

Business Tax Administrative Rule 875.23-1

Downtown Business Incentive Credit, Generally

A business located within the eligible sub-districts may be eligible for a Downtown Business Incentive (DBI) Credit against its Business License Tax due. A one-time credit is available in either calendar year 2023 or 2024 but not both. The credit is calculated for either 2023 or 2024 and divided by four with one quarter of the credit claimed over four consecutive tax years beginning with the year in which it calculated.

A business qualifies for the credit if it occupies building space within the DBI sub-districts that it owns or leases and in which it maintains 15 employees that work at least half their time in that building space. These criteria must be met for the duration of the credit.

(1) 15-Employee Requirement

- (a) The 15-employee requirement applies to 15 full-time employees.
- (b) Each full-time employee must work at least half their time during each pay period in the building space located in the DBI sub-district. If a business' industry has special requirements it may petition for an exception in its application for the credit.
- (c) Where a business has two or more building spaces located in a DBI sub-district, employees from the combined DBI locations count toward the 15-employee requirement.
- (d) An employee's use of paid leave generally will not result in a loss of the credit (holiday, vacation, sick leave, etc.).

(2) Lease or Lease Extensions

- (a) Generally, a credit is allowed for leases or lease extensions that begin in the 2023 or 2024 calendar year where all the eligibility criteria for the credit are met.
- (b) A lease extension with a 2025 start date may qualify for a 2024 credit. The lease extension must be signed by December 31, 2024 for a 2024 credit. All other eligibility criteria for the credit must be met in the year of origination (2024) and each succeeding year through four years from the lease extension's start date.
- (c) Where a business, whose application for a credit has been approved, moves from one building space in a DBI sub-district to another building space in a DBI sub-district:
 - i. The business may still claim the credit if all other eligibility criteria continue to be met.
 - ii. The business must notify the Revenue Division in advance or lose the credit.

(3) Change of Business Entity or Acquisition of a Business with a DBI Credit

- (a) If a business changes its legal form but continues with the same direct or indirect ownership interest and continues to meet the eligibility requirements, the successor entity may use the credit.
- (b) If a business acquires a business that has a DBI credit and continues to meet the eligibility requirements:
 - i. The acquiring business may use the remaining credit unless the acquired business must file a separate tax return. The use of the remaining credit is subject to the limits found in Portland City Code (PCC) 7.02.875 F.
 - ii. If the acquired business must file a separate tax return it will continue to use the credit.

- (c) If a business with a DBI credit acquires another business with a DBI credit, the acquiring business may be able to use both credits subject to the limits found in Portland City Code (PCC) 7.02.875 F, if:
- i. It continues to use the building space under the ownership or lease requirements that both used to qualify for the credit,
 - ii. It continues to meet the 15-employee requirement at both locations, and
 - iii. Both businesses are included in the same tax return.
 - iv. If the acquired business must file a separate return each business will continue to use their respective credits as allowed.

(4) Pro Rata Reduction to DBI Credit Due to \$25M Overall Cap

- (a) If the total DBI credits claimed exceed the \$25M overall amount authorized in Portland City Code (PCC) 7.02.875, the credits for all businesses claiming a credit will be reduced on a prorated basis to remain within the \$25M overall credits authorized.
- (b) The determination to prorate credits will be made after all applications for credits have been submitted by the January 31, 2025 due date for 2024 credits.
- (c) The Revenue Division will notify eligible businesses of the reduction to their credit due to the prorate adjustment.
- (d) The prorate adjustment to the credit will not require amending a return that has already been filed. It will be applied prospectively to the remaining years in which the credit can be claimed.

(5) Agreement to Extend Statute of Limitations for DBI Credit

The general statute of limitations for issuing billings or refunds expires three years after a tax return is filed. The DBI credit is claimed over four years. Agreements to extend the period in which to issue billings or refunds is authorized by PCC 7.02.280.

A business that claims a DBI credit agrees to extend the period for issuing a billing or refund for all tax returns on which a credit is claimed, limited to DBI credit adjustments, to the period allowed for issuing a billing or refund on the last tax return on which a credit is claimed. This agreement does not affect application of other provisions that extend the statute of limitations.

11-XX-2023

Date

Director, Revenue Division

Adopted 11-XX-2023