

California enacts sweeping changes to Enterprise Zone credit program

July 12, 2013

In brief

California Governor Jerry Brown signed both [Assembly Bill 93](#) and [Senate Bill 90](#) on July 11, 2013, which make sweeping changes to the California Enterprise Zone credit program. The new Enterprise Zone credits, exemptions, and incentives apply beginning January 1, 2014, unless otherwise noted. Set forth below are some of the key features of the new programs.

In detail

New hiring credit for hiring over next 7 calendar years

The new hiring credit:

- is not available for retailers, food service, temporary employment agencies, casinos, bars, or sexually oriented businesses
- allows businesses to claim Hiring Credits in certain economic development areas (former Enterprise Zones and LAMBRA, with some exceptions), as well as in designated census tracts with high unemployment and poverty rates
- is available for hiring employees who are long-term unemployed; unemployed veterans; felons; or recipients of the federal earned income tax

credit, CalWORKs, or general assistance

- is available only to employers that create net new jobs statewide
- is equal to 35% of wages paid in first five years of employment (up to \$56,000), but only wages in excess of 150% of California minimum wage (currently \$12 per hour or \$10 per hour in designated pilot areas), and not greater than 350% of California minimum wage (currently \$28 per hour)
- must be requested soon after employment start date (at most, 50 days), along with other reporting requirements
- may be taken only on an originally filed income tax return
- is available for hires on or after January 1, 2014, and

sunsets on January 1, 2021, but the credit may continue to be taken for qualified employees hired before January 1, 2021.

New partial sales and use tax exemption for purchases over next 8 fiscal years

The partial sales and use tax exemption:

- provides a statewide sales tax exemption for a portion (approximately 4.19%) of the state sales and use tax on up to \$200 million of certain manufacturing and research and development equipment (and certain related equipment)
- is available to manufacturers (NAICS codes 3111 to 3399) and also certain Biotechnology, Physical, Engineering, and Life Sciences companies

- conducting research and development (NAICS codes 541711 and 521712)
- is not available to certain financial institutions, agricultural, and extractive taxpayers
- applies to purchases made on or after July 1, 2014, and sunsets on July 1, 2022.

New 'California Competes' incentives credit program

- A new fund will be created, to be administered by the Governor's Office of Business and Economic Development, 'GO-Biz,' which will negotiate agreements to provide tax credits related to certain investments and employment expansion in California.
- The following funds will be available: (1) \$30 million for 2013-14; (2) \$150 million for 2014-15; and (3) \$200 million for each additional year through 2017-18, with adjustments based upon the performance of the Hiring Credit and Sales/Use Tax exemption

- The program is available January 1, 2014, and sunsets on January 1, 2025.

Transition – Generally 10 years to use credit carry-forwards

- Carryovers of existing California Enterprise Zone credits (earned before 2014) expire in 2024.

The takeaway

California taxpayers should review the impact of the expiring Enterprise Zone program. Taxpayers who have not taken full advantage of existing rules still have a limited time to do so. In addition, taxpayers who have significant credit carryforwards should consider the impact of the new limitation on the carryforward period.

With respect to the proposed draft regulation released earlier this year, while it is uncertain what will happen given the enactment of A.B. 93 and S.B. 90, it is possible that the proposed regulation will never be finalized, since any changes would only be effective for a relatively short period of time.

Taxpayers should consider the new rules for the new hiring credit. The

new hiring credit may provide up to \$56,000 (over five years) for each qualified employee. However, there are a series of significant documentation requirements to fulfill, which could prove challenging. Employers using a technology solution for identifying qualified hires and tracking Point of Hire credits, such as PwC's LoCATE and CenterPOINT, could have an advantage in identifying and documenting potentially qualified employees within the required time frame to apply for hiring credits.

Under the new partial sales tax exemption, some manufacturers and companies with research and development activities could save up to approximately \$8 million each year on purchases of qualified property. Taxpayers should consider expected purchases and whether they may qualify for the partial exemption based upon the new eligibility criteria.

Finally, creation of the Go-Biz program allows taxpayers to negotiate tax credits based on job creation and investments in California, which creates additional opportunities as well.

Let's talk

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