

TITLE 3: TAXATION
CHAPTER 13: BUSINESS TAX CREDITS
PART 5: TECHNOLOGY JOBS TAX CREDIT

3.13.5.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[3.13.5.1 NMAC - N, 10/31/05]

3.13.5.2 SCOPE: This part applies to persons conducting qualified research at a qualified facility in New Mexico.
[3.13.5.2 NMAC - N, 10/31/05]

3.13.5.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[3.13.5.3 NMAC - N, 10/31/05]

3.13.5.4 DURATION: Permanent.
[3.13.5.4 NMAC - N, 10/31/05]

3.13.5.5 EFFECTIVE DATE: 10/31/05, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[3.13.5.5 NMAC - N, 10/31/05]

3.13.5.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Technology Jobs Tax Credit Act.
[3.13.5.6 NMAC - N, 10/31/05]

3.13.5.7 DEFINITIONS: [Reserved.]
[3.13.5.7 NMAC - N, 10/31/05]

3.13.5.8 AMOUNTS CONSTITUTING WAGES TO MEET ELIGIBILITY REQUIREMENTS

A. In calculating the annual payroll expense and base payroll expense for purposes of determining eligibility for the additional credit under Subsection B of Section 7-9F-6 NMSA 1978, a taxpayer may include total wages paid to all employees at a qualified New Mexico facility. "Wages" as used in Subsection K of Section 7-9F-3 NMSA 1978 means "wages" as defined under section 3401(a) of the Internal Revenue Code. Thus, "wages" used to meet eligibility requirements of the Technology Jobs Tax Credit Act are the same as those that are included or will be included in box 1 of the annual statement of withholding (form W-2) as required under Subsection A of Section 7-3-7 NMSA 1978.

B. Example: Taxpayer X conducts research and development at a qualified facility in New Mexico. In addition to wages paid for employees directly involved in research and development, X pays wages to administrative personnel at the facility. Wages paid to administrative personnel may also be included in annual payroll expense and base payroll expense for purposes of determining eligibility for the additional credit under the Act. Taxpayer X may not include any expenses not included as wages on form W-2, such as expenses for employee health insurance, retirement plan contributions, or the value of employee stock options when calculating annual payroll expense and base payroll expense.
[3.13.5.8 NMAC - N, 10/31/05]

3.13.5.9 STATUTE OF LIMITATIONS

A. A taxpayer must file its application for approval of a credit within one year of the end of the calendar year in which the qualified expenditures were made.

B. Example: Taxpayer X makes qualified expenditures from January 1 through October 30, 2005. X must submit its application for credit under the Technology Jobs Tax Credit Act by no later than December 31, 2006.
[3.13.5.9 NMAC - N, 10/31/05]

3.13.5.10 ELIGIBILITY REQUIREMENTS - ADDITIONAL CREDIT - ESTIMATES:

A. A taxpayer claiming the additional credit must compute annual payroll expense for the period specified in the application and must compute base payroll expense as of a date one year prior to the annual payroll date.

B. Because complete payroll data to calculate “annual payroll expense” and “base payroll expense” may not be available on the day the credit is applied for, a credit claimant may estimate the number of these two amounts on the credit application, provided that the claimant must provide the actual “annual payroll expense” and “base payroll expense” amounts within forty-five days from the end of the calendar quarter in which the claim is applied for. The fact that an estimate is used in the claim must be clearly indicated. The department may withhold approval of the claim until the correct numbers are provided and will deny the claim if the correct numbers are not provided.

[3.13.5.10 NMAC - N, 10/31/05; A, 5/15/07]

3.13.5.11 WHEN CLAIM BARRED: If a taxpayer claims any amount of research and development small business tax credit with respect to a reporting period, the taxpayer may not claim any amount of technology jobs tax credit with respect to that same period. If for the same reporting period an amount of technology jobs tax basic credit is claimed in addition to any amount of research and development small business tax credit, the amount of technology jobs tax credit will be disallowed by the department, which may result in an underpayment of tax. The taxpayer is not barred from applying for approval of new or additional technology jobs tax credit with respect to qualified expenditures in that reporting period.

[3.13.5.11 NMAC - N, 5/15/07]

HISTORY OF 3.13.5 NMAC: [RESERVED]