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Employment Tax Increment Financing, 2003

Maine Department of Economic and Community Development

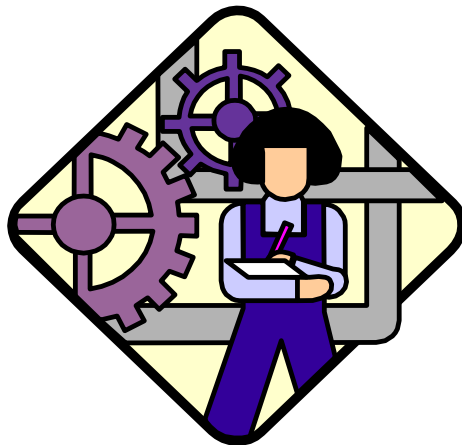
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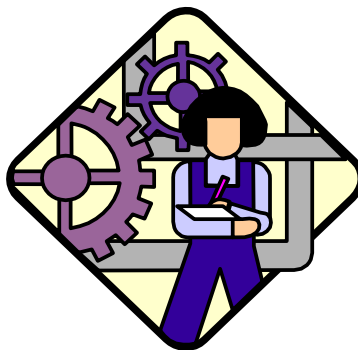
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Employment Tax Increment Financing



Maine Department of
Economic and Community Development
59 State House Station
Augusta, Maine 04333
(207) 624-9800

Employment Tax Increment Financing (ETIF)

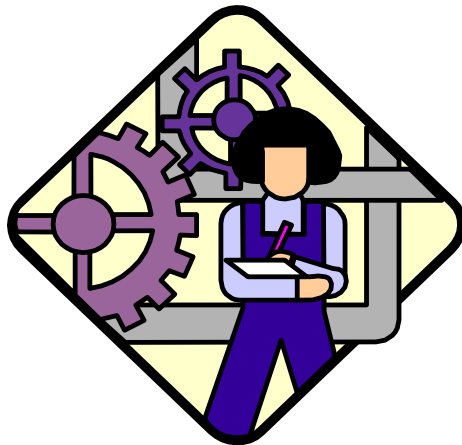


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ETIF MANUAL
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INFORMATION SHEET



EMPLOYMENT TAX INCREMENT FINANCING (ETIF)

Eligible Business. *The company must be a for-profit (non-retail) Maine business, other than a public utility, that is able to demonstrate that its expansion project will not go forward without ETIF.* In addition, to be a qualified business, the company must hire a minimum of 5 net new employees within a two year period, and provide those workers with: 1) wages that exceed the average per capita income in the county of employment, 2) access to group health insurance, and 3) access to an ERISA-qualified retirement program.

Program Summary. For companies expanding in any areas of Maine except Pine Tree Development Zones, ETIF is available to assist in the financing of business investment projects that create at least 5 net new, high-quality jobs. An ETIF-approved business may be reimbursed 30%, 50% or 75% of the state income tax withholdings paid by qualified employees for up to ten years, based upon a simple formula that compares the local labor market unemployment rate with the state average. For example, qualified companies in regions exceeding the state average are reimbursed at the 50% level. In Pine Tree Zones, companies in the manufacturing, financial services or seven technology sectors, must create at least 1 net new, high-quality job; they are eligible to be reimbursed 80% of the state income tax withholdings paid by qualified employees.

The amount of annual payment is based upon the actual number of qualified employees above the company's base level of employment. The company may not be reimbursed from ETIF for any period of time when employment, wages and/or employee benefits fail to meet the minimum qualification criteria. In addition, the ETIF incentive cannot be used concurrently with the Jobs & Investment Tax Credit. The combined use of the two programs may not exceed ten years.

Program Example. A business is considering adding 9 full-time jobs and investing \$150,000 in a Piscataquis County community that is not in a Pine Tree Zone. The new jobs will start at \$11 per hour. All employees will have access to group health insurance and a retirement program. The company is looking at other states, and will base its location decision upon the projected return on investment. Piscataquis County's average annual per capita income for the calendar year is \$21,272, or \$10.23 per hour, and the local labor market area unemployment rate is more than 150% of the state average. All 9 of the new employees are considered "qualified" by virtue of their wages and benefits, and the company is eligible to seek reimbursement at the 75% level due to the high unemployment rate.

In the example above, assuming an average state income tax withholding rate of 4%, employment levels and wages that do not change, and the company remaining qualified, the annual ETIF reimbursement would be \$6,177 [(\$11 X 2,080 hours X 9 employees) X 4% X 75%]. Total reimbursement for the ten-year term would be \$61,776.

Any business that wants to be considered for ETIF must submit a letter demonstrating that the project will not go forward without ("but for") this financing. As an example, it might include a statement in the letter that the additional financing provides a return that will result in the investment being made in Maine. **This "but for" step must be completed prior to any public announcement of the project expansion.** Once a but for letter is on file and a program application has been successfully submitted and reviewed, the department will issue an approval letter outlining the terms of the financing.

How to Apply. Interested companies must fully address each section of the attached application which includes a cover sheet and "application requirements." Completed applications must be received at the Department of Economic and Community Development, 59 State House Station, Augusta, ME 04333, by the calendar year **deadline of December 1st**. All applications will be reviewed in a timely manner, and in the order they are received. If you have any questions, need assistance or require additional information, please contact the department at 207-624-9800.



COUNTY INCOME



Per Capita Income for Maine Counties, 2001

(ETIF Program Calendar Year 2003)

County	Annual Income	Hourly Wage
Androscoggin	\$25,752	\$12.38
Aroostook	\$21,817	\$10.49
Cumberland	\$34,041	\$16.37
Franklin	\$22,295	\$10.72
Hancock	\$27,889	\$13.41
Kennebec	\$26,545	\$12.76
Knox	\$28,367	\$13.64
Lincoln	\$27,441	\$13.19
Oxford	\$21,272	\$10.23
Penobscot	\$25,097	\$12.07
Piscataquis	\$21,139	\$10.16
Sagadahoc	\$27,232	\$13.09
Somerset	\$20,373	\$9.80
Waldo	\$23,505	\$11.30
Washington	\$21,255	\$10.22
York	\$26,267	\$12.63

Source: U.S. Department of Commerce, Bureau of Economic Analysis, May 2003



APPLICATION REQUIREMENTS



APPLICATION REQUIREMENTS

A. GENERAL

Qualified businesses wishing to use employment tax increment financing to seek reimbursement of state income taxes withheld must submit the narrative and forms complying in all material respects to the requirements listed below in paragraphs B & C, and any additional information the Department may request.

B. EMPLOYMENT TAX INCREMENT FINANCING APPLICATION

An application for employment tax increment financing reimbursement must contain the following information:

1. Employment Tax Increment Financing Development Program, including:

- a. Project Plan:
 - (1) A description of the business, its products and/or services and history of operation;
 - (2) A description of the market(s) and/or competitive environment in which the business operates or expects to operate; and
 - (3) A description of the applicant's employment growth and investment plans for the five years following the date of application.
- b. Base Level Data:
 - (1) Number of employees employed by the applicant as of December 31 for each of the three years preceding the year of application;
 - (2) Total payroll of the applicant for each of the three calendar years preceding the year of application; and
 - (3) Total state income taxes withheld for employees of the applicant for each of the three years preceding the year of application.
- c. A statement describing the basis under which it has been determined that the project can not go forward absent Employment Tax Increment Financing.

2. Financial Plan, including:

- a. A statement of the sources and uses of funds required to accomplish the development program;
- b. A description of:
 - (1) Facilities to be constructed or modified;
 - (2) Equipment to be purchased;
 - (3) Employee training requirements; and
 - (4) Other expenses associated with the Development Program, and which will be funded through Employment Tax Increment Financing.



3. Qualified employee data, consisting of:

- a. Number, by job classifications, of qualified employees that the applicant has added or expects to add in the state within a two-year period beginning on the January 1 of the year of application;
- b. Average annual wage, by job classification, of qualified employees that the applicant has added, or expects to add in the State within a two-year period beginning on the January 1 of the year of application;
- c. Hiring schedule of qualified employees that the applicant has added or expects to add in the State within a two-year period beginning on the January 1 of the year of application;
- d. Estimated total annual payroll for all qualified employees for each of the 10 years during which reimbursement may be sought for the development program; and
- e. Estimated total annual State income tax withholdings for all qualified employees for each of the 10 years during which reimbursement may be sought for the development program.

4. Certifications, attested by an officer of the qualified business, consisting of:

- a. Certification that all qualified employees are offered participation in a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§1001-1461; and
- b. Certification that all qualified employees are offered participation in a group health insurance plan.

5. Employment location data, consisting of:

- a. All applicant's employment locations within the State; and
- b. Number of employees at each location within the State.

6. Affiliations and acquired business data, including:

- a. A listing of all affiliated businesses and affiliated groups within the State; and
- b. For each affiliated businesses and affiliated group located within the State, current data concerning:
 - (1) Number of employees;
 - (2) Payroll; and
 - (3) Total state income taxes withheld.

7. Other information in support of this application or requested by the Department.

C. APPLICATION FORMS

The Application Cover Sheet and the Employment Goals page that follow must be fully completed and submitted as part of the ETIF application necessary for state approval. **Absent this specific information, applications will be considered “non-responsive” and will not be reviewed.**



EMPLOYMENT TAX INCREMENT FINANCING

APPLICATION COVER SHEET

A. General Information

1. Business Name:
2. Address:
3. Telephone: Fax: Email:
4. Principal Place of Business:
5. Company Structure (e.g. corporation, sub-chapter S, etc.):
6. Place of Incorporation:
7. Names of Officers:
8. Principal Owner(s) Name and Address:
9. Project Contact Person:

B. For-Profit & Net New Jobs

1. Is business a for-profit entity, other than a public utility? Yes () No ()
2. Is business expansion taking place in a Pine Tree Zone (PTZ)? Yes () No ()
3. If PTZ, which of the following sectors is business in:
manufacturing (), financial services (), environmental technology (), biotechnology (),
information technology (), aquaculture and marine technology (), advanced technologies
for forestry and agriculture (), precision manufacturing technology (), and composite
materials technology ()?
4. If PTZ, is it adding 1 or more qualified employees above its base level of employment in
Maine within any two-year period commencing on or after January 1, 2004? Yes () No ()
5. If not PTZ, is it adding 5 or more qualified employees above its base level of employment in
Maine within any two-year period commencing on or after January 1, 1996? Yes () No ()

C. Retail Operations

Please review the ETIF definition of "retail operations" and answer the following:

1. Is business engaged in retail operations, i.e. the sale of consumer goods for household use
to consumers who personally visit the location to purchase the goods? Yes () No ()
2. If no, go to paragraph D. If yes, is 50% or more of the company's total annual revenues from
Maine-based operations derived from sales taxable in Maine? Yes () No ()



3. If no, go to paragraph D. If yes, can the company demonstrate that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sale from other businesses in Maine? Please attach separate sheet with explanation. Yes () No ()

D. Jobs and Investment Tax Credit

1. Is the business investing at least \$5 million in a taxable year in personal property in Maine and creating 100 new jobs over the ensuing two-year period? Yes () No ()
2. If yes, has it elected to take, the Jobs and Investment Tax Credit? Yes () No ()

E. Disclosure (attach separate sheets if necessary)

1. Check the public purpose (any that apply) that will be served by the business through the use of the ETIF incentive:
- ☐ Job creation
 - ☐ Job retention
 - ☐ Capital investment
 - ☐ Training investment
 - ☐ Tax base improvement
 - ☐ Public facilities improvement
 - ☐ Other: _____
2. Using the list of “uses of funds” in your application narrative [Financial Plan, §2(a)], check the specific uses (any that apply) to which the ETIF revenues will be put:
- ☐ Real estate purchase
 - ☐ Machinery & equipment purchase
 - ☐ Training costs
 - ☐ Debt reduction
 - ☐ Other: _____
3. List the company’s goals for the number, type and wage levels of jobs to be created or retained as a result of the ETIF revenues received *(please use the form on the next page, and instructions that pertain to it)*.
4. Based on the estimate calculated in your application narrative for “total annual state income tax withholdings for each of the ten years” [Qualified Employee Data, §3(e)], and using the reimbursement percentage for your county or PTZ of employment (30%, 50%, 75% or 80%), does the business anticipate receiving more than \$10,000 in ETIF reimbursement in any calendar year during the term of the ETIF development program? Yes () No ()

(If “yes”, please review the example of the report at the end of the manual that must be submitted annually to the Commissioner of the Department of Economic and Community Development; the survey will be mailed directly to your contact person listed in the cover sheet to this application).



EMPLOYMENT GOALS

Company Goals for Job Creation and Job Retention (from paragraph 3, previous page)

A. Job Creation Goals			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
1. Executive, Administrative & Managerial			\$
2. Professional Specialty			\$
3. Technicians & Related Support			\$
4. Marketing & Sales			\$
5. Administrative Support, including Clerical			\$
6. Service			\$
7. Agriculture, Forestry & Fishing			\$
8. Mechanics, Installers & Repairers			\$
9. Construction Trades & Extractive			\$
10. Production			\$
11. Transportation & Material Moving			\$
12. Handlers, Equip. Cleaners, Helpers & Lab'rs			\$
B. Job Retention Goals			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
1. Executive, Administrative & Managerial			\$
2. Professional Specialty			\$
3. Technicians & Related Support			\$
4. Marketing & Sales			\$
5. Administrative Support, including Clerical			\$
6. Service			\$
7. Agriculture, Forestry & Fishing			\$
8. Mechanics, Installers & Repairers			\$
9. Construction Trades & Extractive			\$
10. Production			\$
11. Transportation & Material Moving			\$
12. Handlers, Equip. Cleaners, Helpers & Lab'rs			\$
<i>*Please use the Occupational Cluster descriptions on the next page to complete this form.</i>			

INSTRUCTIONS

A. Job Creation Goals. Please list the number, type and wage level of jobs created as a result of the economic development incentive. NOTE: For this form, "full-time" employment means 30 hours or more; "part-time" employment means less than 30 hours. "Wage level" means the average annual wage paid for jobs created within an occupational cluster, e.g. either their annual salary, or their hourly wage times their annual hours. Also, "type" means "occupational cluster" which refers to the 12 categories defined below. Please include the number of your employees (both full-time and part-time) working within the category that most closely reflects their job duties.

B. Job Retention Goals. Please list the number, type and wage level of jobs retained as a result of the economic development incentive. Part B should be completed using same definitions in Part A.



OCCUPATIONAL CLUSTERS

(for use in completing Parts A & B above)

1. **Executive, administrative and managerial.** Workers in executive, administrative and managerial occupations establish policies, make plans, determine staffing requirements, and direct the activities of businesses and other organizations. Workers in management support occupations, such as accountant and auditor or underwriter, provide technical assistance to managers.
2. **Professional specialty.** This group includes engineers; architects and surveyors; computer, mathematical, and operations research occupations; life, physical, and social scientists; lawyers and judges; social, recreational, and religious workers; teachers, librarians, and counselors; health diagnosing, assessment, and treating occupations; and communications, visual arts, and performing arts occupations.
3. **Technicians and related support.** This group includes health technologists and technicians, engineering and science technicians, computer programmers, tool programmers, aircraft pilots, air traffic controllers, paralegals, broadcast technicians, and library technicians.
4. **Marketing and sales.** Workers in this group sell goods and services, purchase commodities and property for resale, and stimulate consumer interest.
5. **Administrative support, including clerical.** Workers in this group prepare and record memos, letters, and reports; collect accounts; gather and distribute information; operate office machines; and handle other administrative tasks.
6. **Service.** This group includes a wide range of workers in protective, food and beverage preparation, health, personal, private household, and cleaning and building services.
7. **Agriculture, forestry and fishing.** Workers in these occupations cultivate plants, breed and raise animals, and catch fish.
8. **Mechanics, installers, and repairers.** Workers in this group adjust, maintain, and repair automobiles, industrial equipment, computers, and many other types of machinery.
9. **Construction trades and extractive.** Workers in this group construct, alter, and maintain buildings and other structures or operate drilling and mining equipment.
10. **Production.** These workers set up, adjust, operate, and tend machinery and/or use hand tools and hand-held power tools to make goods and assemble products.
11. **Transportation and material moving.** Workers in this group operate the equipment used to move people and materials.
12. **Handlers, equipment cleaners, helpers, and laborers.** Workers in these occupations assist skilled workers and perform routine tasks.



STATUTE



EMPLOYMENT TAX INCREMENT FINANCING STATUTE

36 § 6751. Short title

This chapter may be known and cited as the "Maine Employment Tax Increment Financing Act." [1995, c. 669, §5 (new).]

36 § 6752. Program established; declaration of public purpose

The Maine Employment Tax Increment Financing Program is established to encourage the creation of net new quality jobs in this State, improve and broaden the tax base and improve the general economy of the State. The Legislature declares that the actions required to assist the implementation of development programs are a public purpose and that the execution and financing of these programs are a public purpose. [1995, c. 669, §5 (new).]

36 § 6753. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 669, §5 (new).]

1. Affiliated businesses. "Affiliated businesses" means 2 businesses exhibiting either of the following relationships:

- A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or [1995, c. 669, §5 (new).]
- B. Fifty percent or more of the stock or a controlling interest is directly or indirectly owned or acquired by a common owner or owners following approval by the commissioner, whether by acquisition of substantially all of the assets, 50% or more of the stock or through a merger, consolidation or reorganization. [1995, c. 669, §5 (new).]

2. Affiliated group. "Affiliated group" means a qualified business and its corresponding affiliated businesses. [1995, c. 669, §5 (new).]

3. Applicant. "Applicant" means a qualified business that has submitted an application to the commissioner for approval of an employment tax increment financing development program. [1995, c. 669, §5 (new).]

4. Base level of employment. "Base level of employment" means the greater of either the total employment of a business as of the December 31st immediately preceding the approval of the employment tax increment financing development program or its average employment during the base period. [1995, c. 669, §5 (new).]

5. Base period. "Base period" means the 3 calendar years prior to the year in which an applicant's employment tax increment financing development program is approved by the commissioner. [1995, c. 669, §5 (new).]

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development. [1995, c. 669, §5 (new).]

7. Employment tax increment. "Employment tax increment" means that level of employment, payroll and state income withholding taxes attributed to qualified employees employed by a qualified business above the base level for the qualified business, adjusted pursuant to section 6757 for shifts in employment by affiliated businesses. [1995, c. 669, §5 (new).]

8. Employment tax increment financing development program. "Employment tax increment financing development program" means a statement describing:

- A. An applicant's employment growth and capital investment plans over the 5-year period beginning on the date an application is submitted to the commissioner; and [1995, c. 669, §5 (new).]
- B. A description of how funds reimbursed under this Act are necessary to the achievement of those plans. [1995, c. 669, §5 (new).]



9. Gross employment tax increment. "Gross employment tax increment" means that level of employment, payroll and State income tax withholding taxes attributed to qualified employees employed by a qualified business that is greater than the base level for the qualified business. [1995, c. 669, §5 (new).]

10. Labor market unemployment rate. "Labor market unemployment rate" means the average unemployment rate as published by the Department of Labor for the labor market or markets in which potential qualified employees are located and in which reimbursement is claimed under this chapter for the 12 most recently reported months preceding the date of application for employment tax increment financing and for the 12 most recently reported months preceding the beginning of the 6th year of an approved employment tax increment financing development program. [1999, c. 388, §1 (amd).]

11. Qualified business. "Qualified business" means any for-profit business in this State, other than a public utility as defined by Title 35-A, section 102, that adds 5 or more qualified employees above its base level of employment in this State within any 2-year period commencing on or after January 1, 1996 and that meets one of the following criteria: [2001, c. 157, §1 (new).]

- A. The business is not engaged in retail operations; [1995, c. 669, §5 (new).]
- B. The business is engaged in retail operations but less than 50% of its total annual revenues from Maine-based operations are derived from sales taxable in this State; or [1995, c. 669, §5 (new).]
- C. The business is engaged in retail operations and can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State. [1995, c. 669, §5 (new).]

For purposes of this subsection, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods. [1995, c. 669, §5 (new).]

12. Qualified employees. "Qualified employees" means new, full-time employees hired in this State by a qualified business and for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided, and whose income derived from employment with the applicant, calculated on a calendar year basis is greater than the average annual per capita income in the county in which the qualified employee is employed and whose state income withholding taxes are subject to reimbursement to the qualified business under this chapter. "Qualified employees" must be residents of this State. [1999, c. 388, §2 (amd).]

13. State unemployment rate. "State unemployment rate" means the average unemployment rate published by the Department of Labor for the State as a whole for the 12 most recently reported months preceding the date of application for employment tax increment financing and for the 12 most recently reported months preceding the beginning of the 6th year of an approved employment tax increment financing development program. [1999, c. 388, §3 (amd).]

36 § 6754. Reimbursement allowed

1. Generally. Subject to the provisions of subsection 2, a qualified business is entitled to reimbursement of state income withholding taxes withheld during the calendar year for which reimbursement is requested and attributed to qualified employees after July 1, 1996 in the following amounts.

- A. For qualified employees employed by a qualified business in state labor market areas in which the labor market unemployment rate is at or below the state unemployment rate at the time of application, the reimbursement is equal to 30% of withholding taxes withheld during each of the first 5 calendar years for which reimbursement is requested and attributed to those qualified employees. The percentage of reimbursement for the 6th to 10th years of the employment tax increment financing development program is



established based upon the labor market unemployment rate at the beginning of the 6th year. [1997, c. 766, §3 (amd).]

B. For qualified employees employed by a qualified business in state labor market areas in which the labor market unemployment rate is greater than the state unemployment rate at the time of application, the reimbursement is equal to 50% of withholding taxes withheld during each of the first 5 calendar years for which reimbursement is requested and attributed to those qualified employees. The percentage of reimbursement for the 6th to 10th years of the employment tax increment financing development program is established based upon the labor market unemployment rate at the beginning of the 6th year. [1997, c. 766, §3 (amd).]

C. For qualified employees employed by a qualified business in state labor market areas in which the labor market unemployment rate is greater than 150% of the state unemployment rate at the time of application, the reimbursement is equal to 75% of withholding taxes withheld during each of the first 5 calendar years for which reimbursement is requested and attributed to those qualified employees. The percentage of reimbursement for the 6th to 10th years of the employment tax increment financing development program is established based upon the labor market unemployment rate at the beginning of the 6th year. [1997, c. 766, §4 (new).]

D. For qualified Pine Tree Development Zone employees, as defined in Title 30-A, section 5246, subsection 18, employed directly in the qualified business activity of a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5246, subsection 17, for whom a certificate of qualification has been issued in accordance with Title 30-A, section 5250-B, the reimbursement under this subsection is equal to 80% of the withholding taxes withheld each year for which reimbursement is requested and attributed to those qualified employees for a period of no more than 10 years. In no event may reimbursement under this subsection be paid for years beginning after December 31, 2018. [2003 (new)]

2. Limitations. Reimbursement to a qualified business under this chapter is subject to the following limitations.

A. A business previously qualified and approved by the commissioner may not receive reimbursement under this chapter for any period of time in which it failed to maintain the minimum requirements for initial approval as a qualified business. [1995, c. 669, §5 (new).]

B. Reimbursement to a qualified business approved pursuant to this chapter expires 10 years after the date on which benefits commenced under the employment tax increment financing development program. [1999, c. 388, §4 (amd).]

C. A business electing to take the jobs and investment tax credit under section 5215 may not claim reimbursement under this chapter until the full amount of allowable jobs and investment tax credit benefits have been claimed. [1995, c. 669, §5 (new).]

D. A business may not claim reimbursement under this chapter for income withholding taxes attributed to employees employed within any state tax increment financing district approved under Title 30-A, chapter 207. [1995, c. 669, §5 (new).]

E. Employee payroll withholding amounts are limited to the standard amount required to be withheld pursuant to chapter 827 and may not include any excess withholding. [1995, c. 669, §5 (new).]

F. The aggregate annual retained employment tax increment revenues for all employment tax increment financing programs may not exceed \$20,000,000, adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average, from January 1, 1996 to the date of calculation. [1995, c. 669, §5 (new).]



3. Multiple labor market areas. The commissioner may by rule establish procedures for equitably apportioning reimbursement to a qualified business employing qualified employees in multiple labor market areas in the State. [1995, c. 669, §5 (new).]

36 § 6755. Procedures for application

A qualified business that applies to the commissioner for approval of its employment tax increment financing program shall submit, in a form acceptable to the commissioner, the following information: [1995, c. 669, §5 (new).]

1. Base level data. Employment, payroll and state withholding data necessary to calculate the base level; [1995, c. 669, §5 (new).]

2. Number of qualified employees. The number of qualified employees that the applicant has added or will add in the State that qualify the business for reimbursement under this chapter, including additional associated payroll and withholding data necessary to calculate the gross employment tax increment and establish the appropriate reimbursement percentage; [1995, c. 669, §5 (new).]

3. Certification. Certification that a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 and group health insurance have been made available to all of the applicant's qualified employees; [1995, c. 669, §5 (new).]

4. Employment locations. A listing of all of the applicant's employment locations within the State and the number of employees at each location; and [1995, c. 669, §5 (new).]

5. Affiliations and data. A listing of all affiliated business and affiliated groups, data regarding current employment, payroll and state income withholding taxes for each affiliated business in the State. [1995, c. 669, §5 (new).]

Upon receipt of the information required by this section, the commissioner shall review the information in a timely fashion. If the commissioner determines that the criteria provided in section 6756 are satisfied, the commissioner must issue a certificate of approval to the applicant. [1995, c. 669, §5 (new).]

36 § 6756. Criteria for approval

Prior to issuing a certificate of approval for an employment tax increment financing program, the commissioner must find that: [1995, c. 669, §5 (new).]

1. Approval needed. The economic development described in the program will not go forward without the approval; [1995, c. 669, §5 (new).]

2. Contribution to State. The program will make a contribution to the economic well-being of the State; and [1995, c. 669, §5 (new).]

3. No substantial harm to existing businesses. The economic development described in the program will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider, pursuant to Title 5, chapter 375, subchapter II, those factors the commissioner determines necessary to measure and evaluate the effect of the proposed program on existing businesses, including whether any adverse economic effect of the proposed program on existing businesses is outweighed by the contribution described in subsection 2. [1995, c. 669, §5 (new).]

The State Economist shall review applications for employment tax increment financing and provide an advisory opinion to assist the commissioner in making findings under this section. [1995, c. 669, §5 (new).]

36 § 6757. Calculation of employment tax increment

The State Tax Assessor shall calculate the employment tax increment for a particular program by removing from the gross employment tax increment the revenues attributed to business activity shifted from affiliated businesses to the applicant. This adjustment is calculated



by comparing the current year's income withholding tax revenues for the applicant business that is a member of an affiliated group with revenues for the group as a whole. If the growth in income withholding tax revenue for the entire group exceeds the growth of income withholding tax revenue generated by the applicant, the gross employment tax increment does not have to be adjusted to remove business activity shifted from affiliated businesses. If the growth in income withholding tax revenue for the affiliated group is less than the growth in income withholding tax revenue for the applicant, the difference is presumed to have been shifted from affiliated businesses to the applicant and the gross employment tax increment for the applicant business is reduced by the difference. The State Tax Assessor shall adjust the calculation by subtracting from the gross employment tax increment a figure obtained by multiplying the previous year's total amount of income taxes withheld by a qualified business by the percentage change in

withholding taxes for all business within the State as a whole; however, an adjustment may not be made if the percentage change is 0 or less. [1995, c. 669, §5 (new).]

36 § 6758. Procedure for reimbursement

1. Reporting by qualified businesses. On or before April 15th of each year, each qualified business approved by the commissioner pursuant to this chapter shall report the number of employees, the state income taxes withheld for the immediately preceding calendar year and any further information the State Tax Assessor may reasonably require. [1995, c. 669, §5 (new).]

2. Determination by assessor. On or before June 30th of each year, the assessor shall determine the employment tax increment of each qualified business for the preceding calendar year. A qualified business may receive up to 75% of the employment tax increment generated by that business as determined by the assessor, subject to the further limitations in section 6754, subsection 2. That amount is referred to as "retained employment tax increment revenues." [1999, c. 127, Pt. A, §51 (rpr).]

3. Deposit and payment of revenue. On or before June 30th of each year, the Commissioner of Administrative and Financial Services shall deposit an amount equal to the total retained employment tax increment revenues for the preceding calendar year for approved employment tax increment financing programs in the state employment tax increment contingent account established, maintained and administered by the Commissioner of Administrative and Financial Services. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay to each approved qualified business an amount equal to the retained employment tax increment revenues for the preceding calendar year. [1995, c. 669, §5 (new).]

36 § 6759. Program administration

The commissioner shall administer this Act. The commissioner and the State Tax Assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility. The commissioner may also by rule establish fees, including fees payable to the State Tax Assessor and the State Planning Office for obligations under this chapter. Any fees collected pursuant to this chapter must be deposited into a special revenue account administered by the State Tax Assessor and those fees may be used only to defray the actual costs of administering this Act. [1995, c. 669, §5 (new).]

36 § 6760. Confidentiality

The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A: [1995, c. 669, §5 (new).]

1. Records used for designation or approval of program. Any record obtained or developed by the commissioner or the State Tax Assessor for designation or approval of an employment tax increment financing program. After receipt by the commissioner or the State Tax Assessor of the application or proposal, a record pertaining to the application or proposal is not considered confidential unless it meets the requirements of subsections 2 to 6; [1995, c. 669, §5 (new).]



2. Records requested confidential or causing detriment. Any record obtained or developed by the commissioner or the State Tax Assessor that:

A. A person, which may include a qualified business, to whom the record belongs or pertains has requested be designated confidential; or [1995, c. 669, §5 (new).]

B. The commissioner has determined contains information that gives the owner or a user of that information an opportunity to obtain business or competitive advantage over another person who does not have access to the information or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains; [1995, c. 669, §5 (new).]

3. Private records. Any record, including any financial statement or tax return, obtained or developed by the commissioner or the State Tax Assessor, the disclosure of which would constitute an invasion of personal privacy, as determined by the governmental entity in possession of that record or information; [1995, c. 669, §5 (new).]

4. Employment tax increment program records. Any record, including any financial statement or tax return, obtained or developed by the commissioner or the State Tax Assessor in connection with any monitoring or servicing activity by the commissioner or the State Tax Assessor that pertains to an employment tax increment program; [1995, c. 669, §5 (new).]

5. Creditworthiness records. Any record, including any financial statement or tax return obtained or developed by the commissioner or the State Tax Assessor, containing an assessment by a person not employed by the State of the creditworthiness or financial condition of any person or project; and [1995, c. 669, §5 (new).]

6. Confidential financial statements. Any financial statement, if the person to whom the statement belongs or pertains has requested that the record be designated confidential. [1995, c. 669, §5 (new).]

36 § 6761. Audit process

This chapter may not be construed to limit the authority of the State Tax Assessor to conduct an audit of a qualified business. When it is determined by the State Tax Assessor upon audit that a qualified business has received a distribution larger than that to which it is entitled under this chapter, the overpayment must be applied against subsequent distributions, unless it is determined that the overpayment is the result of fraud on the part of the qualified business, in which case the State Tax Assessor may disqualify the business from receiving any future distributions. When there is no subsequent distribution, the qualified business to which overpayments were made is liable for the amount of the overpayments and may be assessed pursuant to provisions of Part 1. [1995, c. 669, §5 (new).]



DRAFT RULE



ETIF DRAFT RULE

19-100 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Chapter 400: EMPLOYMENT TAX INCREMENT FINANCING

SUMMARY: This chapter outlines the procedures and standards governing the Commissioner's review of applications under the Employment Tax Increment Financing Program, the calculation of the employment tax increment, annual reporting requirements and program administration.

SECTION 1. PURPOSE AND DEFINITIONS.

A. PURPOSE

The Employment Tax Increment Financing program is designed to encourage the creation of net new quality jobs in this State, improve and broaden the tax base and improve the general economy of the State. Consistent with the Maine Employment Tax Increment Financing Act, 36 MRSA §§6751-6761, this chapter sets forth the provisions by which a business may utilize this program, and describes application requirements, state review procedures, state designation procedures, the calculation of employment tax increment, annual reporting requirements, and program administration.

B. DEFINITIONS

All terms used but not defined in this Chapter shall have the meanings ascribed to those terms in the Act, as amended. The following terms shall be given these meanings:

Act. "Act" means the Maine Employment Tax Increment Financing Act, 36 MRSA §§6751-6761.

Affiliated businesses. "Affiliated businesses" means two businesses exhibiting either of the following relationships:

One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or

Fifty percent or more of the stock or a controlling interest, is directly or indirectly owned or acquired by a common owner or owners following approval by the Commissioner, whether by acquisition of substantially all of the assets, or 50% or more of the stock or through a merger, consolidation or reorganization.

Affiliated group. "Affiliated group" means a qualified business and its corresponding affiliated businesses.

Applicant. "Applicant" means a qualified business that has submitted an application to the Commissioner for approval of an employment tax increment financing development program.

Base level of employment. "Base level of employment" means the greater of either the total employment of a business as of the December 31st immediately preceding the approval of the employment tax increment financing development program or its average employment during the base period.

Base period. "Base period" means the three calendar years preceding the year in which an applicant's employment tax increment financing development program is approved by the Commissioner.

Commissioner. "Commissioner" means the Commissioner of the Department of Economic and Community Development.

Employment tax increment. "Employment tax increment" means that level of employment, payroll and state income withholding taxes attributed to qualified employees employed by a qualified business above



the base level for the qualified business, adjusted pursuant to 36 MRSA §6757 for shifts in employment by affiliated businesses.

Employment tax increment financing development program. "Employment tax increment financing development program" means a statement describing:

An Applicant's employment that comprises the base level of employment;

An applicant's employment growth and capital investment plans over the 5-year period beginning on the date an application is submitted to the Commissioner; and

A description of how funds reimbursed under the Act are necessary to the achievement of those plans.

Financial plan. "Financial plan" means a statement of the costs and sources of revenue required to accomplish the development program. A financial plan shall include a description of facilities to be constructed or modified, equipment to be purchased, employee training requirements, and other significant expenses associated with the project.

Gross employment tax increment. "Gross employment tax increment" means that level of employment, payroll and State income tax withholding taxes attributed to qualified employees employed by a qualified business that is greater than the base level for the qualified business.

Labor market unemployment rate. "Labor market unemployment rate" means the average unemployment rate as published by the Maine Department of Labor for the labor market or markets in which potential qualified employees are located and in which reimbursement is claimed under the Act for the ~~calendar year for which reimbursement is claimed~~ 12 most recently reported months preceding the date of application for employment tax increment financing and for the 12 most recently reported months preceding the beginning of the 6th year of an approved employment tax increment financing development program.

Qualified business. "Qualified business" means any for-profit business in this State, other than a public utility as defined by 35-A MRSA §102, that adds ~~45~~ 5 or more qualified employees above its base level of employment in this State within any 2-year period commencing on or after January 1, 1996, and that meets one of the following criteria:

The business is not engaged in retail operations;

The business is engaged in retail operations, but less than 50% of its total annual revenues from Maine-based operations are derived from sales taxable in this State; or

The business is engaged in retail operations and can demonstrate to the Commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State.

For purposes of this definition, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods.

Qualified economic development project. "Qualified economic development project" means a definable business investment project that includes capital or other investments, and the creation of net new jobs associated with those investments, that are necessary to improve or retain the applicant's market position.

Qualified employees. "Qualified employees" means new, full-time employees hired in this State by a qualified business and for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§1001 - 1461, as amended, and group health insurance are provided,



and whose income derived from employment with the applicant, calculated on a calendar year basis is greater than the average annual per capita income in the labor market area county in which the qualified employee is employed and whose state income withholding taxes are subject to reimbursement to the qualified business under the Act. "Qualified employees" must be residents of this State.

State unemployment rate. "State unemployment rate" means the average unemployment rate as published by the Maine Department of Labor for the state as a whole, for the calendar year for which reimbursement is claimed 12 most recently reported months preceding the date of application for employment tax increment financing and for the 12 most recently reported months preceding the beginning of the 6th year of an approved employment tax increment financing development program.

SECTION 2. APPLICATION REQUIREMENTS

A. GENERAL

Qualified businesses wishing to use employment tax increment financing to seek reimbursement of state income taxes withheld must submit an application to the Department conforming in all material respects to the requirements of Section 2(B) below and providing any additional information the Department may request.

B. EMPLOYMENT TAX INCREMENT FINANCING APPLICATION

An application for employment tax increment financing reimbursement must contain the following:

1. Employment Tax Increment Financing Development Program, including:
 - a. Project Plan:
 - (1) A description of the business, its products and/or services and history of operation;
 - (2) A description of the market(s) and/or competitive environment in which the business operates or expects to operate; and
 - (3) A description of the applicant's employment growth and investment plans over the five years following the date of application.
 - b. Base Level Data:
 - (1) Number of employees employed by the applicant as of December 31 for each of the three years preceding the year of application;
 - (2) Total payroll of the applicant for each of the three calendar years preceding the year of application; and
 - (3) Total state income taxes withheld for employees of the applicant for each of the three years preceding the year of application.
 - c. A statement describing the basis under which it has been determined that the project will not go forward absent Employment Tax Increment Financing.
2. Financial Plan, including:
 - a. A statement of the sources and uses of funds required to accomplish the development program;



- b. A description of:
 - (1) Facilities to be constructed or modified;
 - (2) Equipment to be purchased;
 - (3) Employee training requirements; and
 - (4) Other expenses associated with the Development Program, and which will be funded through Employment Tax Increment Financing.
- 3. Qualified employee data, consisting of :
 - a. Number, by job classifications, of qualified employees that the applicant has added or expects to add in the state within a two year period beginning on the January 1 of the year of application;
 - c. Average annual wage, by job classification, of qualified employees that the applicant has added, or expects to add in the State within a two year period beginning on the January 1 of the year of application;
 - c. Hiring schedule of qualified employees that the applicant has added or expects to add in the State within a two year period beginning on the January 1 of the year of application;
 - d. Estimated total annual payroll for all qualified employees for each of the 10 years during which reimbursement may be sought for the development program; and
 - e. Estimated total annual State income tax withholdings for all qualified employees for each of the 10 years during which reimbursement may be sought for the development program.
- 4. Certifications, attested by an officer of the qualified business, consisting of:
 - a. Certification that all qualified employees are offered participation in a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§1001-1461; and
 - b. Certification that all qualified employees are offered participation in a group health insurance plan.
- 5. Employment location data, consisting of:
 - a. All applicant's employment locations within the State; and
 - b. Number of employees at each location within the State.
- 6. Affiliations and acquired business data, including:
 - a. A listing of all affiliated businesses and affiliated groups within the State; and
 - b. For each affiliated businesses and affiliated group located within the State, current data concerning:
 - (1) Number of employees;



(2) Payroll; and

(3) Total state income taxes withheld; and

7. Any additional information which the Commissioner may reasonably require.

SECTION 3. DEPARTMENT REVIEW

Applications for employment withholding tax reimbursement will be reviewed by the Commissioner, subject to the following provisions:

1. Completed applications will be reviewed in the order in which they are received;
2. Completed applications must contain current information as of the submission date;
3. Prior to issuing a Certificate of Approval, the Commissioner must determine that:
 - a. The application is complete;
 - b. The program will make a contribution to the economic well-being of the State;
 - c. The economic development described in the program will not result in a substantial detriment to existing businesses in the State;
 - d. The qualified economic development project will not go forward without Employment Tax Increment Financing; and
 - e. The application otherwise conforms to this rule and the Act.

In order to make this determination the Commissioner shall consider, pursuant to 5 MRSA, chapter 375, subchapter II, those factors determined to be necessary to measure and evaluate the effect of the proposed employment tax increment program, including whether any adverse economic effect of the proposed program on existing businesses is outweighed by the program's contribution to the economic well-being of the State. The State Economist will review the application for employment tax increment financing and provide an advisory opinion to assist the Commissioner. The Department will complete its review of completed applications in a timely manner. All such applications desiring approval within a specific calendar year must be received at the Commissioner's Office on or before December 1st of that calendar year. Unsuccessful applicants will receive written explanation of the reason for denial.

SECTION 4. CALCULATIONS

A. CALCULATION OF EMPLOYMENT TAX INCREMENT

The State Tax Assessor will calculate the employment tax increment for each approved Employment Tax Increment Financing program by removing from the gross employment tax increment the revenues attributed to business activity shifted from affiliated businesses to the applicant, calculated by:

1. Comparing the current year's income tax withholding revenues for the applicant business that is a member of an affiliated group with revenues for the group as a whole;
 - a. If the growth in income tax withholding revenues for the entire group exceeds the growth of income withholding tax revenue generated by the applicant, the gross employment tax increment does not have to be adjusted to remove business activity shifted from affiliated business; but



- b. If the growth in income tax withholding revenues for the affiliated group is less than the growth in income tax withholding revenues for the applicant, the difference is presumed to have been shifted from affiliated businesses to the applicant and the gross employment tax increment for the applicant business is reduced by the difference;
2. Subtracting from the gross employment tax increment a figure obtained by multiplying the previous year's total amount of income taxes withheld by a qualified business by a percentage change in withholding taxes for all business within the State as a whole. However, if the resulting percentage change is zero or less, then no adjustment will be made;
3. Subtracting from the gross employment tax increment those employee State income taxes withheld within the current year wherein the business failed to maintain the minimum requirements for designation as a qualified business as defined in Section 1(B); and
4. Subtracting from the gross employment tax increment any employee State income tax withholdings attributable to employees of businesses acquired subsequent to the December 31 preceding the date of application.

B. DETERMINATION OF REIMBURSEMENT PERCENTAGE FOR TWO FIVE-YEAR PERIODS

Upon the successful review and approval of an application for Employment Tax Increment Financing and the calculation of the Employment Tax Increment, the Commissioner will establish the initial percentage of annual reimbursement to the qualified business that will be in effect for each of the first 5 calendar years for which reimbursement is requested, using the most recently available Maine Department of Labor data at the time of application; the Commissioner will establish the subsequent percentage of annual reimbursement to the qualified business for the 6th through 10th years using the most recently available Maine Department of Labor data when the time of application reaches its sixth anniversary, as follows:

1. For qualified employment where the labor market unemployment rate is less than or equal to the State unemployment rate, the percentage of reimbursement will be 30% of the Employment Tax Increment; or
2. For qualified employment where the labor market unemployment rate is greater than the State unemployment rate, the percentage or reimbursement will be 50% of the Employment Tax Increment; or
3. For qualified employment where the labor market unemployment rate is greater than 150% of the State unemployment rate, the percentage or reimbursement will be 75% of the Employment Tax Increment.

SECTION 5. PROCEDURE FOR REIMBURSEMENT

A. REPORTING BY QUALIFIED BUSINESS.

On or before April 15th of each year, each qualified business approved by the Commissioner pursuant to this rule must report to the State Tax Assessor:

1. The number of employees employed during the preceding calendar year;
2. The total employee State income tax withholdings for the preceding calendar year;
3. The total wages paid to each qualified employee during the preceding year;



4. Certification that the qualified employee data submitted pursuant to Section 2(B)(3) is accurate for the preceding calendar year, or any fraction thereof for which reimbursement is sought under this chapter;
5. If at any time during the calendar year for which reimbursement is sought the qualified business has failed to maintain the minimum qualification criteria described in Section (1)(B) of this rule, the business must provide the following:
 - a. Beginning and ending dates of the period or periods during which the business failed to meet the qualification criteria; and
 - b. The amount of state income taxes withheld during the period or periods listed; and
6. Any further information the State Tax Assessor may reasonably require.

B. DETERMINATION BY THE STATE TAX ASSESSOR

On or before June 30th of each year, the State Tax Assessor shall determine the employment tax increment of each qualified business for the preceding calendar year. A qualified business may receive up to ~~50%~~ 75% of the employment tax increment generated by that business as determined by the State Tax Assessor, subject to the following limitations imposed in 36 MRSA §6754(2):

1. A previously qualified business may not receive reimbursement for any period of time in which it failed to maintain the minimum requirements for initial approval as a qualified business;
2. Reimbursement expires ten years after the ~~approval date of~~ on which benefits commenced under the employment tax increment financing development program;
3. A business electing to take the jobs and investment tax credit under 36 MRSA §5215 may not claim employment tax increment financing reimbursement until the full amount of allowable jobs and investment tax credit benefits have been claimed;
4. A business may not claim reimbursement for income withholding taxes attributed to employees employed within any state tax increment financing district approved under 30-A MRSA §5251, et seq.;
5. Employee payroll withholding amounts are limited to the standard amount required to be withheld pursuant to 36 MRSA §5250, et seq. and may not include any excess withholding; and
6. The aggregate annual retained employment tax increment revenues for all employment tax increment financing programs may not exceed \$20,000,000, adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average, from January 1, 1996 to the date of application.

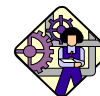
STATUTORY AUTHORITY: 36 MRSA §6759

EFFECTIVE DATE: June 1, 1998

Note: Additional changes have been highlighted in order to align the rule with amendments made to the authorizing statute subsequent to promulgation of these rules. Formal rule-making is planned in the near future to ensure that the rule is brought current.



REPORTING STATUTE



ETIF-RELATED STATUTE ON REPORTING REQUIREMENTS

5 MRSA §13070-J. Business reporting associated with eligibility for public subsidies and incentives

1. Definitions. As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

A. [(repealed)]

B. "Commissioner" means the Commissioner of Economic and Community Development.

C. "Department" means the Department of Economic and Community Development.

D. "Economic development incentive" means:

(1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;

(2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter 4;

(3) Municipal tax increment financing under Title 30-A, chapter 206;

(4) The jobs and investment tax credit under Title 36, section 5215;

(5) The research expense tax credit under Title 36, section 5219-K;

(6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;

(7) Employment tax increment financing under Title 36, chapter 917;

(8) The shipbuilding facility credit under Title 36, chapter 919; or

(9) The credit for seed capital investment under Title 36, section 5216-B.

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

(1) Is intended to encourage significant business expansion or retention in the State; and

(2) Contains a tax expenditure, as defined in section 1664, or a budget expenditure with a cost that is estimated to exceed \$100,000 per year.

2. Disclosure. Each applicant for an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (4) and (7) shall at a minimum identify in writing:

A. The public purpose that will be served by the business through use of the economic development incentive and the specific uses to which the benefits will be put; and

B. The goals of the business for the number, type and wage levels of jobs to be created or retained as a result of the economic development incentive received.

Applications filed under this subsection are public records for purposes of Title 1, chapter 13.

3. Report. Annually, a business receiving an economic development incentive described in subsection 1, paragraph D, subparagraphs (1) to (8), the value of which exceeds \$10,000 in one year, shall submit a written report to the commissioner no later than August 1st of the following year containing but not limited to the following information:

A. The amount of assistance received by the business in the preceding year from each economic development incentive and the uses to which that assistance has been put;

B. The total amount of assistance received from all economic assistance programs;

C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;



D. Current employment levels for the business for all operations within the State, the number of employees in each job classification and the average wages and benefits for each classification;

E. Any changes in employment levels that have occurred over the preceding year; and

F. An assessment of how the business has performed with respect to the public purpose identified in subsection 2, paragraph A, if applicable.

The department shall mail report forms by May 15th of each year to every business required to file a report under this subsection. Reports filed under this subsection are public records for purposes of Title 1, chapter 13.

4. Agency reports. The following agencies shall submit the following reports.

A. The State Tax Assessor shall submit a report by October 1st annually to the Legislature identifying the amount of public funds spent and the amount of revenues foregone as the result of economic development incentives. The report must identify the amount of the economic development incentives under the jurisdiction of the Bureau of Revenue Services received by each business to the extent permitted under Title 36, section 191 and other provisions of law concerning the confidentiality of information.

B. The Commissioner of Labor shall report by October 1st annually to the Legislature on the amount of public funds spent on workforce development and training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the Department of Labor received by each business and the public benefit resulting from those economic development incentives.

C. The Maine Technical College System shall report by October 1st annually to the Legislature on the amount of public funds spent on job training programs directly benefiting businesses in the State. The report must identify the amount of economic development incentives under the jurisdiction of the system received by each business and the public benefit resulting from those economic development incentives.

D. The department shall report by October 1st annually to the Legislature the following:

(1) The amount of public funds spent for the direct benefit of businesses in the State under municipal tax increment financing, employment tax increment financing and the Governor's training initiative. The report must identify the amount of economic development incentives under the jurisdiction of the department received by each employer and the public benefit resulting from those economic development incentives; and

(2) The activities in the State, in the aggregate, of businesses receiving funds through the Maine Seed Capital Tax Credit program, including the following:

(a) The total amount of tax credit certificates issued by the Finance Authority of Maine;

(b) The total amount of private investment;

(c) Total employment;

(d) The total number of jobs created;

(e) The total number of jobs retained;

(f) Total payroll; and

(g) Total annual sales.

The Finance Authority of Maine shall provide the department with the information collected in accordance with Title 10, section 1100-T, subsection 6 and assist in the preparation of this report.

E. The department shall report by October 1st annually to the State Tax Assessor a listing of businesses that have failed to submit reports required under subsection 3. The report must document that each business included in the report was provided with reasonable official



notification of its noncompliance and that its failure to submit the required report within 30 days would result in the withholding and potential forfeiture of reimbursements for which the business may be eligible under Title 36, chapter 915. The notification must be in the form of a letter posted by certified mail before August 15th of the reporting year. If the department subsequently receives a report from the business, the department shall so notify the State Tax Assessor.

F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the department shall make a written determination that the report required by subsection 3 either has not been received or is not in an acceptable form. A copy of that written determination, including the reasons for the determination, must be mailed to the claimant by certified mail. The determination made by the department constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination as to whether the claimant has filed a report in substantial compliance with this section. The Superior Court shall make its own determination as to all questions of fact and law. The Superior Court shall enter such orders and decrees as the case may require. In the event that the department's determination is appealed to Superior Court pursuant to this paragraph, forfeiture of the claimant's right to receive reimbursement of taxes under Title 36, chapter 915 may not occur unless the Superior Court, subject to any appeal to the Law Court, finds that the claimant had not substantially complied with the reporting requirements of this section.

5. Rules. Rules adopted by the commissioner under this section are routine technical rules as defined in chapter 375, subchapter II-A.



SAMPLE ANNUAL REPORT



SAMPLE REPORT TO BE ADDED



SAMPLE ETIF PROPOSAL



ETIF SAMPLE PROPOSAL

Application Cover Sheet

A. General Information

Business Name: The Lemonade Company ("TLC")

Address: 22 Squeeze Avenue, Howland, ME 04444

Telephone: (207) 123-4567, Fax: (207) 123-4568, E-mail: rind@lemonade.com

Principal Place of Business: Howland, ME

Company Structure: Subchapter S Corporation

Place of Incorporation: Maine

Names of Officers:

Joanna Smith, President & Chief Executive Officer

Winston Jones, Executive Vice President

Marie Banks, Chief Financial Officer

Principal Owners Name and Address:

Joanna Smith

7 Water St.

Howland, ME 04444

Project Contact Person: Daniel James, Human Resources Manager

B. For-Profit & Net New Jobs

Is business a for-profit entity, other than a public utility? Yes

Is business expansion taking place in a Pine Tree Zone (PTZ)? No

If PTZ, which of the following sectors is business in: Not Applicable
manufacturing (), financial services (), environmental technology (), biotechnology (),
information technology (), aquaculture and marine technology (), advanced technologies
for forestry and agriculture (), precision manufacturing technology (), and composite
materials technology ()?

If PTZ, is it adding 1 or more qualified employees above its base level of employment in
Maine within any two-year period commencing on or after January 1, 2004? N/A

If not PTZ, is it adding 5 or more qualified employees above its base level of employment in
Maine within any two-year period commencing on or after January 1, 1996? Yes

C. Retail Operations

Is business engaged in retail operations, i.e. the sale of consumer goods for household use
to consumers who personally visit the location to purchase the goods? No

If yes, is 50% or more of the company's total annual revenues from Maine-based operations
derived from sales taxable in Maine? N/A



D. Jobs and Investment Tax Credit

Is the business investing at least \$5 million in a taxable year in personal property in Maine and creating 100 new jobs over the ensuing period? No

E. Disclosure

1. Check the public purpose (any that apply) that will be served by the business through the use of the ETIF incentive:

<input checked="" type="checkbox"/> job creation	<input checked="" type="checkbox"/> training investment	
<input checked="" type="checkbox"/> job retention	<input checked="" type="checkbox"/> tax base improvement	<input type="checkbox"/> other:
<input checked="" type="checkbox"/> capital investment	<input type="checkbox"/> public facilities improvement	

2. Using the list of “uses of funds” in your application narrative [Financial Plan, paragraph 2(A)], check the specific uses (any that apply) to which the ETIF revenues will be put:

<input type="checkbox"/> real estate purchase	<input type="checkbox"/> debt reduction
<input checked="" type="checkbox"/> machinery & equipment purchase	<input type="checkbox"/> other:
<input type="checkbox"/> training costs	

3. List the company’s goals for the number, type and wage levels of jobs to be created or retained as a result of the ETIF revenues received:

(See Attachment A)

4. Based on the estimate calculated in your application narrative for “total annual state income tax withholdings for each of the ten years,” and using the anticipated reimbursement percentage for your county or PTZ of employment (30%, 50%, 75% or 80%), does the business anticipate receiving more than \$10,000 in ETIF revenues in any calendar year during the term of the ETIF development program?
Yes, and we understand the annual reporting process associated with receiving more than \$10,000, and plan to submit the appropriate forms and comply with it.



Application

1. Employment Tax Increment Financing Development Program

A. Project Plan

(1) Description of the Business

Joanna Smith started The Lemonade Company (hereafter referred to as "TLC") in 1990 in Chester, Maine. TLC is an international manufacturer and distributor of lemon beverage products. The products, distributed throughout Asia, Latin America and Europe, are sold through catalogues, trade shows, and direct sales calls. Recently, TLC was listed in Inc. Magazine as the 22nd fastest growing company in the United States. The philosophy that the customer always comes first and the unconditional guarantee of Joanna has allowed the company to leapfrog its competitors to become one of the largest manufacturers in its industry segment.

In this time the company has moved from its original location in Chester to Howland, Maine and employment has increased from 2 to 90 full time employees. Produce is shipped into New Jersey from around the world and then trucked to Maine before it is inspected, manufactured, packaged and sold to retail type customers.

(2) The Marketing Plan and The Product Line

The lemon beverage industry in which TLC competes is highly fragmented, consisting of thousands of small players. TLC is in the top 5% in size in the industry, 95% of the competitors have less than \$10 million in sales. The growth in the lemon beverage market continues to trend up, driven by the importance of a wholesome drink to today's consumer. Today's consumers are active and thirsty. As the importance of physical fitness grows, consumers naturally turn to buying products that enhance their well-being and quench their thirst. Lemon beverage products are being bought at an unprecedented rate. According to industry statistics published as recently as 1999 there are over 69 million retail stores which could be classified as lemon beverage outlets selling to this new end user, the aging baby boomers. In comparison, based on 1996 U.S. census there were only 34 million lemon beverage outlets three years ago. This is a doubling of the market in three years. Aging baby boomers are now reaching their prime years for consuming, 45 to 60, and as of 1996 this market was approximately 25 million people or \$9.1 billion.

It is these lemon beverage outlets which are TLC's customer. TLC markets to these retail stores through a combination of direct sales calls, catalogues and company owned showrooms. Some of the trends in the industry that play into TLC's core competencies are that consumers are looking for products with an international flair and homemade. TLC imports 100% of its product with approximately 80% coming from South America. TLC's customers have always looked to TLC as an innovator who always has something new. In 1998 alone we introduced over 500 products into our product line. This newness coupled with our affordable pricing, superior customer service and unconditional guarantee has kept TLC at the forefront of the lemon beverage industry.



Going forward, TLC will continue to enhance its customer service (the new distribution center is part of this) increase its marketing activity and continue to tailor our product appeal to a broader customer base.

The Lemonade Company line consists of nearly 1,000 products in 15 categories. Our marketing and merchandising teams continually research emerging consumer trends in lemon beverage consumption to update our current line and identify new product opportunities.

(3) Five Year Employment Growth and Investment Plans

Over the next five years The Lemonade Company's goal is to continue the sales growth that it has been accustomed to. The successful completion of the new production and distribution facility will be an integral part of this strategy. The facility will allow the company to be more competitive in its fulfillment process and lower its cost to warehouse and ship product. Over the next five years this will have a positive impact on earnings allowing the company to channel these savings into sales and marketing activities. In order to continue to grow in the 20% range the company will have to look for new product lines and possibly the establishment of an international operation. The company will need to continue to invest in training, industry experienced new hires and sophisticated information systems. Once the distribution project is completed the focus will be on merchandising and sales. The employment growth will track the sales growth at least for the next five years. The Lemonade Company has always understood that you must invest in the people or staff before the sales happen. This is a key to successful growth.

B. Base Level Data

Number of employees employed by The Lemonade company; total payroll; and total state income taxes withheld as of December 31 for each of the three years preceding the year of application:

Year	Employees	Payroll	SIT Withheld
2002	90	\$2,345,843	\$87,535
2001	85	\$1,913,819	\$75,942
2000	80	\$1,448,790	\$55,003

C. A statement describing the basis under which it has been determined that the project will not go forward absent Employment Tax Increment financing.

Financial support from the State of Maine has been a critical factor in our decision to keep our expansion plans in Maine. This expansion project could have occurred in other states like Virginia or South Carolina, or in South America (all aggressively sought a relocation of our company). We have decided however to expand our business in Howland, Maine. The construction of this production and distribution facility is paramount to our expansion. ETIF funding is necessary for the project to move forward.



2. Financial Plan

A. A statement of the sources and uses of funds required to accomplish the project.

Sources & Uses	Bank Financing	ETIF Funds	Lemonade and Other	Total Funds
Purchase land			\$497,500	\$497,500
Building Construction	\$3,080,000			\$3,080,000
Material handling and computer equipment		\$175,000	\$447,500	\$622,500
Total project cost	\$3,080,000	\$175,000	\$945,000	\$4,200,000

B. A description of:

(1) Facilities to be constructed:

Currently, the company operates their distribution activity from 80,000 sq. ft of leased space in Lakeville. Product is received to the third floor of this facility and inspected. Once an order is received the product is moved to Howland and shipped. This is extremely costly and inefficient. The new facility will be built in Howland and connected to the existing facility. The facility will be a state of the art production and distribution facility, measuring 106,000 sq. ft and highly automated. The dimensions of the new facility are 397 feet long, 296 feet wide and 40 feet high.

(2) Equipment to be purchased:

The ETIF money will help fund new material handling equipment and information systems. The material handling equipment includes high reach lift trucks, racking and pallet trucks. The information systems include computers, hand scanners and software. All this equipment is specialized and will require training of employees.

(3) Employee training requirements:

There will be several training initiatives that take place due to this expansion. All production and distribution employees will need to be trained on new machinery and equipment. Because we offer a significant amount of cross training a majority of our production and distribution employees will require this type of training. With this new facility shipping and receiving processes will be changed and updated. These same employees will need to be a part of this process re-engineering. Additional computer systems will be added to this new facility and certain employees will need to receive specific types of computer training. As we add new employees to work in this division, they will need orientation training, safety training, and equipment operation training.

(4) Other expenses associated with the Development Program, and which will be funded through Employment Tax Increment Financing.

N/A



3. Qualified employee data

(See attachment B)

4. Certifications

(See attachment C)

5. Employment location data

Production Facility – Howland	60 employees
Distribution Center – Lakeville	20 employees
Corporate Office – Howland	10 employees

6. Affiliations and acquired business data: N/A



Attachment A

EMPLOYMENT GOALS

Lemonade Company Goals for Job Creation and Job Retention

C. Job Creation Goals			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
13. Executive, Administrative & Managerial	7		\$60,570
14. Professional Specialty	3		\$66,671
15. Technicians & Related Support	2		\$63,991
16. Marketing & Sales	15		\$47,066
17. Administrative Support, including Clerical			
18. Service			
19. Agriculture, Forestry & Fishing			
20. Mechanics, Installers & Repairers			
21. Construction Trades & Extractive			
22. Production			
23. Transportation & Material Moving			
24. Handlers, Equip. Cleaners, Helpers & Lab'rs			
D. Job Retention Goals			
<i>Occupational Cluster*</i>	<i>Full-time</i>	<i>Part-time</i>	<i>Wage Level</i>
13. Executive, Administrative & Managerial	6		\$53,666
14. Professional Specialty			
15. Technicians & Related Support			
16. Marketing & Sales	11		\$48,526
17. Administrative Support, including Clerical			
18. Service			
19. Agriculture, Forestry & Fishing			
20. Mechanics, Installers & Repairers			
21. Construction Trades & Extractive			
22. Production	73		\$23,217
23. Transportation & Material Moving			
24. Handlers, Equip. Cleaners, Helpers & Lab'rs			
<i>*Please use the Occupational Cluster descriptions to complete this form.</i>			



Attachment B

Qualified Employee Data

The Lemonade Company

Occupation	Hire Date	# of Jobs	Annual Wage	Total Payroll
Marketing VP	10/1/03	1	\$140,000	\$140,000
Sales VP	11/1/03	1	\$140,000	\$140,000
Buyer	11/1/03	1	\$110,000	\$110,000
Logistics Manager	11/7/03	1	\$50,000	\$50,000
Product Manager	12/1/03	1	\$100,000	\$100,000
Assistant	2/1/03	1	\$50,000	\$50,000
Communications	10/27/03	1	\$28,000	\$28,000
Marketing Director	2/10/03	1	\$65,000	\$65,000
Merchandising	3/30/03	1	\$65,000	\$65,000
Sales Manager	9/10/03	1	\$48,000	\$48,000
Sales Rep	10/1/03	4	\$45,000	\$180,000
Technology Director	3/16/03	1	\$70,000	\$70,000
Technology Manager	5/16/03	1	\$58,000	\$58,000
Regional Managers	2/20/03	3	\$30,000	\$90,000
Tele-Sales Rep	12/1/03	6	\$35,000	\$210,000
Accounting Asst	2/1/03	2	\$27,000	\$54,000
Est. Qualified Employees Each Year		27		
Estimated Payroll Each Year		\$1,458,000		
Estimated State Income Tax Withheld (@4%)			\$58,320	
Estimated Annual Reimbursement (@75%)			\$43,740	
Estimated 10-Year Reimbursement			\$437,400	



Attachment C

Certifications, attested by an officer of the qualified business:

The Lemonade Company provides access to: 1) a retirement program subject to the Employee Retirement Income Security Act, and 2) group health insurance, for all full time employees.

Under penalties of perjury, I, the undersigned, declare that I have examined this entire Employment Tax Increment Financing proposal and, to the best of my knowledge and belief, it is true, correct and complete. My declaration is based on all information of which I have any knowledge.

Joanna Smith
Signed

President and CEO
Position

Joanna Smith
Name

July 4, 2003
Date



SAMPLE REIMBURSEMENT FORM & INSTRUCTIONS



March 10, 2003

TO: ETIF-Approved Companies
FROM: Jim Nimon
SUBJECT: 2002 ETIF Payments

It is time again for the Department of Economic and Community Development (DECD) to collect the information necessary for the state to issue reimbursement payments under the Employment Tax Increment Financing (ETIF) program.

Although you may recall the reimbursement process from previous years, let me review the highlights with you - especially for those companies new to the program. On or before April 15th of each year, qualified businesses are to report certain information to our office from the preceding calendar year, including the number of qualified employees (minimum 5 net new) and their state income taxes withheld.

The data collected by DECD is then used by the State Tax Assessor to determine the employment tax increment for each qualified business. This step occurs by June 30th. The Department of Administrative and Financial Services will reimburse each qualified business a percentage of their employment tax increment - 30%, 50% or 75% - as authorized in DECD's original approval letter. This action occurs by July 31st.

Please be certain to complete the attached one-page report according to the instructions on the attached page (please round up to whole dollars), and forward it to my attention by April 15th. Feel free to contact me should you have any questions.

Attachments: 2002 Report Form and Instructions





EMPLOYMENT TAX INCREMENT FINANCING
Reimbursement Request for
CALENDAR YEAR 2002
Application must be filed by April 15, 2003
(see attached instructions)

Business Name: _____

Address: _____

Withholding Account Number: _____

Contact Person: _____ Phone Number: _____

1. Date of Approval Letter from DECD Commissioner: 1. _____
2. Reimbursement rate provided in Approval Letter (enter 30%, 50% or 75%)..... 2. _____
3. Base level of employment provided in Approval Letter..... 3. _____
4. Current level of employment..... 4. _____
5. 2002 Maine income tax withholding associated with all employees..... 5. _____
6. Qualified employees..... 6. _____
7. 2002 Maine income tax withholding associated with qualified employees 7. _____
8. Reimbursement requested (Line 7 times Line 2)..... 8. _____

Under penalties of perjury, I, the undersigned, declare that I have examined this information return and, to the best of my knowledge and belief, it is true, correct and complete. I further certify that the minimum qualification criteria required for reimbursement has been maintained the entire calendar year. Declaration of preparer is based on all information of which preparer has any knowledge.

Officer's Signature

Title

Date

INSTRUCTIONS FOR ETIF02 FORM



Letter of Approval for the Employment Tax Increment Financing (ETIF) Program must be attached to this application. If you are authorized for more than one reimbursement rate due to employees hired in more than one labor market area, please complete a separate form for each reimbursement rate authorized.

This application must be filed by **April 15, 2003**, or no reimbursement will be made, even for a qualified employer. For good cause however, an extension for application is available until June 16, 2003. The extension request must be filed by April 15, 2003, or no reimbursement will be made.

Lines 1-3. The date of approval, reimbursement rate and base level of employment are authorized in the Letter of Approval by the Commissioner, Department of Economic and Community Development. Please call 207-624-7491 with any questions related to the Letter of Approval.

Line 4. Current level of employment is the total employment for the business as of December 31, 2002.

Line 5. Enter Maine income tax withholding associated with all employees of the business for calendar year 2002.

Line 6. Qualified employees are new, full-time, Maine resident employees working in this State, provided with a retirement program and group health insurance, whose pay is greater than the average annual per capita income of the county of employment [36 MRSA §6753(12)].

The income of those employees working less than a full year can be annualized for purposes of determining qualification. Count a position only once if multiple qualified employees are in it during the course of the year, but include total withholdings for the position in Line 7. You must retain proof of employee eligibility for purposes of audit requests by the State of Maine.

Line 7. Enter 2002 Maine income tax withholding associated with qualified employees. Note: if the qualified business is a member of an affiliated group as defined in 36 MRSA §6753(2), the withholding amount entered on this line must be adjusted pursuant to 36 MRSA §6757.

Line 8. Benefits to qualified businesses are determined each June 30, and reimbursed each July 31.

Qualified businesses may receive reimbursement of Maine income taxes withheld under an approved ETIF program for up to 10 years. The following limitations apply [36 MRSA §6754(2)]:

1. A business previously qualified and approved by the DECD Commissioner may not receive reimbursement under this chapter for any period of time in which it failed to maintain the minimum requirements for initial approval as a qualified business.
2. Reimbursement to a qualified business approved pursuant to this chapter expires 10 years after the date the ETIF development program was approved.
3. A business electing to take the jobs and investment tax credit under Title 36 §5215 may not claim an ETIF reimbursement until the full amount of allowable jobs and investment tax credit benefits have been claimed.
4. A business may not claim an ETIF reimbursement for income withholding taxes attributed to employees employed within any STATE (not municipal) tax increment financing district approved under Title 30-A, c. 206.
5. Employee payroll withholding amounts are limited to the standard amount required to be withheld pursuant to Title 36, c. 827, and may not include any excess withholding.
6. The aggregate annual retained employment tax increment revenues for all ETIF programs may not exceed \$20,000,000, adjusted by a factor equal to the percentage change in the US Bureau of labor Statistics Consumer Price Index, US City Average, from January 1, 1996 to the date of calculation.