
HOUSE BILL 1035

State of Washington 58th Legislature 2003 Regular Session

By Representatives Morris, Linville, Simpson, Anderson, O'Brien,
Haigh, Sullivan and Hudgins

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Committee on Trade & Economic Development.

1 AN ACT Relating to authorizing a business and occupation tax credit
2 for corporations establishing headquarters in this state; adding a new
3 section to chapter 82.04 RCW; providing an effective date; and
4 declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
7 to read as follows:

8 (1) Subject to the limits and provisions of this section, a credit
9 is authorized against the tax otherwise due under this chapter for
10 corporations establishing corporate headquarters in this state, or
11 expanding or adding to an existing corporate headquarters.

12 (2) In order to qualify for the credit, each of the following shall
13 be satisfied:

14 (a) The qualifying real property costs of the corporate
15 headquarters establishment, expansion, or addition are at least fifty
16 thousand dollars. "Qualifying real property costs" means:

17 (i) Costs incurred in the design, preparation, and development of
18 establishing, expanding, or adding to a corporate headquarters; and

19 (ii)(A) Direct construction costs; or

1 (B) With respect to leased facilities, direct lease costs during
2 the first five years of operations for the corporate headquarters.

3 (b) The headquarters establishment, expansion, or addition results
4 in the creation of:

5 (i) At least forty new jobs performing headquarters related
6 functions and services or research and development related functions
7 and services. These jobs must be permanent, full-time positions
8 located in this state; and

9 (ii) At least twenty of the above-referenced new jobs must be
10 classified as headquarters staff employees.

11 (c) The corporation principally conducts high-technology
12 activities.

13 (3) The amount of the credit is equal to twenty percent of the
14 qualifying real property costs listed in subsection (2)(a) of this
15 section.

16 (4) For a headquarters establishment, expansion, or addition that
17 meets the criteria of subsection (2) of this section, an additional
18 credit equal to twenty percent of the cost for tangible personal
19 property may be taken if the following conditions are met:

20 (a) The personal property is:

21 (i) Capitalized as personal property for federal income tax
22 purposes; and

23 (ii) Purchased for the establishment, expansion, or addition of a
24 corporate headquarters, or for the establishment, expansion, or
25 addition of a research and development facility which is part of the
26 same corporate project as the headquarters establishment, addition, or
27 expansion; and

28 (iii) Used for corporate headquarters related functions and
29 services or research and development related functions and services in
30 this state.

31 (b) The establishment, expansion, or addition of a corporate
32 headquarters or research and development facility results in:

33 (i) The creation of at least seventy-five new full-time jobs
34 performing either:

35 (A) Headquarters related functions and services; or

36 (B) Research and development related functions and services.

37 The jobs must have an average level of income of more than one and
38 one-half times the per capita income of this state based on the most

1 recent estimates of current per capita income data available from the
2 office of financial management as of the end of the reporting period in
3 which the jobs are filled; and

4 (ii) An average income level of all the corporation's employees in
5 this state of more than twice the per capita income in the state based
6 on the most recent estimates of current per capita income data
7 available from the office of financial management as of the end of the
8 reporting period in which the jobs are filled.

9 (5)(a)(i) For facilities which are constructed, the credit may only
10 be claimed in the reporting period when the headquarters establishment,
11 expansion, or addition, and the research and development facility
12 establishment, expansion, or addition, in the case of corporations
13 qualifying under subsection (4) of this section, is placed in service
14 for federal income tax purposes. For construction projects completed
15 in phases and placed in service for federal income tax purposes in more
16 than one reporting period, the credit may only be claimed in the
17 reporting period in which property that qualifies for the credit is
18 placed in service. Credits may not be obtained for costs incurred more
19 than three years after the reporting period in which the first property
20 for which the credit is claimed is placed in service. The credit may
21 not be claimed for personal property which replaces personal property
22 for which the credit was already claimed. The department may for good
23 cause extend the time for incurring additional costs and for claiming
24 the credit if the project is not completed within the time period
25 allowed by this subsection (5).

26 (ii) For leased real property, the credit may only be claimed in
27 the reporting period in which the first direct lease costs are
28 incurred.

29 (b) The staffing requirements of subsection (2)(b) of this section
30 and, if applicable, subsection (4)(b) of this section, shall be met by
31 the end of the second calendar year following the most recent calendar
32 year in which the credit is claimed. The person claiming the credit
33 shall provide documented plans to meet the staffing requirements at the
34 time the credit is first claimed in a form and manner as required by
35 the department. If the staffing requirements are not met within the
36 time required by this subsection (5), the person that claimed the
37 credits shall be liable for payment of the additional taxes represented
38 by the amount of credits taken under this section, with interest.

1 (6) Unused credit may be carried forward for ten years after the
2 credit is claimed. Unused credit may be carried forward fifteen years
3 after the credit is claimed if the criteria set forth in subsection
4 (4)(b) of this section are met. No credit may be claimed in a
5 reporting period in which the qualifying employment requirements
6 provided in this section are not met.

7 (7) For the purposes of this section, unless the context clearly
8 requires otherwise, the following definitions apply.

9 (a) "Corporate headquarters" means the facility or portion of a
10 facility where corporate staff employees are physically employed, and
11 where the majority of the company's financial, personnel, legal,
12 planning, information technology, or other headquarters related
13 functions are handled either on a regional or national basis. A
14 corporate headquarters must be a regional corporate headquarters or a
15 national corporate headquarters.

16 (i) National corporate headquarters must be the sole corporate
17 headquarters in the nation and handle headquarters related functions on
18 a national basis. A national corporate headquarters is deemed to
19 handle headquarters related functions on a national basis from this
20 state if the corporation has a facility in this state from which the
21 corporation engages in interstate commerce by providing goods or
22 services for customers outside of this state in return for
23 compensation.

24 (ii) Regional corporate headquarters must be the sole corporate
25 headquarters within the region and must handle headquarters related
26 functions on a regional basis. For purposes of this section, "region"
27 or "regional" means a geographic area comprised of either:

28 (A) At least five states, including this state; or

29 (B) Two or more states, including this state, if the entire
30 business operations of the corporation are performed within fewer than
31 five states.

32 (b) "New job" means an employment position created in the
33 corporation in this state at the time the new facility, expansion, or
34 addition is initially staffed, but does not include an employment
35 position created when an employee is transferred from an existing
36 location in this state to the new or expanded facility. "New job"
37 includes an employment position that is created at a temporary location

1 in this state pending completion of the new facility, expansion, or
2 addition.

3 (c) "Full-time position" means an employment position requiring a
4 minimum of thirty-five hours of labor per week.

5 (d) "Headquarters related functions and services" means financial,
6 personnel, administrative, legal, planning, information technology, or
7 similar business activities.

8 (e) "Headquarters staff employees" means executive, administrative,
9 or professional employees performing headquarters related functions and
10 services.

11 (i) An "executive employee" means an employee in a full-time
12 position in which the employee spends at least eighty percent of his or
13 her time managing the enterprise and directing the work of at least two
14 employees. An executive employee has the authority to hire and fire or
15 to make recommendations related to hiring, firing, advancement, and
16 promotion decisions, and must customarily exercise discretionary
17 powers.

18 (ii) An "administrative employee" means an employee in a full-time
19 position who does not perform manual labor and whose employment is
20 directly related to management policies or general headquarters
21 operations. An administrative employee must customarily exercise
22 discretion and independent judgment.

23 (iii) A "professional employee" means an employee whose primary
24 duty is work requiring knowledge of an advanced type in a field of
25 science or learning. This knowledge is characterized by a prolonged
26 course of specialized study. The work must be original and creative in
27 nature, and the work may not be standardized over a specific period of
28 time. The work must require consistent exercise of discretion and the
29 employee must spend at least eighty percent of the time performing
30 headquarters related functions and services.

31 (f) "Research and development" means the same as in RCW 82.63.010.

32 (g) "Research and development facility" means the same as
33 "qualified buildings" under RCW 82.63.010.

34 (h) "Direct lease costs" means cash lease payments. The term does
35 not include any accrued, costs.

36 (i) "High-technology" means "advanced computing," "advanced
37 materials," "biotechnology," "electronic device technology," or
38 "environmental technology" as those terms are defined in RCW 82.63.010.

1 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2003.

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