

(6) (I) TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY, A BUSINESS ENTITY SHALL SUBMIT THE FOLLOWING TO THE DEPARTMENT IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT:

1. THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;
2. THE NUMBER OF FULL-TIME EMPLOYEES PRIOR TO THE START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;
3. THE NUMBER OF QUALIFIED POSITIONS CREATED, QUALIFIED EMPLOYEES HIRED, AND THE PAYROLL OF THOSE EMPLOYEES; AND
4. ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES BY REGULATION.

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

(7) A QUALIFIED BUSINESS ENTITY MUST OBTAIN, AND SUBMIT TO THE APPROPRIATE STATE AGENCY WITH THE TAX RETURN ON WHICH THE CREDIT IS CLAIMED, CERTIFICATION FROM THE DEPARTMENT THAT THE ENTITY HAS MET THE REQUIREMENTS OF THIS SECTION AND IS ELIGIBLE FOR THE CREDIT.

(D) (I) 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) (I) 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.