

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.**

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8 **ON OCTOBER 18, 2022**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE  
9 RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

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11 Publication Date of the Adoption in the *Texas Register*: **November 18, 2022**

12 The Rules are Effective: **November 24, 2022**

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

16  
17 Subchapter M. Tax Refund for Wages Paid to Employee Receiving Financial Assistance,  
18 §§800.550 - 800.557

19  
20 The new sections are adopted *without changes* to the proposed text as published in the August  
21 26, 2022, issue of the *Texas Register* (47 TexReg 5083), and, therefore, the adopted rule text will  
22 not be published.

23  
24 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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

29  
30 Senate Bill (SB) 82, enacted by the 73rd Texas Legislature, Regular Session (1993), amended  
31 Texas Human Resources Code, Chapter 31 by adding Subchapter D, Tax Refund for Wages Paid  
32 to Employee Receiving Financial Assistance (Tax Refund Program). The Tax Refund Program  
33 required the Texas Department of Human Services (DHS) to provide tax vouchers to persons  
34 upon application and certification of eligibility.

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

43  
44 The Comptroller of Public Accounts' rule under 34 Texas Administrative Code (TAC) §3.4,  
45 implemented in 1995, was not amended when the program transitioned from DHS to TWC.  
46 TWC did not establish rule to operate the Tax Refund Program. The application and eligibility

1 certification procedures related to the Tax Refund Program have been operated by TWC staff  
2 since 1997 through publicly available information and a tax refund application form, currently  
3 maintained on TWC's Work Opportunity Tax Credit Program Overview webpage.

4  
5 The Comptroller's office is reviewing possible amendments to 34 TAC §3.4 that would eliminate  
6 reference to eligibility determinations in its rule. TWC determined that the establishment of an  
7 administrative rule to clarify the requirements and eligibility determination applicable under  
8 Texas Labor Code, §301.107 is now needed.

## 9 10 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

### 11 12 **SUBCHAPTER M. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING** 13 **FINANCIAL ASSISTANCE**

14 TWC adopts new Subchapter M, as follows:

#### 15 16 **§800.550. Purpose**

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

#### 18 19 **§800.551. Definitions**

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

#### 21 22 **§800.552. Tax Refund Voucher**

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

#### 26 27 **§800.553. Amount of Refund: Limitation**

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

#### 32 33 **§800.554. Eligibility**

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

#### 38 39 **§800.555. Certification**

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

#### 42 43 **§800.556. Application for Refund: Issuance**

44 New §800.556 identifies the time period, on or after January 1 and before April 1, for persons to  
45 submit applications for the previous calendar year. New §800.556(b) gives TWC the authority to

1 promulgate the application for the tax refund voucher. New §800.556(c) limits the use of the tax  
2 refund voucher to the year for which the voucher is issued.

3  
4 **§800.557. Limitations.**

5 New §800.557(a) reinforces the requirement of health care coverage for the employee under new  
6 §800.554(3). New §800.557(b) identifies rules of conveyance, assignment, or transfer of a refund under  
7 Chapter 800, Subchapter M.

8  
9 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be  
10 within TWC's legal authority to adopt.

11  
12 **PART III. PUBLIC COMMENTS**

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

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15 **PART IV. STATUTORY AUTHORITY**

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

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

19

1   **CHAPTER 800. GENERAL ADMINISTRATION**

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3           **SUBCHAPTER M. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING**  
4           **FINANCIAL ASSISTANCE**

5  
6           **§800.550. Purpose.**

7  
8           The purpose of this subchapter is to establish rules for the Tax Refund for Wages Paid to  
9           Employee Receiving Financial Assistance in accordance with Texas Labor Code, Chapter  
10          301, Subchapter H.

11  
12          **§800.551. Definitions.**

13  
14          The following words and terms, when used in this subchapter, shall have the following  
15          meanings, unless the context clearly indicates otherwise.

- 16  
17           (1) Comptroller--The comptroller of public accounts of the State of Texas, as defined  
18           under Texas Government Code, Chapter 403.
- 19  
20           (2) Person--A "person" is:
- 21                (A) a business entity located in this state;
- 22                (B) a governmental subdivision located in this state; or
- 23                (C) a public or private organization located in this state that is not a state  
24                agency.

25  
26          **§800.552. Tax Refund Voucher.**

- 27  
28  
29           (a) The Agency shall issue a tax refund voucher in the amount allowed by this  
30           subchapter and subject to the restrictions imposed by this subchapter to a person that  
31           meets the eligibility requirements under this subchapter.
- 32           (b) A person issued a tax refund voucher may, subject to the provisions of this  
33           subchapter, apply to the comptroller's office for a refund of taxes in accordance with  
34           Texas Labor Code, §301.106.

35  
36          **§800.553. Amount of Refund: Limitation.**

- 37  
38  
39           (a) The amount of the refund allowed under this subchapter shall be equal to 20 percent  
40           of the total wages, up to a maximum of \$10,000 in wages for each employee, paid or  
41           incurred by a person for services rendered by an employee of the person during the  
42

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  
16 (A) resident of this state; and  
17  
18 (B) recipient of:  
19  
20 (i) financial assistance or services in accordance with Texas Human  
21 Resources Code, Chapter 31; or  
22  
23 (ii) medical assistance in accordance with Texas Human Resources  
24 Code, Chapter 32;  
25  
26 (2) The person satisfies the certification requirements under §800.555 of this  
27 subchapter; and  
28  
29 (3) The person, under an arrangement under Texas Human Resources Code,  
30 §32.0422, provides and pays for the benefit of the employee a part of the cost  
31 of coverage under:  
32  
33 (A) a health plan provided by a health maintenance organization established  
34 under Texas Insurance Code, Chapter 843;  
35  
36 (B) a health benefit plan approved by the commissioner of insurance;  
37  
38 (C) a self-funded or self-insured employee welfare benefit plan that provides  
39 health benefits and is established in accordance with the Employee  
40 Retirement Income Security Act of 1974 (29 United States Code §§1001  
41 *et seq.*); or  
42  
43 (D) a medical savings account or other health reimbursement arrangement  
44 authorized by law.  
45

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.