

CLAIMED, CERTIFICATION FROM THE DEPARTMENT THAT THE ENTITY HAS MET THE REQUIREMENTS OF THIS SECTION AND IS ELIGIBLE FOR THE CREDIT.

(D) (1) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE DUE FROM THE QUALIFIED BUSINESS ENTITY FOR THAT TAXABLE YEAR, THE QUALIFIED BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

(II) THE EXPIRATION OF THE 5TH TAXABLE YEAR FROM THE CREDIT YEAR

(2) THE CREDIT UNDER THIS SECTION MAY NOT BE CARRIED BACK TO A PRECEDING TAXABLE YEAR

(E) (1) IF, DURING ANY OF THE 3 YEARS SUCCEEDING THE CREDIT YEAR, THE NUMBER OF QUALIFIED POSITIONS OF THE QUALIFYING BUSINESS ENTITY FALLS MORE THAN 5% BELOW THE AVERAGE NUMBER OF QUALIFIED POSITIONS DURING THE CREDIT YEAR ON WHICH THE CREDIT WAS COMPUTED, THE CREDIT SHALL BE RECAPTURED AS FOLLOWS:

(I) THE CREDIT SHALL BE RECOMPUTED TO REDUCE THE CREDIT BY THE PERCENTAGE REDUCTION OF THE NUMBER OF QUALIFIED EMPLOYEES;

(II) THE RECOMPUTED CREDIT SHALL BE SUBTRACTED FROM THE AMOUNT OF CREDIT PREVIOUSLY ALLOWED; AND

(III) THE QUALIFYING BUSINESS ENTITY SHALL PAY THE DIFFERENCE AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE NUMBER OF QUALIFIED POSITIONS FALLS MORE THAN 5% BELOW THE AVERAGE NUMBER OF QUALIFIED POSITIONS DURING THE CREDIT YEAR

(2) IF, DURING ANY OF THE 3 YEARS SUCCEEDING THE CREDIT YEAR, THE AVERAGE NUMBER OF QUALIFIED POSITIONS FALLS BELOW THE APPLICABLE THRESHOLD NUMBER OF POSITIONS UNDER SUBSECTION (B)(2)(I) OR 2 OF THIS SECTION, ALL CREDITS EARNED SHALL BE RECAPTURED.

(3) (I) DURING THE 3 TAXABLE YEARS SUCCEEDING THE CREDIT YEAR, THE QUALIFIED BUSINESS ENTITY SHALL SUPPLY INFORMATION REQUIRED BY THE DEPARTMENT IN REGULATION TO VERIFY THAT THE BUSINESS ENTITY IS NOT SUBJECT TO PARAGRAPH (1) OR (2) OF THIS SUBSECTION.

(II) THE DEPARTMENT MAY REQUIRE ANY INFORMATION REQUIRED UNDER THIS PARAGRAPH TO BE VERIFIED BY AN INDEPENDENT AUDITOR SELECTED BY THE BUSINESS ENTITY.

(F) ANY INFORMATION PROVIDED TO THE COMPTROLLER OR THE APPROPRIATE AGENCY BY A QUALIFIED BUSINESS ENTITY IN CONNECTION WITH ELIGIBILITY FOR A CREDIT ALLOWED UNDER THIS SECTION SHALL BE SHARED BY THE COMPTROLLER OR THE APPROPRIATE AGENCY WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC