



# Indiana Department of Revenue

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Income Tax Information Bulletin #121

Subject: Employment of Individuals with Disabilities Tax Credit

Publication Date: December 2024

Effective Date: Upon Publication

References: IC 6-3.1-38.3

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## Introduction

In 2023, the Indiana General Assembly enacted IC 6-3.1-38.3, which created a new Employment of Individuals with Disabilities Tax Credit (the credit). The credit is available for employers who hire individuals referred to the employer for employment through a vocational rehabilitation services program for individuals with a disability.

## Definitions

A "credit-eligible employee" means an employee who meets all of the following criteria:

- The employee is first hired by the employer in 2024 or later.
- The employee is referred to the employer for employment through a vocational rehabilitation services program for individuals with a disability.
- The employee works at least 20 hours per week for the employer.
- The employee must be paid at a rate comparable to non-credit eligible employees for the same or similar work.
- The employee cannot be hired to replace another employee who was terminated without cause. An employee can be hired to replace another employee who voluntarily left the employer, another employee who was promoted or moved to another position, or another employee who was terminated for cause.

An "employer" means the person or entity for whom the credit-eligible employee performs services as an employee. In the case of a staffing agency, the staffing agency generally will be considered the employer. An employer does not include the following unless the employee actually performs services for that entity:

- A professional employer organization
- A common paymaster for a group of businesses
- An affiliated corporation or other entity

An “eligible benefit corporation” means a corporation that meets all the following criteria:

- The corporation is a benefit corporation as defined in IC 23-1.2-2-3.
- The corporation has 50 or fewer employees at all times during the taxable year.
- A majority of the corporation’s employees are credit-eligible employees.

An “eligible employer” means an employer that:

- Has one or more credit-eligible employees
- Has 500 or fewer employees at all times during the taxable year, and
- Is not an eligible benefit corporation

## Computation of the Credit

If an eligible employer hires a credit-eligible employee, the eligible employer is permitted a credit of 20% of the wages paid to the credit-eligible employee during the first taxable year that the employee meets the qualifications as a credit-eligible employee. The credit increases to 30% of wages for the second taxable year and 40% of wages for the third taxable year and each taxable year thereafter.

If an eligible benefit corporation hires a credit-eligible employee, the eligible employer is permitted a credit of 30% of the wages paid to the credit-eligible employee during the first taxable year that the employee meets the qualifications as a credit-eligible employee. The credit increases to 40% of wages for the second taxable year and 50% of wages for the third taxable year and each taxable year thereafter.

For purposes of determining whether an employee is credit eligible, the taxable years are not required to be consecutive. For example, an eligible employer who has an employee who meets all the eligibility criteria for 2024, 2026, and 2027, but does not meet the hours worked requirement for 2025, will compute the credit as 20% of the 2024 wages, 30% of the 2026 wages, and 40% of the 2027 wages.

For purposes of determining whether an employer qualifies based on the number of employees, the employee requirement will be determined for each year separately. For example, if a benefit corporation had 45 employees during 2024, 55 employees during 2025, and 40 employees during 2026, and 30 of the employees were credit-eligible employees, the corporation would be treated as an eligible benefit corporation for 2024 and 2026 because it did not exceed the 50-employee limitation. However, for 2025, the corporation would be treated as an eligible employer subject to the lower credit percentage.

## Reporting the Credit and Special Procedures for 2024

To report the credit, Code 877 must be used as an eligible employer or Code 881 as an eligible benefit corporation. Pass-through entities such as partnerships and S corporations also will use these codes to flow through the credit.

Upon a credit claim for tax years starting in 2024 only, the department will send the eligible employer or eligible benefit corporation a Form EDTC-W1 for reporting information to verify the credit. This information should not be provided with the return at the time of filing. It must be submitted separately according to the instructions on the form. If a completed Form EDTC-W1 is submitted, the department will review the completed form and either allow the credit or adjust the credit claim as necessary. Failure to complete the Form EDTC-W1 may result in denial of the credit in full. The Form EDTC-W1 is not required to be completed by entities that claim the credit solely from Schedule IN K-1 flow throughs. Entities that are claiming the credit both from pass-through entities and from their direct activities are required to complete the Form EDTC W-1 only for their direct activities.

Individuals claiming the credit as a sole proprietor or as a part of a disregarded entity may be issued a system-generated notice at the same time the Form EDTC-W1 is sent to them. If a notice is received, the taxpayer should continue with the completion of the Form EDTC-W1. They may then file a protest only if the credit claim continues to be disallowed and the 60-day period for a protest is near expiration.

## Annual Credit Claims and Overall Limitations

The credit allowable to a taxpayer is limited to the taxpayer's state adjusted gross income tax liability or financial institutions tax liability for a taxable year after application of other nonrefundable credits allowable prior to the credit. However, the credit is not allowable against the Indiana Pass Through Entity Tax. For a pass-through entity, the credit is passed through based on the owner's percentage income interest in the pass-through entity. If a credit is not allowable for a taxable year due to the limitation of the taxpayer's tax liability, the unused credit can be carried forward for up to five years after the first taxable year for which the credit was allowable and must be reduced as it is claimed. Any amount to be carried forward should be reported on Schedule IN-OCC, Part B.

If you have any questions concerning this bulletin, contact the Tax Policy Division at [taxpolicy@dor.in.gov](mailto:taxpolicy@dor.in.gov).



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