

1 **CHAPTER 800. GENERAL ADMINISTRATION**

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3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY**
6 **OF STATE.**

7
8 The Texas Workforce Commission (TWC) adopts the following new subchapter to Chapter 800,
9 relating to General Administration:

10
11 Subchapter M. Tax Refund for Wages Paid to Employee Receiving Financial Assistance,
12 §§800.550 - 800.557

13
14 The new sections are adopted *without changes* to the proposed text as published in the August
15 26, 2022, issue of the *Texas Register* (47 TexReg 5083), and, therefore, the adopted rule text will
16 not be published.

17
18 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

19 The purpose of new Chapter 800, Subchapter M is to establish administrative rules to clarify the
20 requirements and eligibility determination applicable under Texas Labor Code, Chapter 301,
21 Subchapter H, relating to Tax Refund for Wages Paid to Employee Receiving Financial
22 Assistance.

23
24 Senate Bill (SB) 82, enacted by the 73rd Texas Legislature, Regular Session (1993), amended
25 Texas Human Resources Code, Chapter 31 by adding Subchapter D, Tax Refund for Wages Paid
26 to Employee Receiving Financial Assistance (Tax Refund Program). The Tax Refund Program
27 required the Texas Department of Human Services (DHS) to provide tax vouchers to persons
28 upon application and certification of eligibility.

29
30 In 1997, the 75th Texas Legislature enacted SB 1113, which transferred the Tax Refund Program
31 from the Texas Human Resources Code, Chapter 31, Subchapter D to Texas Labor Code,
32 Chapter 301, Subchapter H, effectively moving the application eligibility and certification
33 procedures from DHS to TWC. SB 1113 also implemented new rulemaking authority, allowing
34 TWC to "adopt rules as necessary to carry out its powers and duties under this subchapter" and
35 required DHS to provide information to TWC that is required to determine eligibility for persons
36 applying for the Tax Refund.

37
38 The Comptroller of Public Accounts' rule under 34 Texas Administrative Code (TAC) §3.4,
39 implemented in 1995, was not amended when the program transitioned from DHS to TWC.
40 TWC did not establish rule to operate the Tax Refund Program. The application and eligibility
41 certification procedures related to the Tax Refund Program have been operated by TWC staff
42 since 1997 through publicly available information and a tax refund application form, currently
43 maintained on TWC's Work Opportunity Tax Credit Program Overview webpage.

44
45 The Comptroller's office is reviewing possible amendments to 34 TAC §3.4 that would eliminate
46 reference to eligibility determinations in its rule. TWC determined that the establishment of an

1 administrative rule to clarify the requirements and eligibility determination applicable under
2 Texas Labor Code, §301.107 is now needed.

3
4 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

5
6 **SUBCHAPTER M. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING**
7 **FINANCIAL ASSISTANCE**

8 TWC adopts new Subchapter M, as follows:
9

10 **§800.550. Purpose**

11 New §800.550 states the purpose and goal for Chapter 800, Subchapter M.
12

13 **§800.551. Definitions**

14 New §800.551 defines terms used in Chapter 800, Subchapter M.
15

16 **§800.552. Tax Refund Voucher**

17 New §800.552(a) states that TWC shall issue tax refund vouchers in the amounts allowed by and
18 subject to restrictions in Chapter 800, Subchapter M. New §800.552(b) states that a person
19 issued a tax refund voucher may apply for the tax refund.
20

21 **§800.553. Amount of Refund: Limitation**

22 New §800.553(a) states the maximum amount of the potential tax refund allowed per employee
23 that is certified under new §800.554 and §800.555. New §800.553(b) states that the refund
24 amount cannot exceed the amount of net tax paid by the person to the State of Texas after any
25 other applicable tax credits for the calendar year.
26

27 **§800.554. Eligibility**

28 New §800.554 describes the eligibility required for the tax refund. New §800.554(1) describes
29 the eligibility requirements regarding wages incurred by a person for service of an employee.
30 New §800.554(2) refers to the certification requirements in new §800.555, and new §800.554(3)
31 describes the options for a person to provide and pay a part of the cost for health care coverage.
32

33 **§800.555. Certification**

34 New §800.555 describes the time parameters for an employee to be receiving financial or
35 medical assistance prior to employment.
36

37 **§800.556. Application for Refund: Issuance**

38 New §800.556 identifies the time period, on or after January 1 and before April 1, for persons to
39 submit applications for the previous calendar year. New §800.556(b) gives TWC the authority to
40 promulgate the application for the tax refund voucher. New §800.556(c) limits the use of the tax
41 refund voucher to the year for which the voucher is issued.
42

1 **§800.557. Limitations.**
2 New §800.557(a) reinforces the requirement of health care coverage for the employee under new
3 §800.554(3). New §800.557(b) identifies rules of conveyance, assignment, or transfer of a refund under
4 Chapter 800, Subchapter M.

5
6 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be
7 within TWC's legal authority to adopt.

8
9 **PART III. PUBLIC COMMENTS**

10 The public comment period closed on September 26, 2022. No comments were received.

11
12 **PART IV. STATUTORY AUTHORITY**

13 The rules are adopted under Texas Labor Code, §301.107(a), which stipulates that TWC shall
14 adopt rules as necessary to carry out its powers and duties under Chapter 301, Subchapter H.

15 The adopted rules affect Title 4, Texas Labor Code, particularly Chapter 301.

16

1 period beginning with the date the employee begins work for the person and ending
2 on the first anniversary of that date.

3
4 (b) The refund claimed for a calendar year shall not exceed the amount of the net tax
5 paid by the person to the State of Texas, after any other applicable tax credits in that
6 calendar year.

7
8 **§800.554. Eligibility.**

9
10 A person is eligible for the refund for wages paid or incurred by the person, during each
11 calendar year for which the refund is claimed, only in the following circumstances:

12
13 (1) The wages paid or incurred by the person are for services of an employee who
14 is a:

15 (A) resident of this state; and

16 (B) recipient of:

17 (i) financial assistance or services in accordance with Texas Human
18 Resources Code, Chapter 31; or

19 (ii) medical assistance in accordance with Texas Human Resources
20 Code, Chapter 32;

21
22 (2) The person satisfies the certification requirements under §800.555 of this
23 subchapter; and

24 (3) The person, under an arrangement under Texas Human Resources Code,
25 §32.0422, provides and pays for the benefit of the employee a part of the cost
26 of coverage under:

27 (A) a health plan provided by a health maintenance organization established
28 under Texas Insurance Code, Chapter 843;

29 (B) a health benefit plan approved by the commissioner of insurance;

30 (C) a self-funded or self-insured employee welfare benefit plan that provides
31 health benefits and is established in accordance with the Employee
32 Retirement Income Security Act of 1974 (29 United States Code §§1001
33 et seq.); or

34 (D) a medical savings account or other health reimbursement arrangement
35 authorized by law.

1 **§800.555. Certification.**

2
3 A person is not eligible for the refund of wages paid or incurred by the person unless the
4 person has received a written certification from the Agency that the person's employee is
5 a recipient of:

6
7 (1) financial assistance within the six months prior to his or her start date; or

8
9 (2) medical assistance within the six months prior to his or her start date.

10
11 **§800.556. Application for Refund: Issuance.**

12
13 (a) A person may apply for a tax refund voucher for wages paid an employee in a
14 calendar year only on or after January 1 and before April 1 of the following calendar
15 year.

16
17 (b) A person must submit an application for the tax refund voucher on a form
18 promulgated by the Agency.

19
20 (c) On issuance of the tax refund voucher to the person by the Agency, the person may
21 apply the voucher against a tax paid by the person to this state only for the calendar
22 year for which the voucher is issued.

23
24 **§800.557. Limitations.**

25
26 (a) A person may only apply for a tax refund related to wages paid while the person's
27 employee was covered by health care coverage in accordance with §800.554(3) of
28 this subchapter and the cost of coverage was paid in full or in part by the person.

29
30 (b) A person may convey, assign, or transfer a refund under this subchapter to another
31 person only if:

32
33 (1) the employing unit is sold, conveyed, assigned, or transferred, in the same
34 transaction or in a related transaction, to the person to whom the refund is
35 conveyed assigned, or transferred; or

36
37 (2) the person to whom the refund is conveyed, assigned, or transferred:

38
39 (A) is subject to a tax administered by the comptroller and deposited to the
40 credit of the state General Revenue Fund without dedication; and

41
42 (B) directly or indirectly owns, controls, or otherwise directs, in whole or in
43 part, an interest in the person from whom the refund is conveyed,
44 assigned, or transferred.