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# Computer Data Center Equipment Incentive Program

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Program Guidelines

December 2016

Commonwealth of Pennsylvania  
Tom Wolf, Governor



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## **Section I - Introduction**

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The Commonwealth of Pennsylvania, through the Pennsylvania Department of Revenue (the “Department”), administers the Computer Data Center Equipment Incentive Program (the “Program”) authorized under Act 84 of 2016 and signed into law by Governor Tom Wolf.

The Program is designed to attract new investment from businesses that own or operate within a computer data center. The Program is available to owners and operators of computer data centers that obtain certification for eligibility in the Program. Beginning July 1, 2017, an owner, operator or qualified tenant of a certified computer data center may apply annually for a tax refund for sales and use tax paid on qualified computer data center equipment used within the facility.

## **Section II - Program Certification and Eligibility**

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An owner or operator of a computer data center must submit a complete application to the Department for certification within the Program. Certification is valid for a period of 15 full calendar years following the year in which the owner or operator filed the application for certification.

Approval or denial of the application will be provided to the applicant within 60 days of submission.

To become certified, a computer data center must meet one of the following requirements, after taking into account the combined investments made and annual compensation paid by the owner or operator of the computer data center or the qualified tenant:

- (1) On or before the fourth anniversary of certification, the computer data center creates a minimum investment of:
  - i. At least \$25,000,000 of new investment if the computer data center is located in a county with a population of 250,000 or fewer individuals; or
  - ii. At least \$50,000,000 of new investment if the computer data center is located in a county with a population of more than 250,000 individuals.
  
- (2) One or more taxpayers operating or occupying a computer data center, in the aggregate, pay annual compensation of at least \$1,000,000 to employees at the certified computer data center site for each year of the certification after the fourth anniversary of certification.

Note: If the Department determines that the requirements for eligibility have not been satisfied, the Department may revoke the certification and recapture all or part of the tax refunds provided to the owner, operator or qualified tenants during the qualification period.

## **Section III - Tax Incentive and Qualification Period**

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Once certification is established, a single application on behalf of the owner, operator and qualified tenants may be submitted to the Department’s program office for a tax refund of sales or use tax paid on qualified computer data center equipment used within the certified data center.

Owners or Operators may request a refund for a period of 15 full calendar years following the year in which certification was granted.

Qualified Tenants may request a refund for the period of the term of the tenancy agreement or for a period of up to 10 full calendar years following the year in which the qualified tenant entered into the tenancy agreement, whichever comes earlier.

The application for refund must be on the form prescribed by the Department and include evidence of sales or use tax paid. Only 1 application will be accepted per certified data center annually and must be submitted no later than July 30th.

### **Section IV - Qualified Tenant List**

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Tenants that have a valid occupancy agreement with the owner or operator of the certified data center for occupancy within the data center and commits to use at least 100 kilowatts per month for two or more years, may be placed on a list by the owner or operator of the data center and communicated to the Department's program office.

The qualified tenant list must be on the form prescribed by the Department and submitted with all required supporting documentation no later than July 1<sup>st</sup>. Failure to provide the list to the Department will result in the disqualification of tenant refunds.

### **Section V - Refund Approval**

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The Department will notify the owner or operator of the certified data center of the amount of approved refunds by September 30<sup>th</sup>. This notification will include the refunds approved for qualified tenants.

### **Section VI - Program Monitoring and Recapture**

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Upon submission of the certification application, the applicant must be in compliance with the laws and regulations of the Commonwealth of Pennsylvania, to the satisfaction of the Department. Failure to achieve state tax compliance during the review period will result in the denial of the certification.

The Department has the authority to request and audit records held by the data center owner, operator and tenants that document investments created by the data center, including costs of buildings, computer data center equipment, and all tax refunds directly received by the owner, operator or qualified tenants.

If the Department determines that the requirements for eligibility have not been satisfied, the Department may revoke the certification and recapture all or part of the tax refunds provided to the owner, operator or qualified tenants during the qualification period.

## **Section VII - Limitation**

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The total amount of refunds approved by the Department shall not exceed \$5,000,000 in any fiscal year. If the total amount of tax refunds approved for all applicants in a fiscal year exceeds this amount, the Department shall allocate the refund to be received by each applicant.

## **Section VIII - Definitions**

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**Computer data center:** All or part of a facility that may be composed of one or more businesses, owners or tenants, that is or will be predominantly used to house working servers or similar data storage systems and that may have uninterruptible energy supply or generator backup power, or both, cooling systems, towers and other temperature control infrastructure.

**Computer data center equipment:** Equipment that is used to outfit, operate or benefit a computer data center and component parts, installations, refreshments, replacements and upgrades to the equipment, whether any of the equipment is affixed to or incorporated into real property, including:

(1) All equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer servers or similar data storage equipment, including generators, uninterruptible energy supplies, conduit, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries and testing equipment.

(2) All equipment necessary to cool and maintain a controlled environment for the operation of the computer servers or data storage systems and other components of the computer data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters.

(3) All water conservation systems, including facilities or mechanisms that are designed to collect, conserve and reuse water.

(4) All software, including, but not limited to, enabling software and licensing agreements, computer servers or similar data storage equipment, chassis, networking equipment, switches, racks, cabling, trays and conduit.

(5) All monitoring equipment and security systems.

(6) Modular data centers and preassembled components of any item described in this definition, including components used in the manufacturing of modular data centers.

(7) Other tangible personal property that is essential to the operations of a computer data center.

The following computer data center equipment does not qualify for a tax refund:

(1) Equipment used by the data center to generate electricity for resale purposes to a power utility, except for equipment used for sales incidental to the primary sale to computer data centers to generate, provide, or sell no more than 5% of its electricity outside of the computer data center.

(2) Equipment used by the computer data center to generate, provide, or sell more than 5% of its electricity outside of the computer data center.

New investment: Construction, expansion or build out of data center space at either a new or an existing computer data center on or after January 1, 2014, and the purchase and installation of computer data center equipment, except for items described under paragraph (4) of the definition of computer data center equipment.

Owner or operator: Includes a single entity, multiple entities or affiliated entities.

Qualified tenant: An entity that contracts with the owner or operator of a computer data center that is certified pursuant to this article to use or occupy part of the computer data center for at least 100 kilowatts per month for two or more years.

## **Section IX - Contact Information**

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Please mail the completed application and supporting documents to:

Pennsylvania Department of Revenue  
Economic Development Coordinator  
1133 Strawberry Square  
Harrisburg PA 17128

For additional information on the Computer Data Center Equipment Incentive Program, contact the Economic Development Coordinator at 717-772-3896 or [ra-bftrevkoz@pa.gov](mailto:ra-bftrevkoz@pa.gov).

## Section X - Application for Certification

<b><u>Computer Data Center Equipment Incentive Program</u></b>		
<b>PRIMARY BUSINESS REPRESENTATIVE</b>		
Please provide an attachment to this page if the business has a secondary representative or additional representatives that may answer questions and discuss confidential tax matters in relation to the application.		
Title:		
Company name:		
Phone:		
Fax:		
E-mail:		
Mailing Address:		
City:	State:	ZIP Code:
<b>BUSINESS INFORMATION</b>		
Entity Owner or Operator Name:		
Facility Address:		
City:	State:	ZIP Code:
<b>TAX INFORMATION</b>		
Entity Type:		
<u>Indicate how the entity reports to the Internal Revenue Service?</u>		
<input type="radio"/> C Corporation <input type="radio"/> S Corporation <input type="radio"/> Partnership <input type="radio"/> Limited Liability Company (LLC) <input type="radio"/> Limited Partnership (LP)		
<u>If LLC is selected, is the LLC a</u>		
<input type="radio"/> Partnership <input type="radio"/> C Corporation <input type="radio"/> S Corporation <input type="radio"/> Disregarded Entity (Corporate) LLC <input type="radio"/> Disregarded Entity (Sole Proprietorship) <input type="radio"/> Single-Owner LLC		

<b>TAX INFORMATION</b>
Federal Employer Identification Number:
PA Revenue ID:
PA Sales/Use Tax License Number:
PA Employer Withholding Account Number:
PA Corporate Tax Account Number:
PURTA Number:
Unemployment Compensation Number:
NAICS Code:

<b>SHAREHOLDER/PARTNER/MEMBER INFORMATION</b>				
Provide the information requested in the boxes below for the following entities: all shareholders, partners, members, etc., of an S corporation, partnership, LLC and all persons or business that will receive pass-through income from the business. If you need additional space, please attach a spreadsheet behind this page.				
Name	SSN/EIN	Ownership %	Mailing Address, City, State and ZIP	Phone Number

**ELGIBILITY REQUIREMENTS**

A computer data center must meet one of the following requirements, after taking into account the combined investments made and annual compensation paid by the owner or operator of the computer data center or the qualified tenant:

- (1) On or before the fourth anniversary of certification, the computer data center creates a minimum investment of:
- iii. At least \$25,000,000 of new investment if the computer data center is located in a county with a population of 250,000 or fewer individuals; or
  - iv. At least \$50,000,000 of new investment if the computer data center is located in a county with a population of more than 250,000 individuals.
- (2) One or more taxpayers operating or occupying a computer data center, in the aggregate, pay annual compensation of at least \$1,000,000 to employees at the certified computer data center site for each year of the certification after the fourth anniversary of certification.

**SUPPORTING DOCUMENTATION**

A notarized affidavit with signature from the authorized executive representing the owner or operator, that the computer data center is expected to satisfy the certification requirement selected for Program eligibility.

If applicable, information sufficient to identify the specific portion or portions of the facility comprising the computer data center.

**STATEMENT OF AUTHENTICITY**

**Please provide the name of person completing the application.**

Name:

Signature:

Date of Submission:

***Upon submission of this application, the applicant must be in compliance with the laws and regulations of the Commonwealth of Pennsylvania, to the satisfaction of the Department of Revenue. Failure to achieve state tax compliance during the review period will result in the denial of the certification.***