

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

COMMERCE CORPORATION

Title of Rule: The Rules and Regulations for the Wavemaker Fellowship Program

Rule Identifier: 870-RICR-30-00-1

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: 09/11/2018

End of Public Comment: 10/12/2018

Authority for this Rulemaking:

R.I.G.L. § 42-64.26

Summary of Rulemaking Action:

This Rule is being amended to reflect that it is jointly promulgated with the Division of Taxation to reduce redundant regulations. Additionally, technical corrections to clarify the process to be followed by both the Rhode Island Commerce Corporation and the Division of Taxation as it relates to the issuance and use of the Tax Credit are provided.

Rhode Island Commerce Corporation proposes to amend ERLID 8289, Rules and Regulations for the Wavemaker Fellowship Program, as follows:

§1.1 states that the rules are jointly promulgated by the Corporation and the Tax Division;

§1.2 Same as §1.1;

§1.5 "Tax credit award request form" definition is added;

§1.11A. states the process the Fellowship Recipient must follow for the Tax Division to issue a Tax Credit Certificate, a refund or a combination of both to the Fellowship Recipient;

§1.11F added to allow the Tax Division to enable the Fellowship Recipient to elect to receive a redemption payment in lieu of a Tax Certificate, or some portion thereof

§1.11H revised text to clarify the commencement of the payment period and payment actions the Tax Division may take in the event of insufficient funds to process requests by Fellowship Recipients

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until October 12, 2018 by contacting the appropriate party at the address listed below:

Michael Walker
Commerce Corporation
RI Commerce Corporation
315 Iron Horse Way, Suite 101
Providence, RI 02908
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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Regulatory Analysis Summary and Supporting Documentation:

Keep young college graduates in the state through incentives for educational opportunity and creation of more high-paying jobs.

No additional analysis was undertaken for this amendment.

For full regulatory analysis or supporting documentation see agency contact person above.

870-RICR-30-00-1

TITLE 870 – RHODE ISLAND COMMERCE CORPORATION

CHAPTER 30 – TAX CREDITS AND EXEMPTIONS

SUBCHAPTER 00 – N/A

PART 1 – Rules and Regulations for the Wavemaker Fellowship Program

1.1 Purpose.

These rules and regulations (the “Rules”) are jointly promulgated to set forth the principles, policies, and practices of the Rhode Island Commerce Corporation (the “Corporation”) and the Rhode Island Division of Taxation (the "Tax Division") in implementing and administering R.I. Gen. Laws Chapter 42-64.26, the Stay Invested in RI Wavemaker Fellowship (the “Act”).

1.2 Authority.

These rules and regulations are jointly promulgated by the Corporation and the Tax Division pursuant to the Act. These rules and regulations have been prepared in accordance with the requirements of the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

1.3 Scope.

These Rules shall apply to any application received by the Corporation for a tax credit under the Act. Notwithstanding anything contained in these Rules to the contrary, the Corporation shall have and may exercise all general powers set forth in the Act that are necessary or convenient to effect its purposes and these Rules shall be liberally construed so as to permit the Corporation to effectuate the purposes of the Act and other applicable state laws and regulations.

1.4 Severability.

If any provision of these Rules, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules shall not be affected thereby.

1.5 Definitions.

A. The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

1. “Act” means R.I. Gen. Laws Chapter 42-64.26, known as the Stay Invested in RI Wavemaker Fellowship.

2. "Annual certification" means the document issued to a Fellowship Recipient by the Corporation certifying to the Tax Division the amount of the Tax Credit and taxable year in which such Tax Credit may be claimed, and such other information deemed appropriate by the Corporation.
3. "Applicant" means an individual who applies for a tax credit under these Rules.
4. "Award" means a Tax Credit awarded by the Corporation to an Applicant as provided under the Act and these Rules.
5. "Award letter" means the letter mailed to an Applicant selected for an Award by the Fellowship Committee.
6. "Board" means the Board of Directors of the Corporation.
7. "Corporation" means the Rhode Island Commerce Corporation established pursuant to R.I. Gen. Laws Chapter 42-64.
8. "Eligible expenses" means annual higher education loan repayment expenses, including, without limitation, principal, interest and fees, as may be applicable, incurred by an eligible graduate and which the eligible graduate is obligated to repay for attendance at a post-secondary institution of higher learning. Notwithstanding the foregoing, late fees or other penalties for late payment shall not constitute Eligible Expenses.
9. "Eligibility period" means a term of up to four (4) consecutive service periods beginning with the date that an eligible graduate receives initial notice of award and expiring at the conclusion of the fourth service period after such date specified.
10. "Fellowship committee" means the committee convened by the Corporation for the purpose of selecting which Applicants should receive Awards under the Act.
11. "Fellowship recipient" means an Applicant who receives a Tax Credit under the Act and these Rules.
12. "Full-Time employee" means a person who is employed by a business for consideration for a minimum of at least thirty-five (35) hours per week; or who renders any other standard of service generally accepted by custom or practice as full-time employment; or who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization for a minimum of thirty-five (35) hours per week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to State withholding.

13. "Rhode Island-based employer" means
 - a. an employer having a principal place of business or at least fifty-one percent (51%) of its employees located in this State; or
 - b. an employer registered to conduct business in this State that satisfied state tax filing requirements for the previous tax year.
14. "Service period" means a twelve (12) month period beginning on the date that an Applicant receives initial notice of award under the Act and these Rules.
15. "State" means the State of Rhode Island and Providence Plantations.
16. "Student loan" means a loan to an individual by a public authority or private lender to assist the individual to pay for Eligible Expenses.
17. "Tax credit" means the tax credit permitted under the Act.
18. "Tax credit certificate" or "Certificate" means a certificate issued by the Tax Division to a Fellowship Recipient who has received an Annual Certification from the Corporation substantiating compliance with an Award Letter and entitlement to the issuance of Tax Credits under the Act.
19. "Tax division" means the State of Rhode Island Division of Taxation.

1.6 Eligibility Requirements.

- A. To be eligible for an Award the following criteria shall be met:
 1. The Applicant shall have graduated from an accredited two (2) year, four (4) year or graduate post-secondary institution of higher learning with an associate's, bachelor's, graduate, or post-graduate degree and at which the Applicant incurred Eligible Expenses;
 2. The Applicant shall be or has an offer to become a Full-Time Employee with a Rhode Island-Based Employer filling a position located in this State throughout the Eligibility Period; and
 3. The Applicant's employment primarily consists or will consist of work in one or more of the following covered fields: life, natural or environmental sciences; computer, information or software technology; advanced mathematics or finance; engineering; industrial design or other commercially related design field; or medical or medical device technology.

1.7 Application.

- A. An Applicant seeking an award shall submit an Application to the Corporation on a form published by the Corporation that shall include the following (and any other information the Corporation deems appropriate):
1. Personal information, including full name, social security number, home address, phone number, email address, and, for Applicants not currently occupying a qualifying employment position, the anticipated state of residence when occupying that employment;
 2. Education information to include, institutions attended, degrees awarded, grade point average, class rank, honors awarded and certified copies of transcripts;
 3. Current employment information (if any);
 4. Employment History (if any);
 5. Evidence of Current employment offer(s) (if any);
 6. Evidence that the employer qualifies as a Rhode Island-Based Employer, in the format prescribed by the Corporation;
 7. In the case of Applicants who are not self-employed or employed as the founder of a company, the employer's endorsement of the Applicant's candidacy, in the format prescribed by the Corporation; and
 8. Loan information, including the type of loan, amount, term, interest rate and monthly payment, as well as information on participation in other loan assistance programs.
- B. The Corporation will set periodic Application deadlines that will be published on the Corporation's web site.

1.8 Fellowship Committee Review.

- A. The Corporation shall review each Application received to confirm compliance with the Act and these Rules, and the Corporation's staff shall allow revision or supplementation of any Application prior to review and consideration consistent with the applicable deadline. The Corporation's staff may reject any incomplete Application but shall allow resubmission of an Application rejected as being incomplete consistent with the applicable deadline.
- B. The Corporation shall forward all completed Applications submitted within the applicable deadline period to the Fellowship Committee for review.

- C. The Fellowship Committee shall review Applications on a name-blind and employer-blind basis whereby the Applications and other supporting documents received or reviewed by the Fellowship Committee shall be redacted of the Applicant's name, street address, and other personally-identifying information as well as the Applicant's employer's name, street address, and other employer-identifying information.
- D. The Fellowship Committee shall select recipients for Awards using a competitive, merit-based process and shall submit to the Board for approval a selection process applicable to the consideration and granting of Awards. In selecting recipients for Awards, the Fellowship Committee shall give priority to:
 - 1. Applicants who demonstrate the greatest value to Rhode Island's advanced economy, whether through importance of their position to their employer and/or the state's economy, based on the position's seniority, scarcity, value-add, and other factors;
 - 2. Applicants who work in those fields critical to Rhode Island's advanced economy, as identified from time-to-time by the Corporation and published on the Corporation's website;
 - 3. Applicants with demonstrated past career and or/academic success;
 - 4. Applicants for whom the Award is likely to play a substantial role in bringing them to or keeping them in Rhode Island, as evidenced by, for example, out-of-state offer letters or existing out-of-state employment;
 - 5. Applicants for whom an Award would represent "last dollar" loan assistance, meaning that the Applicant will have taken advantage of other reasonably available loan assistance programs.
- E. The Fellowship Committee shall reserve seventy percent (70%) of the Awards issued in a calendar year to Applicants who are permanent residents of the State or who attended an institution of higher education located in the State when they incurred the Eligible Expenses to be repaid.
- F. Any Applicant who is not selected for an Award shall be notified by the Fellowship Committee in writing of such decision.
- G. The Fellowship Committee may establish a wait list procedure in the event an Applicant declines an Award.

1.9 Award.

- A. The Fellowship Committee shall mail an Award Letter to each Applicant selected for an Award, with a copy to the Tax Division.

- B. The Applicant shall have thirty (30) days from the date of mailing of an Award Letter to accept the Award by countersigning the Award Letter and delivering an executed copy to the Corporation.
- C. An Award shall be deemed withdrawn if not timely accepted by an Applicant.
- D. The Award Letter shall provide that the annual Tax Credit offered to the Applicant shall be as follows:
 - 1. if the Applicant's highest degree is an associate's degree, the lesser of \$1,000 or the Applicant's annual Eligible Expenses;
 - 2. if the Applicant's highest degree is a bachelor's degree, the lesser of \$4,000 or the Applicant's annual Eligible Expenses;
 - 3. if the Applicant's highest degree is a master's degree or higher, the lesser of \$6,000 or the Applicant's annual Eligible Expenses
- E. The Award Letter shall require, among other things, that the Applicant submit annual reports, in such form and on such dates as the Corporation shall require, in order to confirm that the Applicant continues to meet all of the eligibility requirements of the Act and these Rules and as a prerequisite to funding any Award for the benefit of the Applicant; and that the Applicant consent to the public disclosure of the receipt of any Award including disclosure of the Applicant's name, post-secondary institution of higher learning, and employer.

1.10 Annual Certification.

- A. Within six (6) months after the end of each Service Period, a Fellowship Recipient shall submit documentation certifying
 - 1. the amount the Fellowship Recipient has actually incurred and paid in Eligible Expenses;
 - 2. that the Fellowship Recipient continues to meet the eligibility requirements throughout the Service Period;
 - 3. that the amount sought in Tax Credits does not exceed the original loan amount plus any capitalized interest less any Award previously claimed under the Act and these Rules; and
 - 4. that the Fellowship Recipient is current on his or her student loan repayment obligations.
- B. The Fellowship Recipient shall also submit such other information as prescribed in the Award Letter, indicating that the requirements necessary for certification of his or her Tax Credit amount have been satisfied.

- C. Upon a determination that the Fellowship Recipient has met the requirements specified in the Award Letter, the Corporation shall issue an Annual Certification to the Fellowship Recipient providing entitlement to the issuance of a Tax Credit Certificate for a specified year in an amount determined pursuant to the Award Letter.
- D. An Award for any Service Period in which a Fellowship Recipient fails to timely submit sufficient documentation to the Corporation evidencing satisfaction of the requirements necessary for certification shall be forfeited.
- E. Forfeiture of a year's credit shall not extend the Eligibility Period.

1.11 Issuance and Use of Tax Credit.

- A. Upon the presentation to the Tax Division of an Annual Certification from issued by the Corporation to the Fellowship Recipient, the Tax Division shall issue a Tax Credit Certificate to the Fellowship Recipient if the redemption option is not being exercised by the Fellowship Recipient at the time of filing of the Annual Certification.
- B. The Tax Credit allowed under the Act may be used as a credit against personal income taxes imposed under R.I. Gen. Laws Chapter 44-30.
- C. A Fellowship Recipient seeking to claim the Tax Credit Certificate against his or her tax liability shall attach the original executed Certificate to his or her tax return.
- D. If the amount of the Tax Credit allowed in any Service Period exceeds the Fellowship Recipient's total tax liability for the year in which the credit is allowed, the amount of such credit that exceeds the Fellowship Recipient's tax liability may be carried forward and applied against the taxes imposed for the succeeding four (4) years, or until the full credit is used, whichever occurs first.
- E. Upon request of a Fellowship Recipient holding a valid Tax Credit Certificate, the Tax Division shall redeem such credit in whole or in part for one hundred percent (100%) of the value of the Tax Credit to the extent of available funds held by the Corporation in the fund established pursuant to R.I. Gen. Laws § 42-64.26-4.
- F. The Tax Division may provide for the redemption of the Tax Credits whereby upon the filing of the Certification, the Fellowship Recipient may elect to receive a redemption payment in lieu of the issuance of a Tax Certificate(s) or some portion thereof.
- FG. A Fellowship Recipient seeking redemption of a Tax Credit Certificate shall file an application on the form prescribed by the Tax Division together with the original Tax Credit Certificate.

- H. The Tax Division shall pay the redemption amount within thirty (30) days of submission of a complete application request by the Fellowship Recipient pursuant to the provisions of this Part, to the extent of available funds. To the extent of any insufficiency of funds, the Tax Division shall either return the any original Tax Credit Certificate to the Fellowship Recipient or issue a new Tax Credit Certificate for such partial amounts that are not redeemed-paid as a redemption by the Tax Division.
- G.I. Any amounts paid to a Fellowship Recipient for the redemption of Tax Credits allowed pursuant to this Rule shall be exempt from taxation under R.I. Gen. Laws Title 44.

1.12 Remedies.

- A. If a Fellowship Recipient receiving an Award violates any provision of the Act or these Rules or ceases to meet the eligibility requirements of the Act and these Rules, the Corporation may, on thirty (30) days' written notice: withhold any further Award until the Fellowship Recipient complies with the eligibility or other requirements of the Award; or terminate the Award.
- B. In the event that any information provided by the Applicant in the Application is found to be willfully false, the Corporation shall deny the issuance of or revoke any Award in whole or in part, which revocation shall be in addition to any other criminal or civil penalties that the Applicant may be subject to under applicable law.
- C. The Corporation shall deny the issuance of or revoke any Award if an Applicant is convicted of bribery, fraud, theft, embezzlement, misappropriation, and/or extortion involving the State, any State agency or political subdivision of the State.
- D. The Corporation may provide for additional rights and remedies in any Award Letter, which will be in addition to the rights provided under this Rule.

1.13 Discretion and Judicial Review.

- A. The Corporation shall not have any obligation to issue and Award or grant any benefits under the Act or these Rules, and may decline to issue an Award to any Applicant, including those who have submitted a completed Application that meets the eligibility requirements of these Rules.
- B. A review of an Application shall not constitute a "contested case" under the Administrative Procedures Act, R.I. Gen. Laws § 42-35-9, and no opportunity to object to an Application shall be afforded, nor shall judicial review be available from a decision rendered by the Corporation and/or the Fellowship Committee in connection with any Application.

1.14 Administration and Examination of Records.

The Corporation may examine any books, paper, records or memoranda bearing upon the approval of incentives awarded under the Act, and may require the attendance of the Applicant or any other person, and may examine such person under oath respecting any matter which the Corporation deems pertinent or material in determining eligibility for an Award under the Act.