at least five (5) contiguous acres in area for a***

1 farming operation for aquaculture or horticultural products;
2 owned by the selling farmer prior to the sale;

3 (c) "Agricultural products" means:

4 1. Livestock or livestock products;

5 2. Poultry or poultry products;

6 3. Milk or milk products; or

7 4. Field crops and other crops, including timber if approved by the
8 authority;

9 (d) "Aquaculture" means the farming of fish, crustaceans, mollusks, aquatic
10 plants, algae, or other similar organisms;

11 (e) "Farm product" means aquaculture, agricultural products, or horticultural
12 products;

13 (f) 1. "Farming operation" means the management and operation of
14 agricultural assets for the purpose of pursuing a profitable
15 commercial business venture to produce agricultural products,
16 horticultural products, or both for sale.

17 2. "Farming operation" does not mean any:

18 a. Hobby farm, as determined by the Internal Revenue Service;

19 b. Non-profit venture;

20 c. Farm used primarily for storing agricultural products or
21 horticultural products; or

22 d. Farm used to grow or raise agricultural products or
23 horticultural products primarily for use by the immediate family
24 members or owners of the agricultural assets;

25 (g) "Horticultural products" means orchards, fruits, vegetables, nuts, flowers,
26 or ornamental plants; and

27 (h) "Immediate family member" means any of the following in relation to any

1 owner or spouse of the owner of the agricultural assets:

2 1. Parent or grandparent;

3 2. Children or their spouses; or

4 3. Siblings or their spouses.

5 (2) Any incentive offered to an eligible company under the selling farmer tax credit
 6 program shall be negotiated by Cabinet for Economic Development officials and
 7 shall be subject to approval by the authority.

8 (3) The purpose of the selling farmer tax credit program is to promote the continued
 9 use of agricultural land in Kentucky for farming purposes by granting a tax
 10 credit to a selling farmer who agrees to sell agricultural assets to a beginning
 11 farmer.

12 (4) Selling farmers wanting to sell agricultural assets may be eligible for a tax credit
 13 up to five percent (5%) of the selling price of qualifying agricultural assets,
 14 subject to:

15 (a) A twenty-five thousand dollar (\$25,000) cap for each taxable year of the
 16 selling farmer;

17 (b) A one hundred thousand dollar (\$100,000) lifetime cap for each selling
 18 farmer; and

19 (c) A proration by the authority based on the overall cap shared between the
 20 small business tax credit program and the selling farmer tax credit program
 21 cap of three million dollars (\$3,000,000) under KRS 154.60-020.

22 (5) The tax credit allowed in subsection (4) of this section may be claimed under
 23 Section 2 of this Act.

24 (6) In order to be eligible to receive approval for a tax credit, a selling farmer shall
 25 have], at a minimum:

26 (a) 1. a. Be registered with the Kentucky Secretary of State; and

27 b. Be in good standing with the Kentucky Secretary of State; or

- 1 2. If not required to be registered with the Kentucky Secretary of State,
- 2 be a resident of Kentucky;
- 3 (b) Prior to a sale of agricultural assets, be a small business with fifty (50) or
- 4 fewer full-time employees and be the sole legal owner of agricultural assets
- 5 sold to a beginning farmer;
- 6 (c) Not be a farm equipment dealer, livestock dealer, or similar entity primarily
- 7 engaged in the business of selling agricultural assets for profit and not
- 8 engaged in farming as a primary business activity;
- 9 (d) Not be a bank or any other similar lending or financial institution;
- 10 (e) Not be:
 - 11 1. An owner, partner, member, shareholder, or trustee;
 - 12 2. A spouse of an owner, partner, member, shareholder, or trustee;
 - 13 3. An immediate family member of any of the owners, partners,
 - 14 members, shareholders, or trustees;
 - 15 of the beginning farmer to whom the selling farmer is seeking to sell
 - 16 agricultural assets;
- 17 (f) 1. Demonstrate~~[Demonstrated the active use,]~~ management~~[,]~~ and
- 18 operation of real and personal property for the production of a farm
- 19 product;
- 20 2. Execute~~[Executed]~~ and effectuate~~[effectuated]~~ a purchase contract to
- 21 sell agricultural land with a beginning farmer for an amount evidenced
- 22 by an appraisal; and
- 23 (g)(b) Sell, convey, and transfer~~[Sold, conveyed, and transferred]~~ ownership
- 24 of related agricultural~~[land and]~~ assets to a beginning farmer.
- 25 (7) In order for the selling farmer to qualify for the tax credit, a beginning farmer
- 26 shall, at a minimum:
- 27 (a) 1. a. Be registered with the Kentucky Secretary of State; and

- 1 *b. Be in good standing with the Kentucky Secretary of State; or*
 2 *2. If not required to be registered with the Kentucky Secretary of State,*
 3 *be a resident of Kentucky;*
- 4 *(b) Possess all licenses, registrations, and experience needed to legally operate*
 5 *a farming operation within the jurisdiction for the agricultural land*
 6 *purchased from a selling farmer;*
- 7 *(c) Not previously held an ownership interest in agricultural land used for a*
 8 *farming operation for a period exceeding ten (10) years prior to entering*
 9 *into an agreement to purchase agricultural assets from a selling farmer;*
- 10 *(d) Not have an ownership interest in any of the agricultural assets included in*
 11 *the transaction with the selling farmer; and*
- 12 *(e) Provide a majority of the management, and materially participate in the*
 13 *operation of a for-profit farming operation located in Kentucky and*
 14 *purchased from a selling farmer, with the intent to continue a for-profit*
 15 *farming operation on the purchased agricultural land for a minimum of*
 16 *five (5) years after the sale date.*

17 ~~(8)~~~~(2)~~ The selling farmer shall submit an application after consummation of the sale,
 18 transfer of title, and conveyance of agricultural~~[a farm and farming]~~ assets together
 19 with all information necessary for the authority to determine eligibility for the tax
 20 credit.

21 ~~(9)~~~~(3)~~ An application for the selling farmer ~~[farmer small business]~~ tax credit shall
 22 contain, at a minimum, information about the:

- 23 (a) Selling farmer and purchasing beginning farmer eligibility;
- 24 (b) Purchase contract and closing statement;
- 25 (c) Documentation, such as a deed, title conveyance for the transfer of assets,
 26 including verification of Kentucky residency; and
- 27 (d) Any other information the authority may require to determine eligibility for

1 the credit.

2 **(10) For each approved application, the authority shall transmit to the Department of**
3 **Revenue sufficient information about the selling farmer to ensure compliance**
4 **with this section and Section 2 of this Act, including the amount of approved tax**
5 **credit allowed to the selling farmer.**

6 ~~(11)[(4) (a) The maximum amount of the farmer small business tax credit for an~~
7 ~~approved selling farmer in each calendar year shall not exceed twenty five~~
8 ~~thousand dollars (\$25,000) and shall be prorated based on factors determined~~
9 ~~by the authority.~~

10 ~~(b) The maximum amount of credit an individual may claim over a lifetime shall~~
11 ~~not exceed one hundred thousand dollars (\$100,000).~~

12 ~~(c) The credit shall be claimed on the tax return for the year during which the~~
13 ~~credit was approved. Unused credits may be carried forward for up to five (5)~~
14 ~~years.~~

15 ~~(5)} Beginning January 1, 2020, the authority may approve selling farmer [farmer small~~
16 ~~business] tax credits[for selling farmers].~~

17 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
18 READ AS FOLLOWS:

19 **(1) The selling farmers tax credit permitted by Section 1 of this Act:**

20 **(a) Shall be nonrefundable and nontransferable; and**

21 **(b) May be claimed against the taxes imposed in KRS 141.020 or 141.040 and**
22 **141.0401, with the ordering of the credit as provided in Section 3 of this Act.**

23 **(2) (a) The maximum amount of credit that may be claimed by a selling farmer in**
24 **each taxable year is limited to:**

25 **1. No more than the total amount of credit approved by the Kentucky**
26 **Economic Development Finance Authority;**

27 **2. Twenty-five thousand dollars (\$25,000) in any taxable year; and**

1 3. No more than one hundred thousand dollars (\$100,000) total tax
2 credit over the lifetime of the selling farmer.

3 (b) The credit shall be first claimed on the tax return for the taxable year
4 during which the credit was approved.

5 (c) Any unused credit in a taxable year may be carried forward for up to five
6 (5) taxable years and, if not utilized within the five (5) year period, shall be
7 lost.

8 (3) In order for the General Assembly to evaluate the fulfillment of the purpose
9 stated in Section 1 of this Act, the department shall provide the following
10 information, on a cumulative basis, for each selling farmer, for each taxable
11 year:

12 (a) The location, by county, of the agricultural assets sold to a beginning
13 farmer and approved for a tax credit under Section 1 of this Act;

14 (b) The total amount of tax credit approved by the Kentucky Economic
15 Development Finance Authority for each selling farmer;

16 (c) The amount of tax credit claimed for each selling farmer in each taxable
17 year; and

18 (d) 1. In the case of all taxpayers other than corporations, based on ranges
19 of adjusted gross income of no larger than five thousand dollars
20 (\$5,000) for the taxable year, the total amount of tax credits claimed
21 and the number of returns claiming a tax credit for each adjusted
22 gross income range; and

23 2. In the case of all corporations, based on ranges of net income no
24 larger than fifty thousand dollars (\$50,000) for the taxable year, the
25 total amount of tax credit claimed and the number of returns claiming
26 a tax credit for each net income range.

27 (4) The report required by subsection (3) of this section shall be submitted to the

1 **Interim Joint Committee on Appropriations and Revenue beginning no later than**
2 **November 1, 2021, and no later than each November 1 thereafter, as long as the**
3 **credit is claimed on any return processed by the department.**

4 ➔Section 3. KRS 141.0205 is amended to read as follows:

5 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
6 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
7 the credits shall be determined as follows:

- 8 (1) The nonrefundable business incentive credits against the tax imposed by KRS
9 141.020 shall be taken in the following order:
- 10 (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - 11 (b) The economic development credits computed under KRS 141.347, 141.381,
12 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
13 154.12-2088;
 - 14 (c) The qualified farming operation credit permitted by KRS 141.412;
 - 15 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - 16 (e) The health insurance credit permitted by KRS 141.062;
 - 17 (f) The tax paid to other states credit permitted by KRS 141.070;
 - 18 (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - 19 (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - 20 (i) The tax credit for cash contributions in investment funds permitted by KRS
21 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
22 154.20-258;
 - 23 (j) The research facilities credit permitted by KRS 141.395;
 - 24 (k) The employer High School Equivalency Diploma program incentive credit
25 permitted under KRS 151B.402;
 - 26 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - 27 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

- 1 (n) The clean coal incentive credit permitted by KRS 141.428;
- 2 (o) The ethanol credit permitted by KRS 141.4242;
- 3 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 4 (q) The energy efficiency credits permitted by KRS 141.436;
- 5 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 6 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 7 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 8 (u) The distilled spirits credit permitted by KRS 141.389;
- 9 (v) The angel investor credit permitted by KRS 141.396;
- 10 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 11 on or after April 27, 2018;~~and~~
- 12 (x) The inventory credit permitted by KRS 141.408; **and**
- 13 **(y) The selling farmer tax credit permitted by Section 1 of this Act.**
- 14 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 15 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 16 shall be taken in the following order:
- 17 (a) The individual credits permitted by KRS 141.020(3);
- 18 (b) The credit permitted by KRS 141.066;
- 19 (c) The tuition credit permitted by KRS 141.069;
- 20 (d) The household and dependent care credit permitted by KRS 141.067; and
- 21 (e) The income gap credit permitted by KRS 141.066.
- 22 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 23 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 24 taken in the following order:
- 25 (a) The individual withholding tax credit permitted by KRS 141.350;
- 26 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 27 (c) The certified rehabilitation credit permitted by KRS 171.3961 and

- 1 171.397(1)(b); and
- 2 (d) The film industry tax credit permitted by KRS 141.383 for applications
- 3 approved prior to April 27, 2018.
- 4 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
- 5 tax imposed by KRS 141.040.
- 6 (5) The following nonrefundable credits shall be applied against the sum of the tax
- 7 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
- 8 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 9 (a) The economic development credits computed under KRS 141.347, 141.381,
- 10 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
- 11 154.12-2088;
- 12 (b) The qualified farming operation credit permitted by KRS 141.412;
- 13 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 14 (d) The health insurance credit permitted by KRS 141.062;
- 15 (e) The unemployment credit permitted by KRS 141.065;
- 16 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 17 (g) The coal conversion credit permitted by KRS 141.041;
- 18 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
- 19 ending prior to January 1, 2008;
- 20 (i) The tax credit for cash contributions to investment funds permitted by KRS
- 21 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
- 22 154.20-258;
- 23 (j) The research facilities credit permitted by KRS 141.395;
- 24 (k) The employer High School Equivalency Diploma program incentive credit
- 25 permitted by KRS 151B.402;
- 26 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 27 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

- 1 (n) The clean coal incentive credit permitted by KRS 141.428;
- 2 (o) The ethanol credit permitted by KRS 141.4242;
- 3 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 4 (q) The energy efficiency credits permitted by KRS 141.436;
- 5 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 6 permitted by KRS 141.437;
- 7 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 8 (t) The railroad expansion credit permitted by KRS 141.386;
- 9 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 10 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 11 (w) The distilled spirits credit permitted by KRS 141.389;
- 12 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 13 on or after April 27, 2018;~~and~~
- 14 (y) The inventory credit permitted by KRS 141.408; ***and***
- 15 ***(z) The selling farmer tax credit permitted by Section 1 of this Act.***

- 16 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 17 the refundable credits shall be taken in the following order:
- 18 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 19 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
- 20 171.397(1)(b); and
- 21 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 22 approved prior to April 27, 2018.

23 ➔Section 4. KRS 131.190 is amended to read as follows:

- 24 (1) No present or former commissioner or employee of the department, present or
- 25 former member of a county board of assessment appeals, present or former property
- 26 valuation administrator or employee, present or former secretary or employee of the
- 27 Finance and Administration Cabinet, former secretary or employee of the Revenue

1 Cabinet, or any other person, shall intentionally and without authorization inspect or
2 divulge any information acquired by him of the affairs of any person, or information
3 regarding the tax schedules, returns, or reports required to be filed with the
4 department or other proper officer, or any information produced by a hearing or
5 investigation, insofar as the information may have to do with the affairs of the
6 person's business.

- 7 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 8 (a) Information required in prosecutions for making false reports or returns of
9 property for taxation, or any other infraction of the tax laws;
 - 10 (b) Any matter properly entered upon any assessment record, or in any way made
11 a matter of public record;
 - 12 (c) Furnishing any taxpayer or his properly authorized agent with information
13 respecting his own return;
 - 14 (d) Testimony provided by the commissioner or any employee of the department
15 in any court, or the introduction as evidence of returns or reports filed with the
16 department, in an action for violation of state or federal tax laws or in any
17 action challenging state or federal tax laws;
 - 18 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
19 energy resources assessed under KRS 132.820, or owners of surface land
20 under which the unmined minerals lie, factual information about the owner's
21 property derived from third-party returns filed for that owner's property, under
22 the provisions of KRS 132.820, that is used to determine the owner's
23 assessment. This information shall be provided to the owner on a confidential
24 basis, and the owner shall be subject to the penalties provided in KRS
25 131.990(2). The third-party filer shall be given prior notice of any disclosure
26 of information to the owner that was provided by the third-party filer;
 - 27 (f) Providing to a third-party purchaser pursuant to an order entered in a

- 1 foreclosure action filed in a court of competent jurisdiction, factual
2 information related to the owner or lessee of coal, oil, gas reserves, or any
3 other mineral resources assessed under KRS 132.820. The department may
4 promulgate an administrative regulation establishing a fee schedule for the
5 provision of the information described in this paragraph. Any fee imposed
6 shall not exceed the greater of the actual cost of providing the information or
7 ten dollars (\$10);
- 8 (g) Providing information to a licensing agency, the Transportation Cabinet, or
9 the Kentucky Supreme Court under KRS 131.1817;
- 10 (h) Statistics of gasoline and special fuels gallonage reported to the department
11 under KRS 138.210 to 138.448;
- 12 (i) Providing any utility gross receipts license tax return information that is
13 necessary to administer the provisions of KRS 160.613 to 160.617 to
14 applicable school districts on a confidential basis;
- 15 (j) Providing documents, data, or other information to a third party pursuant to an
16 order issued by a court of competent jurisdiction; or
- 17 (k) Providing information to the Legislative Research Commission under:
- 18 1. KRS 139.519 for purposes of the sales and use tax refund on building
19 materials used for disaster recovery;
 - 20 2. KRS 141.436 for purposes of the energy efficiency products credits;
 - 21 3. KRS 141.437 for purposes of the ENERGY STAR home and the
22 ENERGY STAR manufactured home credits;
 - 23 4. KRS 148.544 for purposes of the film industry incentives;
 - 24 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
25 tax credits and the job assessment fees;
 - 26 6. KRS 141.068 for purposes of the Kentucky investment fund;
 - 27 7. KRS 141.396 for purposes of the angel investor tax credit;

- 1 8. KRS 141.389 for purposes of the distilled spirits credit;
- 2 9. KRS 141.408 for purposes of the inventory credit;~~and~~
- 3 10. KRS 141.390 for purposes of the recycling and composting credit; and
- 4 **11. Section 2 of this Act for purposes of the selling farmer tax credit.**

- 5 (3) The commissioner shall make available any information for official use only and on
6 a confidential basis to the proper officer, agency, board or commission of this state,
7 any Kentucky county, any Kentucky city, any other state, or the federal government,
8 under reciprocal agreements whereby the department shall receive similar or useful
9 information in return.
- 10 (4) Access to and inspection of information received from the Internal Revenue Service
11 is for department use only, and is restricted to tax administration purposes.
12 Information received from the Internal Revenue Service shall not be made available
13 to any other agency of state government, or any county, city, or other state, and shall
14 not be inspected intentionally and without authorization by any present secretary or
15 employee of the Finance and Administration Cabinet, commissioner or employee of
16 the department, or any other person.
- 17 (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil
18 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
19 as reported to the Department of Revenue under the natural resources severance tax
20 requirements of KRS Chapter 143A may be made public by the department by
21 release to the Energy and Environment Cabinet, Department for Natural Resources.
- 22 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
23 submissions for the 1989 tax year, the department may make public or divulge only
24 those portions of mine maps submitted by taxpayers to the department pursuant to
25 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
26 out parcel areas. These electronic maps shall not be relied upon to determine actual
27 boundaries of mined-out parcel areas. Property boundaries contained in mine maps

1 required under KRS Chapters 350 and 352 shall not be construed to constitute land
2 surveying or boundary surveys as defined by KRS 322.010 and any administrative
3 regulations promulgated thereto.

4 ➔Section 5. KRS 154.60-005 is amended to read as follows:

5 This subchapter shall be known as the small business tax credit **and selling farmer tax**
6 **credit programs**~~[program]~~.

7 ➔Section 6. KRS 154.60-020 is amended to read as follows:

8 (1) The authority shall develop a Small Business Development Credit Program in
9 consultation with the Office of Entrepreneurship to assist new or existing small
10 businesses operating in the Commonwealth. The nonrefundable credit shall be
11 allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The
12 ordering of credits shall be as provided in KRS 141.0205.

13 (2) The authority shall determine the terms, conditions, and requirements for
14 application for the credit, in consultation with the Office of Entrepreneurship,
15 subject to the provisions of subsection (3) of this section. The application shall
16 contain identification information about the number of eligible positions created
17 and filled, a calculation of the base employment of the small business, verification
18 of investment of five thousand dollars (\$5,000) or more in qualifying equipment or
19 technology, and other information the authority may specify to determine eligibility
20 for the credit.

21 (3) (a) The maximum amount of credits that may be committed in each fiscal year by
22 the authority and shared between the small business tax credit program and
23 the **selling farmer** ~~[farmer small business]~~ tax credit **program** shall be capped
24 at three million dollars (\$3,000,000).

25 (b) In order to be eligible to receive final approval for a credit, a small business
26 shall, within the twenty-four (24) month period immediately preceding the
27 application submission date:

- 1 1. Create and fill one (1) or more eligible positions over the base
- 2 employment; and
- 3 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or
- 4 technology.
- 5 (c) Each eligible position that is created and filled shall be maintained for twelve
- 6 (12) months. If a full-time employee filling a newly created eligible position
- 7 ceases to be employed by the small business for any reason, that employee
- 8 shall be replaced within forty-five (45) days in order for the eligible position
- 9 to maintain its eligible status, in addition to meeting all other applicable
- 10 requirements.
- 11 (d) The small business shall submit all information necessary for the authority to
- 12 determine credit eligibility for each year, and the amount of credit for which
- 13 the small business is eligible.
- 14 (e) The maximum amount of credit for each small business for each year shall not
- 15 exceed twenty-five thousand dollars (\$25,000).
- 16 (f) The credit shall be claimed on the tax return for the year during which the
- 17 credit was approved. Unused credits may be carried forward for up to five (5)
- 18 years.