

108 CMR 16.00: QUALIFIED VETERANS HIRE TAX CREDIT

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16.01: Purpose and Scope

108 CMR 16.00 establishes the procedures for establishing eligibility for and thereafter claiming the Qualified Veterans Hire Tax Credit pursuant to M.G.L. c. 62, § 6(u) and c. 63, § 38GG.

16.02: Definitions

The following words and phrases shall have the meaning in 108 CMR 16.00 set forth as follows, unless the context clearly indicates otherwise:

Certification. EOVS issued written certification pursuant to 108 CMR 16.03 certifying that a Qualified Employer is eligible to claim the Qualified Veterans Hire Tax Credit.

Commissioner. The Commissioner of Revenue or the Commissioner's duly authorized representative.

EOVS. Executive Office of Veterans' Services.

Extended Active Duty. Pursuant to 26 USC § 51(d)(3), a period of more than 90 days during which the individual was on active duty (other than active duty for training).

Qualified Employer. A partnership, limited liability corporation, corporation or other legal entity that;

- (a) conducts business in Massachusetts;
- (b) is EOVS certified pursuant to M.G.L. c. 115, § 2C;
- (c) qualified for and claimed the Work Opportunity Credit under 26 USC § 51(d)(3), as amended and in effect for the taxable year, for the hiring of Qualified Veterans for whom the Qualified Employer seeks to claim the Qualified Veterans Hire Tax Credit;
- (d) employs no more than 100 full-time employees;
- (e) is not debarred from doing business with the Commonwealth of Massachusetts;
- (f) is not a unit of state, local, or federal government; and
- (g) shall obtain certification from the department of career services or any successor agency that the individual is a qualified veteran.

Qualified Veteran. An individual who resides in the Commonwealth and pursuant to 26 USC § 51(d)(3), whom EOVS certified as a veteran:

- (a) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or
- (b) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability; and
- (c) not having any day during the 60-day period ending on the hiring date which was a day of Extended Active Duty in the Armed Forces of the United States; and
- (d) is a member of a family receiving assistance under a supplemental nutrition assistance program under the Food and Nutrition Act of 2008 for at least a three-month period ending during the 12-month period ending on the hiring date; or
- (e) is entitled to compensation for a service disconnected disability, and
- (f) having a hiring date which is not more than one year after having been discharged or released from active duty in the Armed Forces of the United States, or

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- (g) having aggregate periods of unemployment during the one-year period ending on the hiring date which equal or exceed six months; or
- (h) having aggregate periods of unemployment during the one-year period ending on the hiring date which equal or exceed four weeks (but less than six months), or
- (i) having aggregate periods of unemployment during the one-year period ending on the hiring date which equal or exceed six months.

Qualified Veterans Hiring Tax Credit. The tax credit authorized pursuant to M.G.L. c. 62, § 6(u) and c. 63, § 38GG.

16.03: Eligibility

- (1) A Qualified Employer may establish its eligibility to claim the Qualified Veterans Hire Tax Credit by applying for and receiving a Certification from EOVS. EOVS requires that applications for Certification be made on an EOVS issued form, and shall include
 - (a) information sufficient to establish that the applicant is a Qualified Employer;
 - (b) information sufficient to establish that the individual hired meets all of the criteria of a Qualified Veteran, including a document from the department of career services or any successor agency stating the individual is a Qualified Veteran;
 - (c) documentation showing the Qualified Employer hired the Qualified Veteran on or after January 1, 2017;
 - (d) documentation showing that the Qualified Veteran has been employed for at least six continuous months; and
 - (e) information sufficient to establish that the applicant is a duly organized and existing entity in good standing with the Commonwealth of Massachusetts and is compliant with all applicable state and federal tax and employment laws.
- (2) EOVS reserves the sole discretion to determine whether an applicant is eligible for the Qualified Veterans Hire Tax Credit. If EOVS determines that an applicant is not eligible to claim the Qualified Veterans Hire Tax Credit, it will notify the applicant of that determination in writing.
- (3) EOVS shall not issue Certificates for more than a total of \$1,000,000 annually. EOVS shall review and approve applications on a rolling basis, commencing January 1st of each year, until it has issued Certificates authorizing a total cumulative of \$1,000,000 in credits for the year.

16.04: Qualified Veterans Hire Tax Credit

- (1) For the tax years beginning on or after January 1, 2023, a Qualified Employer may claim the Qualified Veterans Hire Tax Credit on the tax return filed for the taxable year that is six months after the Qualified Veteran began working for the Qualified Employer. The Qualified Employer shall include in its filing the certificate number provided in the Certification.
- (2) A Qualified Employer may apply for a new Certificate, entitling it to claim an additional credit in the taxable year following the initial claimed credit, for the same Qualified Veteran if such Qualified Veteran is continuously employed. Any new Certificate will be issued in the same manner and based on the same criteria as the original Certificate. No Qualified Employer shall be authorized to claim a Qualified Veterans Hire Tax Credit more than twice for any one Qualified Veteran.
- (3) A Qualified Employer may carry forward the amount of credit that exceeds the tax due for a taxable year to any of the three subsequent taxable years.
- (4) Qualified Veterans Hire Tax Credit shall not be transferrable or refundable.

16.05: Recordkeeping

A Qualified Employer claiming the Qualified Veterans Hire Tax Credit shall retain records necessary to substantiate the employer's eligibility to claim the credit in accordance with 830 CMR 62C.25.1: *Record Retention*, including:

- (a) the document from the department of career services or any qualifying agency stating the individual is a Qualified Veteran;
- (b) the Certificate;
- (c) employment records sufficient to show the Qualified Veteran was employed for not less than six consecutive months; and
- (d) records sufficient to demonstrate that the Qualified Veteran's primary place of employment and primary place of residence were in Massachusetts during the six consecutive months of employment.

16.06: Severability

The provisions of 108 CMR 16.00 are severable. If any provisions of 108 CMR 16.00 or the applications of such provisions to any person or circumstance are held invalid or unconstitutional, the other provisions of 108 CMR 16.00, or the application of such provisions to any person or circumstance other than that as to which it is held invalid or unconstitutional, will not be affected thereby.

REGULATORY AUTHORITY

M.G.L. c. 62, § 6(u) and c. 63, § 38GG.