

State of New Mexico - Taxation and Revenue Department

**CERTIFICATION OF ELIGIBILITY FOR THE FOSTER YOUTH EMPLOYMENT TAX CREDIT**

**Who May Use This Form.** Form RPD-41388, *Certification of Eligibility for the Foster Youth Employment Tax Credit*, is to be used by eligible employers to certify that an employee, included in an application for Foster Youth Employment Tax Credit, is a qualified foster youth in New Mexico and that the employer is eligible to claim the credit for the wages paid to the foster youth during the qualified period of employment.

To apply for the credit you must complete Form RPD-41389, *Application for Foster Youth Employment Tax Credit*, and attach a Form RPD-41388, *Certification of Eligibility for the Foster Youth Employment Tax Credit*, for each qualified foster youth included in the total credit entered on Form RPD-41389. An application can include multiple certifications for multiple qualified foster youth for the tax year of the application. Submit the application and certifications to the Taxation and Revenue Department for approval prior to claiming the credit. Once approved, you may claim the credit against your personal or corporate income tax due by attaching Form RPD-41390, *Foster Youth Employment Tax Credit Claim Form*, to the tax return for the tax year in which you employ the qualified foster youth. The amount of the approved foster youth employment tax credit that exceeds your personal income tax or corporate income tax liability in the taxable year in which the credit is claimed shall not be refunded, but may be carried forward for up to three years.

For information on the status of an application, call (505) 827-0792 or send an email to [BusinessCredit.Mgr@state.nm.us](mailto:BusinessCredit.Mgr@state.nm.us).

|                           |                                                        |
|---------------------------|--------------------------------------------------------|
| Name of eligible employer | New Mexico Business Tax Identification Number (NMBTIN) |
|---------------------------|--------------------------------------------------------|

**Qualification Information**

1. Enter the employer's tax year in which the eligible employment took place. \_\_\_\_\_ through \_\_\_\_\_  
(mm-dd-ccyy) (mm-dd-ccyy)  
May not claim the foster youth more than one calendar year from date of hire.
2. Enter the name of the eligible foster youth exactly as it appears on the foster youth employment certification received by the Children, Youth and Families Department (CYFD) pursuant to the Children's Code, New Mexico Indian Nations, Tribes and Pueblos, or the United States (US) Department of the Interior Bureau of Indian Affairs (BIA) division of Human Services.  
  
Name: \_\_\_\_\_
3. Enter the date custody began for the qualified foster youth with CYFD, the New Mexico Indian Nations, Tribes and Pueblos, or the US Department of the Interior BIA division of Human Services. Attach foster youth employment certification showing the date custody began. \_\_\_\_\_  
(mm-dd-ccyy)
4. Enter the date the qualified foster youth was hired by the employer. \_\_\_\_\_  
(mm-dd-ccyy)
5. Enter the **qualified period of employment** during the tax year. (See the instructions.) \_\_\_\_\_ through \_\_\_\_\_  
(mm-dd-ccyy) (mm-dd-ccyy)
6. Was the eligible foster youth employed by the employer in prior years? ☐ Yes ☐ No

**Compute the Foster Youth Employment Tax Credit**

7. Determine the number of days the foster youth was employed during the tax year of this claim. Days included in the date range indicated on line 5. \_\_\_\_\_
8. The number of days in the tax year of this claim. \_\_\_\_\_  
Most full-year filers, enter 365 or 366 for a leap year. Short-year filers, enter the number of days of the short-year return.
9. Divide line 7 by line 8. Calculate the percentage to 3 decimal places. \_\_\_\_\_  
If the number in lines 7 and 8 are the same number, enter "1.000".
10. Multiply line 9 by \$1,000. This is the total foster youth tax credit allowed for this eligible employee for this tax year. \_\_\_\_\_  
Include this amount on RPD-41389, *Application for Foster Youth Employment Tax Credit*. \$ \_\_\_\_\_

**I certify that: (Mark the boxes that apply and complete the required information.)**

- ☐ 11. the person named on Line 2 of this form is a qualified foster youth as defined in Sections 7-2-18.30 or 7-2A-29 NMSA 1978 (see **DEFINITION** on page 2 of these instructions), and
- ☐ 12. the qualified foster youth was employed by the applicant, for at least 20 hours per week, in New Mexico during the qualified period of employment shown on line 5.

Under penalty of perjury I declare that I have examined this application and attachments, and to the best of my knowledge and belief it is true, correct and complete.

\_\_\_\_\_  
Signature of applicant

\_\_\_\_\_  
Date

## CERTIFICATION OF ELIGIBILITY FOR THE FOSTER YOUTH EMPLOYMENT TAX CREDIT INSTRUCTIONS

### ABOUT THIS TAX CREDIT

For tax years beginning on or after January 1, 2018, a taxpayer who employs a qualified foster youth for at least 20 hours per week, in New Mexico is eligible for a credit against the taxpayer's personal or corporate income tax liability for up to \$1,000 for wages paid to each qualified foster youth. If the foster youth's qualified period of employment is less than a full year, the credit for that year is reduced based on the ratio of the qualified period of employment over the full tax year of the employer.

To claim the credit, all of the following must be true:

- An employer may not receive the credit for any individual qualified foster youth for more than one calendar year from the date of hire.
- Multiple employers may not receive a credit for more than one year combined for the same qualified foster youth.
- Only one employer may receive the credit for a specific foster youth during a tax year.
- The qualified foster youth was aged fourteen or older within seven years prior to the taxable year for which the tax credit is claimed and was in the legal custody of CYFD pursuant to the Children's Code or in the legal custody of a New Mexico Indian Nation, Tribe or Pueblo, or the US Department of the Interior BIA division of Human Services.
- The foster youth employment tax credit is only allowed for the employment of a foster youth who was not previously employed by the taxpayer prior to the taxable year for which the credit is claimed.

That portion of a foster youth employment tax credit approved by Taxation and Revenue Department (TRD) that exceeds a taxpayer's income tax liability in the tax year in which the foster youth employment tax credit is claimed may not be refunded to the taxpayer, but may be carried forward for up to three years. The foster youth employment tax credit may not be transferred to another taxpayer.

Married individuals filing separate returns for a tax year for which they could have filed a joint return, each may claim only one-half of the foster youth employment tax credit that would have been claimed on a joint return.

### ATTACHMENTS

The taxpayer must provide a copy of the foster youth employment certification received by CYFD, the New Mexico Indian Nations, Tribes and Pueblos, or the US Department of the Interior BIA division of Human Services. The certification must

show the date in which the foster youth was placed in legal custody. The Department may request additional information establishing that the employee is a qualified foster youth.

### HOW TO COMPLETE THIS FORM

Complete all information requested. Enter the name and the New Mexico Business Tax Identification Number (NMBTIN) of the employer. This must be the same name and number on Form RPD-41389, *Application for Foster Youth Employment Tax Credit*.

**NOTE:** When an entry requires a date, enter the date using a two-digit month and day and a four-digit year (mm/dd/ccyy).

### Qualification Information

1. Enter the employer's tax year in which the eligible employment took place. Enter the first day of the tax year and the last day of the tax year.
2. Enter the name of the eligible foster youth employed, exactly as the name appears on the foster youth employment certification received by CYFD, the New Mexico Indian nations, tribes and pueblos, or the US Department of the Interior BIA division of Human Services.
3. Enter the date custody began for the qualified foster youth with CYFD, the New Mexico Indian Nations, Tribes and Pueblos, or the US Department of the Interior BIA division of Human Services. Attach a copy of the foster youth employment certification showing the date custody began.
4. Enter the date the employer hired the qualified foster youth.
5. Enter the **qualified period of employment** during the tax year.  
  
For the beginning date, enter the date reported on line 4.  
  
For the ending date, enter the date the qualified foster youth ceased working for the employer. If the qualified foster youth is still employed, enter the last day of the employer's tax year.
6. Indicate whether the foster youth was employed by the employer in prior years. If the answer is yes, then the employment of the foster youth does not qualify for the foster youth employment tax credit.

## CERTIFICATION OF ELIGIBILITY FOR THE FOSTER YOUTH EMPLOYMENT TAX CREDIT INSTRUCTIONS

### Compute the Foster Youth Employment Tax Credit

7. Enter the total number of days that the qualified foster youth was employed by the employer during the employer's tax year. This is the total number of days included in the date range indicated on line 5 of this form.
8. Enter the number of days in the tax year of this claim. Most full-year filers will enter 365 or 366 for a leap year. A taxpayer who has a short-year return enters the number of days included in their tax year.
9. Divide line 7 by line 8. Calculate the percentage to 3 decimal places. If the numbers in lines 7 and 8 are the same number, enter **1.000**.
10. Multiply line 9 by \$1,000. This is the total foster youth employment tax credit allowed for this qualified foster youth for this tax year. Include this amount on the *Application for Foster Youth Employment Tax Credit*, RPD-41389.

### Certifications

To qualify for the foster youth employment tax credit, both certifications must be met. Check the boxes that apply.

11. Mark the box to certify that the employee meets the definition of a "qualified foster youth." See **DEFINITION** at the end of these instructions.
12. Mark the box to certify that the qualified foster youth is employed for at least 20 hours per week, by the employer at a location in New Mexico, during the qualified period of employment, as shown on line 5 of this form.

### Checklist:

- Form RPD-41388, *Certification of Eligibility for the Foster Youth Employment Tax Credit*;
- Form RPD-41389 *Application for Foster Youth Employment Tax Credit*;
- A copy of the foster youth employment certification received by CYFD, the New Mexico Indian Nations, Tribes and Pueblos, or the US Department of the Interior BIA division of Human Services;
- Forms are signed and dated.

**NOTE:** Employer must attach an RPD-41388 for each qualified foster youth employee.

### Submit to the Department

Submit forms and attachments in the **Checklist** to the Department by email to [BusinessCredit.Mgr@state.nm.us](mailto:BusinessCredit.Mgr@state.nm.us), or mail to:

**Taxation and Revenue Department**  
**Attention: RPD Business Credit Unit**  
**P.O. Box 5418**  
**Santa Fe, NM 87502-5418**

### HOW TO CLAIM THIS TAX CREDIT

Once approved, you may claim the credit against your personal or corporate income tax due by attaching Form RPD-41390, *Foster Youth Employment Tax Credit Claim Form*, to the tax return for the tax year in which you employ the foster youth. Excess credit may be carried forward for up to three years.

**IMPORTANT:** The Department may require you to furnish additional documentation to verify eligibility.

### DEFINITION

As defined in Sections 7-2-18.30 or 7-2A-29 NMSA 1978:

A **qualified foster youth** means an individual who is currently in the legal custody of the Children Youth and Families Department pursuant to the Children's Code or in the legal custody of a New Mexico Indian Nation, Tribe or Pueblo or the United States Department of the Interior Bureau of Indian Affairs division of Human Services or was in custody within the seven years prior to the taxable year for which the tax credit is being claimed and was aged fourteen years or older.

The qualified foster youth must work at least twenty hours per week during the taxable year for which the credit is being claimed.

A foster youth who was previously employed by taxpayer prior to the taxable year for which the tax credit is being claimed is not qualified for this tax credit.