

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Friday, January 17, 2025, and filed with the agency secretary on Friday, January 17, 2025.

AGENCY NAME: Alabama Department of Revenue

INTENDED ACTION: New

RULE NO.: 810-3-135-.05
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

RULE TITLE: Employer Tax Credit - General Guidelines

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted with changes

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLIII, ISSUE NO. 2, AAM,
DATED WEDNESDAY, NOVEMBER 27, 2024.

STATUTORY RULEMAKING AUTHORITY: §40-2A-7(a)(5) and Article 23 of
Title 40, Code of Ala. 1975
and Act 2024-30

(Date Filed)
(For LRS Use Only)

REC'D & FILED
JAN 20, 2025
LEGISLATIVE SVC AGENCY

Vernon Barnett

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Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

(1) Purpose. This rule sets forth guidelines and procedures to be used by the department in the administration of the Employer Tax Credit as codified in Article 28 of Chapter 18 of Title 40, Code of Ala. 1975.

(2) Definitions.

(a) For purposes of this rule, all terms except the terms explicitly provided below, are defined in Act 2024-303.

(b) DEPARTMENT - The Alabama Department of Revenue.

(3) Eligibility for Tax Credit. The credit is an incentive for employers that provide childcare services to their employees and incur expenses related to childcare at eligible childcare facilities as defined in the Act. To be eligible for the credit, an employer must have paid or incurred qualified childcare expenditures during the tax year for providing these services to employees.

(a) An employer must meet the requirements of Act 2024-303, make a timely reservation through the Department's online system, and incur eligible expenses, to be eligible for the tax credit.

i. Small businesses that meet these requirements are eligible to claim a credit for 100 percent of eligible expenses up to six hundred thousand dollars per year, not to exceed the amount of credit reserved through the online system.

ii. All other employers that meet these requirements may claim a credit for 75 percent of eligible expenses up to six hundred thousand dollars per year, not to exceed the amount of credit reserved through the online system.

(b) The Taxpayer is required to submit proof of eligible expenses incurred related to providing these benefits by March 1 of each year, beginning with 2026 calendar year. No payments or reimbursements for expenses for children older than five years are allowed. The tax credit must be claimed for the tax year during which the eligible expenses are incurred by the employer.

(c) The tax credit must not be awarded to employers who cannot demonstrate that they prioritize the payment of eligible expenses for the benefit of employees who are eligible for the earned income tax credit under the Internal Revenue Code of 1986, as amended.

(d) Except for employers who are childcare providers as defined in Act 2024-303, the employer tax credit is nonrefundable, nontransferable, and cannot be carried forward. The credit is refundable for employers who are childcare providers.

(4) Credit Reservation. All credits must be awarded on a first-come, first-served basis until the annual aggregate limit is reached.

(a) Beginning March 1, 2025, employers may reserve a credit allocation for eligible expenses through the department's online system.

(b) At least 25 percent of the total amount of tax credits must be reserved for awards to small businesses or employers that are headquartered in rural areas.

(c) If the reserved credits for small businesses or rural employers are not fully allocated by July 1 of each calendar year, the remaining funds must be allocated to other applicants.

(d) Taxpayers with partial credit allocations or without an allocation will be prioritized based on reservation submission order. Any disallowed credits from ineligible taxpayers will be allocated to the next qualified taxpayer pursuant to the first-come, first-served basis.

~~(e) Taxpayers in the queue who receive a credit reservation through this process will have 60 days from the reservation award date to submit their credit claim through the department's online system.~~

(5) Credit Award Process. Taxpayers who receive a credit allocation must submit a credit claim through the department's online system by March 1 of each year, beginning with the 2026 calendar year.

(a) The credit claim must include required documentation to support the taxpayer's eligible expenses.

i. For direct payments to childcare facilities, include copies of paid invoices from the childcare facility showing each participating child's name and dates of service, along with a copy of the written agreement between the childcare facility and employer. The written agreement must include terms of service, payment structure, and allocation specifics for the employee's child(ren).

ii. For reimbursements to employees for childcare expenses, include copies of paid invoices from the employee that contains name of childcare facility, each participating child's name and dates of service. Reimbursement can be in the form of cash or payroll reimbursements or through stipends. Reimbursements must be supplemented by corresponding expense claims. If stipends were provided, copies of agreements or documentation specifying the amount, purpose, and confirmation that the stipend is exclusively for childcare use must be included.

iii. For employer-owned or operated childcare facility expenses, include a detailed ledger listing all costs associated with the facility and copies of invoices for the corresponding expenses.

iv. For equipment purchases for childcare facility, include receipts for any equipment purchases made to support the childcare facility and a description of each item purchased.

(b) Employers who do not secure a credit reservation will not qualify to claim the credit.

(c) Incomplete or unsubstantiated claims will be automatically denied.

(d) Employers must provide documentation demonstrating that the employer prioritizes supporting employees eligible for the Earned Income Tax Credit (EITC) under the Internal Revenue Code.

(6) Employee Payroll information. The employer is required to submit the participating employee's wages for the tax year for which the expenses have incurred. If the employee was paid overtime or bonuses, the employee's hourly wage and hours worked should be submitted.

(7) Examination of Records. The Department may examine records, books, or other relevant information maintained by the taxpayer for the purpose of computing and determining the correct amount of the credit.

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Statutory Authority: §40-2A-7(a)(5), Article 28 of Chapter 18 of Title 40, Code of Ala. 1975 and Act 2024-303.

History: New Rule: Published _____; ~~effective~~ January 31, 2025; effective March 17, 2025.