

Instructions for 2021 Schedule ED

Part I: Credit Computation

Purpose of Schedule ED

Use Schedule ED to claim the economic development tax credit, which is available for taxpayers who are certified by the Wisconsin Economic Development Corporation (WEDC). **Note:** The credit may not be computed for taxable years beginning on or after January 1, 2016; however, if WEDC has allocated tax benefits to the claimant in a contract executed before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute the credit for as long as the contract specifies. For information regarding how to become certified, visit the WEDC web site at inwisconsin.com or call 1-855-469-4249.

Who is Eligible to Claim the Credit

Any individual, estate, trust, partnership, limited liability company (LLC), corporation, or tax-exempt organization that is certified by WEDC may be eligible for the credit.

Partnerships, LLCs treated as partnerships, and tax-option (S) corporations cannot claim the credits, but the credits attributable to the entity's business operations pass through to the partners, members, or shareholders.

No credit is allowed unless the claimant satisfies the following requirements:

- The claimant is certified by WEDC.
- The claimant has received from WEDC a notice of eligibility to receive tax benefits that reports the amount of tax benefit for which the claimant is eligible.

Specific Line Instructions

Line 1: Enter the amount of tax benefits certified on the notice of eligibility received from WEDC. Include a copy of the WEDC certification/verification form with your tax return.

Line 2: Enter the entity name, Federal Employer Identification Number (FEIN), and the amount of economic development tax credit passed through from tax-option (S) corporations, partnerships, LLCs treated as partnerships, estates, or trusts. The pass-through credit is shown on Schedule 5K-1 for shareholders of tax-option (S) corporations, Schedule 3K-1 for partners and LLC members, and Schedule 2K-1 for beneficiaries of estates or trusts.

Line 3: Enter the amount of economic development tax credit that was transferred from other taxpayers during the current taxable year. See the instructions for Part II for details on the requirements for transferring the credit.

Line 4: For estates or trusts, tax-option (S) corporations, partnerships, and LLCs treated as partnerships, show the entire amount of credit on line 4 and prorate that amount among the beneficiaries, shareholders, partners, or members on Schedule 2K-1, 3K-1, or 5K-1.

Line 4a: *Fiduciaries* - Prorate the credit from line 4 between the entity and its beneficiaries in proportion to the income allocable to each. Show the beneficiaries' portion of the credit on line 4a. Show the credit for each beneficiary on Schedule 2K-1.

Line 4b: *Fiduciaries* - Show only the entity's portion of the credit on line 4b.

Line 7: Enter the amount of economic development tax credit that was transferred to other taxpayers during the current taxable year. See the instructions for Part II for details on the requirements for transferring the credit.

Line 8: Enter the amount of credit from line 8 on the appropriate line of Schedule CR. See the following exceptions:

- If the claimant is a combined group member, enter the amount of credit on Form 6, Part V, line 1 instead of Schedule CR.

- Tax-option (S) corporations, partnerships, and LLCs treated as partnerships should prorate the amount of credit on line 8 among the shareholders, partners, or members based on their ownership interest. Show the credit for each shareholder on Schedule 5K-1 and for each partner or member on Schedule 3K-1.

Credit is Income

The credit you compute on Schedule ED is income and must be reported on your Wisconsin franchise or income tax return in the year computed.

Required Attachments to Return

You must include the following information with your Wisconsin franchise or income tax return:

- Schedule ED.
- A copy of your certification to claim tax benefits issued by WEDC.
- Notice of eligibility that reports the amount of tax benefits from WEDC.

Exception for shareholders, partners, members, and beneficiaries: If the credit is received from a tax-option (S) corporation, partnership, LLC treated as a partnership, estate, or trust, include a copy of Schedule 5K-1, 3K-1, or 2K-1 with Schedule ED instead of the certification to claim tax benefits and notice of eligibility.

Carryforward of Unused Credits

The economic development tax credit is nonrefundable. Any unused credits may be carried forward for 15 years, with certain exceptions. If your certification to claim this credit is revoked or you become ineligible for tax benefits, you may not claim any credits for the taxable year in which your benefits are revoked, nor may you carry over unused credits from previous years.

If there is a reorganization of a corporation claiming an economic development tax credit, the limitations provided by the Internal Revenue Code (IRC) section 383 may apply to the carryover of any unused credits.

Part II: Transfer of Economic Development Tax Credit

For taxable years beginning on or after January 1, 2014, a person who is eligible to claim the Economic Development Tax Credit may transfer the credit to another person if the person receives prior authorization from WEDC.

Approval of Credit Transfer

An applicant for certification for the economic development tax credit may submit with its application to WEDC an application to transfer the credit to another person. WEDC may approve the transfer of a credit if it certifies the applicant for the credit and finds that the applicant meets at least one of the following conditions:

1. Is headquartered and employs at least 51 percent of its employees in Wisconsin.
2. Intends to relocate its headquarters to Wisconsin and employ at least 51 percent of its employees in Wisconsin.
3. Intends to expand its operations in Wisconsin, and that expansion will result in an increase in the number of full-time employees employed by the applicant in Wisconsin in an amount equal to at least 10 percent of the applicant's full-time workforce in Wisconsin at the time of application.
4. Intends to expand its operations in Wisconsin, and that expansion will result in the applicant making a significant capital investment in property located in Wisconsin, as determined by WEDC.

After WEDC authorizes the person to claim a credit and provides a notice of eligibility, the person may transfer the credit in accordance with the terms of its application. A credit may be transferred only in exchange for some consideration, other than money, in connection with the eligible activity for which the credit is initially awarded.

Carryforward of Transferred Credits

The person to whom a credit is transferred may carry forward, beginning on the date of the notice of eligibility to the transferor, any unused credit for 15 years (the carry forward period starts over upon transfer).

Tax Issues

The entity transferring the tax credit will be required to recognize a capital gain on the sale of the credit equal to the difference between the basis of the tax credit, which would be zero unless the seller previously purchased the tax credit for consideration, and the fair market value of consideration received for the credit. The character of the capital gain as either short-term or long-term is determined based on the amount of time between the date the seller made the qualifying investment and the date the credit is transferred. If the time period is more than one year, it is a long-term capital gain; if the time period is one year or less, it is a short-term capital gain.

The entity purchasing the tax credit will recognize capital gain income when the credit is used to offset a Wisconsin income tax liability. The capital gain recognized is equal to the difference between the purchaser's basis in the tax credit, which is the fair market value of consideration paid for the tax credit and any transaction costs incurred to acquire the tax credit, and the amount of Wisconsin income tax liability satisfied by use of the tax credit. The character of the capital gain as either short-term or long-term is determined based on the amount of time between the date the purchaser acquired the tax credit and the date the credit is used to offset the purchaser's Wisconsin income tax liability. If the time period is more than one year, it is a long-term capital gain; if the time period is one year or less, it is a short-term capital gain.

Additional Information

For more information, you may:

- Email your question to: DORFranchise@wisconsin.gov
- Call (608) 266-2772 [TTY: Call the Wisconsin Telecommunications Relay System at 711, if no answer, dial 1-800-947-3529]
- Send a FAX to (608) 267-0834
- Write to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 3-107, PO Box 8906, Madison, WI 53708-8906.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 1, 2021: Chapter 71 Wis. Stats., and Chapter Tax 2, Wis. Adm. Code