

CHAPTER 8

TAXATION

HOUSE BILL 08-1034

BY REPRESENTATIVE(S) Garza-Hicks and Ferrandino, McGihon, Benefield, Kerr J., Labuda, Loooper, Rose, Todd, and Buescher;
also SENATOR(S) Veiga.

AN ACT

CONCERNING CLARIFICATIONS TO EMPLOYER TAX CREDITS FOR TAXPAYERS UTILIZING EMPLOYEE LEASING COMPANIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 39-30-105 (5) (c), Colorado Revised Statutes, is amended, and the said 39-30-105 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

39-30-105. Credit for new business facility employees - definitions.
(5) (c) For purposes of this section, a partnership, S corporation, limited liability company, or other entity electing not to be taxed as a corporation may pass through the credits earned under this section in any tax year to its participating partners, shareholders, or members, hereinafter referred to as the "investors" of the entity, in any percentage the entity chooses, up to the amount of the credit earned in the tax year. Credits earned but unclaimed in a tax year for which the entity elects to be taxed as a corporation may not be distributed to investors in a later tax year for which the entity elects not to be taxed as a corporation. In any tax year for which the entity elects not to be taxed as a corporation, all credits passed through to investors may be carried forward at the investor level for the carryover periods specified in this section. ~~For purposes of this section, a taxpayer may only claim the new business facility employee credit for employees for whom the taxpayer withholds social security, medicare, and income taxes under the taxpayer's own federal and state taxpayer identification numbers.~~

(d) FOR PURPOSES OF THIS SECTION, A TAXPAYER MAY ONLY CLAIM THE NEW BUSINESS FACILITY EMPLOYEE CREDIT FOR EMPLOYEES FOR WHOM:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) THE TAXPAYER WITHHOLDS SOCIAL SECURITY, MEDICARE, AND INCOME TAXES UNDER THE TAXPAYER'S OWN FEDERAL AND STATE TAXPAYER IDENTIFICATION NUMBERS; OR

(II) THE TAXPAYER IS THE WORK-SITE EMPLOYER, AS DEFINED IN SECTION 8-70-114 (2) (a) (III), C.R.S., AND AN EMPLOYEE LEASING COMPANY, AS DEFINED IN SECTION 8-70-114 (2) (a) (I), C.R.S., AS THE EMPLOYING UNIT FOR, OR CO-EMPLOYER WITH, THE TAXPAYER, WITHHOLDS SOCIAL SECURITY, MEDICARE, AND INCOME TAXES UNDER THE EMPLOYEE LEASING COMPANY'S OWN FEDERAL AND STATE TAXPAYER IDENTIFICATION NUMBERS.

SECTION 2. 39-35-104 (6), Colorado Revised Statutes, is amended to read:

39-35-104. Aircraft manufacturer - credit for new employees. (6) For purposes of this section, an aircraft manufacturer may only claim the new employee credit for employees for whom:

(a) The aircraft manufacturer withholds social security, medicare, and income taxes under the aircraft manufacturer's own federal and state taxpayer identification numbers; OR

(b) THE AIRCRAFT MANUFACTURER IS THE WORK-SITE EMPLOYER, AS DEFINED IN SECTION 8-70-114 (2) (a) (III), C.R.S., AND AN EMPLOYEE LEASING COMPANY, AS DEFINED IN SECTION 8-70-114 (2) (a) (I), C.R.S., AS THE EMPLOYING UNIT FOR, OR CO-EMPLOYER WITH, THE AIRCRAFT MANUFACTURER, WITHHOLDS SOCIAL SECURITY, MEDICARE, AND INCOME TAXES UNDER THE EMPLOYEE LEASING COMPANY'S OWN FEDERAL AND STATE TAXPAYER IDENTIFICATION NUMBERS.

SECTION 3. Applicability. This act shall apply to tax credits for employees hired on or after August 3, 2007.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 6, 2008