



State of Georgia

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Department of Revenue
Legal Affairs & Tax Policy
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Frank M. O'Connell
Director

NOTICE IT-2020-1

RE: Proposal to adopt Rule 560-7-8-.66 Personal Protective Equipment Manufacturer Jobs Tax Credit

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to adopt Rule 560-7-8-.66.

Attached to this notice are the exact copy and synopsis of the proposed Rule. The proposed Rule is being adopted under the authority of O.C.G.A. §§ 48-2-12 and 48-7-40.1A.

The Department of Revenue will consider the adoption of the above Rule at a remote regulation hearing held at 10:00 a.m. on November 17, 2020, which can be accessed through the following link: <https://global.gotomeeting.com/join/465674797> or via telephone at +1 (571) 317-3129 (local) and 1-877-309-2073 (toll-free). At the beginning of the hearing, attendees will be required to announce themselves and notify the Department if they plan to make oral comments during the hearing.

The Department must receive all comments regarding the above-referenced Rule(s) from interested persons and parties no later than 10:00 a.m. on November 17, 2020. Although the Department prefers to receive regulation comments electronically, the Department will also accept comments via mail and facsimile. Electronic comments must be sent to regcomments@dor.ga.gov. Written comments must be sent to: Georgia Department of Revenue, Attn: Notice Number IT-2020-1, 1800 Century Blvd. NE, Suite 15300, Atlanta, GA 30345. Facsimile comments must be sent to (770) 342-3157. **Please reference "Notice Number IT-2020-1" on all comments.**

Dated: October 07, 2020.

David M. Curry
Revenue Commissioner
Georgia Department of Revenue

SYNOPSIS

GEORGIA DEPARTMENT OF REVENUE INCOME TAX DIVISION

CHAPTER 560-7-8 RETURNS AND COLLECTIONS

560-7-8-.66 Personal Protective Equipment Manufacturer Jobs Tax Credit.

The purpose of Rule 560-7-8-.66 is to provide guidance concerning the implementation and administration of the personal protective equipment manufacturer jobs tax credit under O.C.G.A. § 48-7-40.1A.

- Rule 560-7-8-.66 is being adopted to provide guidance concerning the implementation and administration of the personal protective equipment manufacturer jobs tax credit.
- Paragraph (1) provides the purpose for the regulation.
- Paragraph (2) provides the definitions.
- Paragraph (3) provides the credit amount.
- Paragraph (4) provides the maximum credit amount.
- Paragraph (5) specifies the eligibility for the credit.
- Paragraph (6) provides the conditions and limitations.
- Paragraph (7) specifies how the credit is claimed.
- Paragraph (8) provides the carry forward for the credit.
- Paragraph (9) specifies how pass-through entities utilize the credit.
- Paragraph (10) provides the sunset date.
- Paragraph (11) specifies the effective date.

**RULES
OF
DEPARTMENT OF REVENUE
INCOME TAX DIVISION**

**CHAPTER 560-7-8
RETURNS AND COLLECTIONS**

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560-7-8-.66 Personal Protective Equipment Manufacturer Jobs Tax Credit.

560-7-8-.66 Personal Protective Equipment Manufacturer Jobs Tax Credit.

(1) Purpose. This regulation provides guidance concerning the implementation and administration of the tax credit under O.C.G.A. § 48-7-40.1A.

(2) Definitions.

(a) “Establishment” means an economic unit at a single physical location where business is conducted or where services or industrial operations are performed.

(b) “Hand sanitizer” means any hand antiseptic, hand rub, soap, or agent applied to the hands for the purpose of removing common pathogens, including, but not limited to, hand cleaners and sanitizers provided for under 7 C.F.R. Section 3201.18.

(c) “Personal protective equipment” or “PPE” means any protective clothing, helmets, gloves, face shields, goggles, facemasks, hand sanitizer, and respirators or other equipment designed to protect the wearer from injury or to prevent the spread of infection, disease, virus, or other illness. Such term shall include equipment identified under 29 C.F.R. Section 1910, Subpart I.

(d) “Personal protective equipment manufacturer” or “PPE manufacturer” means any business enterprise which is engaged in the manufacturing of PPE in this state. Such term shall also include any business enterprise which, in response to COVID-19, began manufacturing PPE in this state. Such term shall not include retail businesses that sell PPE. Such term shall not include a manufacturer that manufactures the material used in the personal protective equipment but not the personal protective equipment itself. Such term shall not include a manufacturer that manufactures the equipment used to manufacture the personal protective equipment.

(3) **Credit Amount.** A personal protective equipment manufacturer that qualifies for the jobs tax credit under O.C.G.A. § 48-7-40 or 48-7-40.1 and the applicable jobs tax credit regulations and claims the jobs tax credit as provided in Revenue Regulation 560-7-8-.36 shall be allowed an additional \$1,250 personal protective equipment manufacturer jobs tax credit for those qualifying jobs to the extent they are engaged in the qualifying activity of manufacturing personal protective equipment in Georgia during the taxable year.

(4) **Maximum Amount of Credit.** The personal protective equipment manufacturer jobs tax credit may be used to offset 100%

of the personal protective equipment manufacturer's Georgia income tax liability derived from operations within this state.

(5) Eligibility. A personal protective equipment manufacturer shall be eligible for the additional personal protective equipment manufacturer jobs tax credit under paragraph (3) of this regulation at an individual establishment of the business. If more than one business activity is conducted at the establishment, then only those jobs engaged in the qualifying activity of manufacturing personal protective equipment in Georgia shall be eligible for the additional personal protective equipment manufacturer jobs tax credit.

(a) The determination of whether a job is considered engaged in the qualifying activity of manufacturing personal protective equipment in Georgia shall be determined on a monthly basis. In order to qualify for the PPE tax credit, such job must first qualify for and be claimed for the jobs tax credit under O.C.G.A. § 48-7-40 or 48-7-40.1. The personal protective equipment manufacturer must compute a monthly average number of jobs engaged in the qualifying activity of manufacturing personal protective equipment in Georgia. Any job that is included in the jobs tax credit calculation (either a new or maintained job), where 50 percent or more of the time is spent on the qualifying activity of manufacturing personal protective equipment in Georgia, shall be eligible to be included in the total for such month, but in no case can such number exceed the number of jobs that are included in the jobs tax credit computation for such month. A job should be excluded from the monthly computation for any month that it does not meet the 50 percent requirement. Once the monthly average is computed, the number that is allowed cannot exceed the number of jobs that are allowed for the jobs tax credit for such year.

(b) For example. A taxpayer started their business in 2019 and manufactures personal protective equipment in Georgia and also has another business in Georgia. The taxpayer qualified for and claimed the jobs tax credit for jobs at both businesses. Not all the jobs included in the jobs tax credit are involved in the manufacture of personal protective equipment. The taxpayer has the following job numbers in 2020:

Month in 2020	Eligible for the Jobs Tax Credit	Allowed for the PPE Credit
January	50	25
February	52	27
March	55	30
April	60	35
May	71	46
June	68	43
July	55	30
August	52	27
September	55	30
October	66	41
November	44	19
December	60	35
Monthly Average - Number of jobs eligible for the jobs tax credit and allowed for the PPE credit	57	32

(c) Only jobs that are involved in the qualifying activity of manufacturing personal protective equipment in Georgia are allowed to

be included when claiming the personal protective equipment manufacturer jobs tax credit. This shall include managers, sales jobs, and support jobs that are involved in the qualifying activity of manufacturing personal protective equipment in Georgia provided such persons meet the other requirements including the 50% requirement.

(6) Conditions and Limitations. The personal protective equipment manufacturer jobs tax credit shall be allowed subject to the conditions and limitations under O.C.G.A. §§ 48-7-40 or 48-7-40.1 and the applicable jobs tax credit regulations. The personal protective equipment manufacturer jobs tax credit shall be disallowed during any year that the taxpayer does not qualify as a personal protective equipment manufacturer but the PPE manufacturer may requalify in a later year if they meet the requirements.

(a) Personal protective equipment manufacturers that make the election provided in O.C.G.A. §§ 48-7-40(m) or 48-7-40.1(k) to use their 2019 jobs tax credit numbers for their 2020 or 2021 jobs tax credit, cannot use their 2019 jobs tax credit numbers to determine the personal protective equipment manufacturer jobs tax credit for 2020 or 2021. Only personal protective equipment manufacturing jobs actually created or maintained in each respective year can be claimed.

(7) Claiming the Credit. For a personal equipment manufacturer to claim the personal protective equipment manufacturer jobs tax credit, the personal protective equipment manufacturer must submit Form IT-CA with the personal protective equipment manufacturer's Georgia income tax return each year the credit is claimed. A software program's Form IT-CA that is electronically filed with the Georgia income tax return in the manner specified by the Department satisfies this requirement.

(a) Withholding tax. A personal protective equipment manufacturer may claim any excess personal protective equipment manufacturer jobs tax credit against its withholding tax liability. Except in the case of a timely assignment under O.C.G.A. § 48-7-42, the withholding tax benefit may only be applied against the withholding tax account used by the personal protective equipment manufacturer for payroll purposes. In the event the personal protective equipment manufacturer that earned the credit is a single member limited liability company that is disregarded for income tax purposes, the withholding tax benefit may only be applied against the withholding tax liability that is attributable to wages paid by the single member limited liability company, but note that such benefit may also be assigned pursuant to O.C.G.A. § 48-7-42. A personal protective equipment manufacturer must notify the commissioner each year of its irrevocable election to take all or a part of the credit against the quarterly or monthly withholding tax payments for such personal protective equipment manufacturer. When this election is made by a pass-through entity, the excess personal protective equipment manufacturer jobs tax credit will not pass through to the shareholders, partners, or members of the personal protective equipment manufacturer if the personal protective equipment manufacturer is a pass-through entity.

1. Notice of Intent. To claim any excess tax credit not used on the income tax return against the personal protective equipment manufacturer's withholding tax liability, the personal protective equipment manufacturer must file Revenue Form IT-WH through the Georgia Tax Center within thirty (30) days after the due date of the Georgia income tax return (including extensions) or within thirty (30) days after the filing of a timely filed Georgia income tax return, whichever occurs first. Failure to file this form as provided in this subparagraph will result in disallowance of the withholding tax benefit. However, in the case of a credit which is earned in more than

one taxable year, the election to claim the withholding credit will be available for the credit earned in such subsequent year.

2. Review Period. The Department of Revenue has one hundred twenty (120) days from the date the applicable Form IT-WH under subparagraph (7)(a)1. of this regulation is received to review the credit and make a determination of the amount eligible to be used against withholding tax.

3. Letter of Eligibility. Once the review is completed, a letter will be sent to the personal protective equipment manufacturer stating the tax credit amount which may be applied against withholding and when the personal protective equipment manufacturer may begin to claim the tax credit against withholding tax. The Department of Revenue shall treat this amount as a credit against future withholding tax payments and will not refund any previous withholding payments.

(8) Carry Forward. Any personal protective equipment manufacturer jobs tax credit which is claimed but not used in a taxable year may be carried forward for 10 years from the close of the taxable year in which the qualifying personal protective equipment manufacturer jobs were created. For example, personal protective equipment manufacturer jobs tax credits created by an employment increase in year one, but not used in year one, may be carried forward to years two through eleven.

(9) Pass-Through Entities. When the personal protective equipment manufacturer is a pass-through entity, and has no income tax liability of its own, the tax credit will pass to its individual members, shareholders, or partners based on their year ending profit/loss percentage. The credit forms will initially be filed with the tax return of the pass-through entity to establish the amount of the credit

available for pass through. The credit will then pass through to its individual shareholders, members, or partners to be applied against the tax liability on their income tax returns. The shareholders, members, or partners may not claim any excess personal protective equipment manufacturer jobs tax credit against their withholding tax liabilities. The credits are available for use as a credit by the individual shareholders, members, or partners for their tax year in which the income tax year of the pass-through entity ends. For example: A partnership earns the credit for its tax year ending January 31, 2021. The partnership passes the credit to a calendar year partner. The credit is available for use by the individual partner beginning with the calendar 2021 tax year.

(10) **Sunset Date.** No personal protective equipment manufacturer jobs tax credit shall be claimed and allowed for any jobs created on or after January 1, 2025; provided, however, jobs created before such date are eligible for the remaining installments provided the requirements of O.C.G.A. §§ 48-7-40, 48-7-40.1, and 48-7-40.1A and the related regulations are met.

(11) **Effective Date.** This regulation shall be applicable to taxable years beginning on or after January 1, 2020.

Authority: O.C.G.A. §§ 48-2-12 and 48-7-40.1A.