



**Wisconsin Economic Development Corporation  
Program Guidelines for Calendar Year 2023**

**Program Name:** Business Development Tax Credits (BTC)

**Program Inception:** 2015 Wisconsin Act 55

**Lead Division:** Business and Community Development

**New**       **Revised**

**Aid**       **Pass-thru Aid**       **Technical Assistance**

**Program Goal:**

The goal of the Business Development Tax Credit (BTC) Program is to incent new and expanding businesses in the state of Wisconsin.

**Program Description:**

The program supports job creation, capital investment, training, and Corporate Headquarters location or retention by providing businesses located in or relocating to Wisconsin with refundable tax credits that can help to reduce their Wisconsin income/franchise tax liability or provide a refund, thereby helping to enhance their cash flow to expand the project's scope, accelerate the timing of the project or enhance payroll.

**Eligibility Requirements:**

**Definitions:**

The following definitions supplement those in §§ 238.308, 71.07 (3y), 71.28 (3y), and 71.47 (3y), Wis. Stats.

- "Baseline" means Recipient's number of Full-Time Jobs during the 12 months immediately preceding the Certification Date. Projects will have a Statewide Baseline, as well as a Project Baseline.
- "Certified Business" means a business certified by WEDC as eligible to earn Tax Credits based on the parameters of this guideline and based on the business' total number of Eligible Employees in the State of Wisconsin as determined by the Federal Employment Identification Number ("FEIN") under which the business files its taxes.
- "Certification Date" means the date, designated by WEDC, on which the eligibility to earn Tax Credits begins. No activities occurring prior to the Certification Date will be considered in allocating Tax Credits.
- "Corporate Headquarters" means the office location where staff members or employees are physically employed and where the majority of the company's financial, personnel, legal, planning, or other related functions are organized at a divisional, regional, national or global

basis. In considering an office as a Corporate Headquarters, WEDC will consider the business' existing locations as of the Certification Date.

- “Economically Distressed” means a county or municipality so designated by WEDC by considering the most current area and state data available for the following indicators:
  - Unemployment rate
  - Percentage of families with incomes below the poverty line
  - Median family income
  - Median per capita income
  - Average annual wage
  - Manufacturing assessment values by county
  - Other significant or irregular indicators of economic distress – such as a natural disaster, or plant closings and layoffs
- “Eligible Employee” means a person employed in a Full-Time Job by a Certified Business.<sup>1</sup>
- “Eligible Training Cost” means (1) the cost of the trainer; (2) the cost of the training materials; (3) the wages of the trainee while in a classroom setting; or (4) the costs of the trainer and the wages of the trainee while in an on-the-job or job shadowing setting. Eligible training costs do not include travel expenses, food or lodging.
- “Financial Institution” means a bank, as defined in s. 214.01 (1) (c), a savings bank, as defined in s. 214.01 (1) (t), a savings and loan association, a trust company, a credit union, as defined in s. 186.01 (2), a mortgage banker, as defined in s. 224.71 (3), or a mortgage broker, as defined in s. 224.71 (4), whether chartered under the laws of this state, another state or territory, or under the laws of the United States; a company that controls, is controlled by, or is under common control with a bank, a savings bank, a savings and loan association, a trust company, a credit union, a mortgage banker, or a mortgage broker; or a person licensed under s. 138.09, other than a person who agrees for a fee to hold a check for a period of time before negotiating or presenting the check for payment and other than a pawnbroker, as defined in s. 138.10 (1) (a).
- A “Full-Time Job” means a regular, non-seasonal full-time position in which the annual pay for the position is more than the amount determined by multiplying 2,080 by 150% of the federal minimum wage, and an individual in the position is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year. “Full-Time Job” does not include initial training before an employment position begins.<sup>2</sup>

Employees that do not meet this definition will not be counted toward headcount or wages. Part-time employees do not count.

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<sup>1</sup> Wis. Stat. § 238.308(1); Wis. Stat. § 71.07(3y)(a)2; Wis. Stat. § 71.28(3y)(a)2; Wis. Stat. § 71.47(3y)(a)2.

<sup>2</sup> While there are two statutory definitions of Full-Time Employee, WEDC utilizes the above identified definition in its contracts: Wis. Stat. § 238.30(2m).

- “Ineligible Business” means businesses ineligible for tax credits unless extraordinary circumstances exist, including but not limited to a serious threat of a business leaving the state, significant job creation or retention, or significant capital investment, and such extraordinary circumstances are approved by the Board of Directors’ Awards Administration Committee. Such Ineligible Businesses include:
  - Payday loan and title loan companies
  - Telemarketing other than inbound call centers
  - Pawn shops
  - Media outlets
  - Retail
  - Farms
  - Primary care medical facilities
  - Financial Institutions
  - The hospitality industry
- “Opportunity Zone” means a designated qualified opportunity zone in the State of Wisconsin under Internal Revenue Code § 1400Z-1.
- “Tax Credits” means the BTCs authorized pursuant to Wisconsin Statutes §§ 238.308, 71.07 (3y), 71.28 (3y), and 71.47 (3y).
- “Taxable Year” means the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes. The taxable year of a taxpayer who keeps his or her accounting records on the basis of a 52–53 week period ends on the last day of the month closest to the end of the 52–53 week period.<sup>3</sup>

**Certification:**

WEDC may certify a business as eligible to earn Tax Credits if (1) the business plans to annually increase its net employment in Wisconsin above the business’ employment in Wisconsin in each year after its Certification Date;<sup>4</sup> (2) the business is operating, or intends to operate, in the state of Wisconsin;<sup>5</sup> and (3) the business applies and enters into a contract with WEDC.<sup>6</sup> There is no limit on the number of businesses that may be certified for Tax Credits under this program. Each certification may exist for up to ten cumulative years.<sup>7</sup> WEDC may cap the award and/or limit the number of years in which Tax Credits may be claimed by a Certified Business.

WEDC will evaluate Tax Credit applications based on factors including:

- Whether the project would occur without the allocation of Tax Credits;
- The extent to which the project will increase employment in Wisconsin;
- The extent to which the project will contribute to the economic growth of Wisconsin;

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<sup>3</sup> Wis. Stat. § 71.01(12).

<sup>4</sup> Wis. Stat. § 238.308(3).

<sup>5</sup> Wis. Stat. § 238.308(2)(a)1.

<sup>6</sup> Wis. Stat. § 238.308(2)(a)2.

<sup>7</sup> Wis. Stat. § 238.308(2)(b).

- The extent to which the project will increase geographic diversity of available Tax Credits throughout Wisconsin;
- The financial soundness of the business; and
- Any previous financial assistance that the business received from the Department of Commerce or WEDC.

To be eligible for a BTC award, the applicant must offer the employees filling the Full-Time Jobs to be attracted, created or retained as part of the project at least 50% of the health insurance benefit costs to the employees or other equivalent health insurance benefits that are acceptable to WEDC. Recipients will be expected to continue to offer all Eligible Employees retirement, health and other benefits.

Tax Credits may be awarded for any of the following eligible activities: job creation,<sup>8</sup> training,<sup>9</sup> capital investment<sup>10</sup> and/or Corporate Headquarters location or retention<sup>11</sup>. Generally, the maximum amount of Tax Credits awarded for a project will be determined by calculating the greater of the amount a Recipient could earn under either job creation or capital investment. WEDC is not required to award the Recipient the maximum amount allowed by statute. A business may be awarded an additional amount of Tax Credits if the project meets any of the following criteria:

- The project is located in an Economically Distressed area or Opportunity Zone;
- Locating or retaining a Corporate Headquarters;
- Wisconsin is competing for the investment with one or more out-of-state locations;
- Fifty percent of Eligible Employees' wages are greater than 400 percent of the federal minimum wage;
- Industry jobs multiplier is greater than 2.0; or
- Any other criteria as approved by the Awards Administration Committee of the Board of Directors

Once the maximum tax credit award amount is determined, WEDC will evaluate all aspects of the project to determine which eligible activities to incent with tax credits. A project may receive tax credits for multiple eligible activities. A Certified Business may qualify for Tax Credits only for eligible activities that occur after the Certification Date established by WEDC. The amount of tax credits awarded for each activity shall align with the following calculations:

### Job Creation

The amount of Tax Credits awarded for job creation may equal up to 10% of the annual wages for Eligible Employees in Full-Time Jobs.<sup>12</sup> In an Economically Distressed area, the amount of Tax Credits may equal up to an additional 5% of the annual wages for Eligible Employees.<sup>13</sup> Tax Credits may not be earned for wages over \$100,000 per year.

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<sup>8</sup> Wis. Stat. § 238.308(4)(a)1, 2; Wis. Stat. § 71.07(3y)(b)1, 2; Wis. Stat. § 71.28(3y)(b)1, 2; Wis. Stat. § 71.47(3y)(b)1, 2.

<sup>9</sup> Wis. Stat. § 238.308(4)(a)3; Wis. Stat. § 71.07(3y)(b)3; Wis. Stat. § 71.28(3y)(b)3; Wis. Stat. § 71.47(3y)(b)3.

<sup>10</sup> Wis. Stat. § 238.308(4)(a)4; Wis. Stat. § 71.07(3y)(b)4; Wis. Stat. § 71.28(3y)(b)4; Wis. Stat. § 71.47(3y)(b)4.

<sup>11</sup> Wis. Stat. § 238.308(4)(a)5; Wis. Stat. § 71.07(3y)(b)5; Wis. Stat. § 71.28(3y)(b)5; Wis. Stat. § 71.47(3y)(b)5.

<sup>12</sup> Wis. Stat. § 238.308(4)(a)1; Wis. Stat. § 71.07(3y)(b)1; Wis. Stat. § 71.28(3y)(b)1; Wis. Stat. § 71.47(3y)(b)1.

<sup>13</sup> Wis. Stat. § 238.308(4)(a)2; Wis. Stat. § 71.07(3y)(b)2; Wis. Stat. § 71.28(3y)(b)2; Wis. Stat. § 71.47(3y)(b)2.

Generally, a business will be initially certified for amounts for job creation based on projected Full-Time Jobs to be created over three years. Certified Businesses may earn these Tax Credits over three years, based on the increase in wages, each year compared to the prior year, at the project location(s) for which the award is made, subject to annual verification. Full-Time Jobs filled by Eligible Employees for which Tax Credits have been verified must be maintained for a period of either five years from the Certification Date, or a period of two years after the final earning period for job creation and retention, whichever is longer, measured as of the last day of the maintenance period. Generally, WEDC will not award tax credits for retained jobs; however, in cases where WEDC does incent retained jobs with job retention tax credits, those credits will be calculated based on the Baseline wages earned on an equal basis over three years. Tax Credits will be released annually, based on the wages of Full-Time Jobs filled by Eligible Employees during the Recipient's taxable year.

### Training

The amount of Tax Credits awarded for training may equal up to 50% of Eligible Training Costs incurred to undertake activities to enhance an Eligible Employee's general knowledge, employability, and flexibility in the workplace; to develop skills unique to the business's workplace or equipment; or to develop skills that will increase the quality of the business's product.<sup>14</sup>

Those activities must be related to the project that is the subject of the application for Tax Credits, and not for those activities that allow an employee to function within the day-to-day operations of the business or for the general, organic growth of the business. Examples of ineligible activities include orientation, or training on a business process management system.

### Capital Investment<sup>15</sup>

The amount of Tax Credits awarded for new capital investment may equal up to 3% of the business' personal property investment and up to 5% of its new real property investment.

To qualify for Capital Investment tax credits, the project must involve a total capital investment of at least \$1,000,000 or for projects that involve a total capital investment of less than \$1,000,000, the total investment must be equal to at least \$10,000 per Eligible Employee employed on the project.

### Corporate Headquarters

The amount of Tax Credits awarded for the location or retention of a Corporate Headquarters may equal up to 10% of the annual wages of positions created or retained for Eligible Employees if the position in which the Eligible Employee was employed was created or retained in connection with the location or retention of the Corporate Headquarters in Wisconsin, and the job duties associated with the Eligible Employee's position involve the performance of Corporate Headquarters functions.<sup>16</sup> Tax Credits may not be earned for wages over \$100,000 per year. Generally, a business will be initially certified for amounts for Corporate Headquarters job creation based on projected Full-Time Jobs to be created over three years.

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<sup>14</sup> Wis. Stat. § 238.308(4)(a)3; Wis. Stat. § 71.07(3y)(b)3; Wis. Stat. § 71.28(3y)(b)3; Wis. Stat. § 71.47(3y)(b)3.

<sup>15</sup> Wis. Stat. § 238.308(4)(a)4; Wis. Stat. § 71.07(3y)(b)4; Wis. Stat. § 71.28(3y)(b)4; Wis. Stat. § 71.47(3y)(b)4.

<sup>16</sup> Wis. Stat. § 238.308(4)(a)5; Wis. Stat. § 71.07(3y)(b)5; Wis. Stat. § 71.28(3y)(b)5; Wis. Stat. § 71.47(3y)(b)5.



Certified Businesses may then earn these Corporate Headquarters job creation credits over a period of three years based on the increase in wages at the project location(s) for which the award is made, year-over-year, subject to annual verification.

Corporate Headquarters retention credits will be calculated based on the Baseline wages earned on an equal basis over three years.

Full-Time Jobs filled by Eligible Employees for which Tax Credits have been verified must be maintained for a period of either five years from the Certification Date, or a period of two years after the final earning period for job creation and retention, whichever is longer, measured as of the last day of the maintenance period. Tax Credits will be earned annually, based on the wages of Full-Time Jobs filled by Eligible Employees during the Recipient's taxable year.

### **Eligibility to Claim:**

In order to be eligible to claim Tax Credits in any year for which the business is certified, the Certified Business must increase its net employment in Wisconsin above the Certified Business' net employment in Wisconsin in each year after the Certification Date.<sup>17</sup>

WEDC will annually calculate the amount of Tax Credits earned<sup>18</sup> and able to be claimed by the Certified Business based on eligible activities, and may request additional information from the Certified Business. WEDC will notify the Certified Business and the Department of Revenue of the amount eligible to be claimed against the Certified Business' taxes each year with a written verification of the Tax Credits earned. A Certified Business must attach appropriate forms to its Wisconsin tax return submitted to the Department of Revenue to obtain the tax benefits.<sup>19</sup> No person may file with the Department of Revenue for Tax Credits without the written certification of WEDC.<sup>20</sup>

Tax Credits are refundable. If the amount of Tax Credits approved for a taxable year exceeds the amount of tax due for the taxable year, the excess credit amount will be refunded to the Certified Business.<sup>21</sup> The Tax Credits are non-transferable, and must be claimed in accordance with the statutory requirements.

### **Incentives and Available Funding (CY 2023): \$22,000,000 tax credit allocation**

Subject to reallocation of additional funds up to \$10,000,000,<sup>22</sup> and carryforward unused credits, WEDC will allocate no more than \$22,000,000<sup>23</sup> in Tax Credits for Certified Businesses in any calendar year.

### **Activities and Expected Outcomes:**

Assist 30 businesses to support the creation of 1500 jobs, retention of 2500 jobs and achieve a 20:1 leverage of other investment.

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<sup>17</sup> Wis. Stat. § 238.308(3)

<sup>18</sup> Wis. Stat. § 238.308(5)(b).

<sup>19</sup> Wis. Stat. § 71.07(3y)(c)2; Wis. Stat. § 71.28(3y)(c)2; Wis. Stat. § 71.47(3y)(c)2.

<sup>20</sup> Wis. Stat. § 71.07(3y)(c)2; Wis. Stat. § 71.28(3y)(c)2; Wis. Stat. § 71.47(3y)(c)2.

<sup>21</sup> Wis. Stat. § 71.07(3y)(d)2; Wis. Stat. § 71.28(3y)(d)2; Wis. Stat. § 71.47(3y)(d)2.

<sup>22</sup> Wis. Stat. § 238.308(4)(c).

<sup>23</sup> Wis. Stat. § 238.308(4)(b).





### **Performance Reporting:**

Recipients will be required to annually submit a performance report documenting capital investment, job creation, job retention, as well as any other contract deliverables.

WEDC annually selects awards on a sample basis for an audit. All backup documentation to the performance report is required to be maintained for the life of the award.

WEDC may impose additional reporting requirements to evaluate project performance and to ensure compliance with contract deliverables.

### **Application and Awards Process:**

The BTC program has a continuous application process. Applicants for the BTC program should complete an application through an Account Manager. The completed application will be assigned to an underwriter and go through the award review process.

For more information on application review, internal process, and award distribution, please refer to WEDC's award administration policies and procedures.

**Revision History:**

<b>Effective Date</b>	<b>Description of Change</b>
7/1/2017	Standardized expected outcomes language and added metric for leverage
7/1/2017	Eliminated unnecessary maintenance period for tax credits awarded for training
9/23/2017	Pursuant to 2017 Act 59, WEDC may annually request from the Joint Committee on Finance additional allocation authority
7/1/2018	Added statutory citations
7/1/2018	Clarified criteria for awarding additional tax credits
7/1/2018	Clarified maintenance requirements for job creation and retention
7/1/2019	Expanded criteria for awarding additional tax credits to include Opportunity zones; standardized application process and performance reporting sections for consistency; clarified duration of maintenance period and performance reporting requirements
4/20/2021	Aligned program guidelines with the annual calendar year credit allocation





**PROGRAM REVIEW:**

This document has been reviewed by the following parties (Check all that apply):

- Chief Operating Officer
- Chief Legal Officer
- Chief Financial Officer
- Other \_\_\_\_\_

**Senior Vice President, Strategic Investment and Policy:** \_\_\_\_\_

**Date**                      Click or tap to enter a date.

**Division Vice President:** \_\_\_\_\_

**Date**                      Click or tap to enter a date.

**AUTHORIZED APPROVAL:**

**CEO or Designee:** \_\_\_\_\_

**Date**                      Click or tap to enter a date.