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# California bills propose Enterprise Zone changes

September 13, 2013

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## *In brief*

Previous legislation enacted in July made sweeping changes to the legacy Enterprise Zone credit program (“Legacy EZ Program”), causing its repeal on January 1, 2014. That legislation left open some unanswered questions about the administration of the Legacy EZ Program following its repeal. In addition, since that time, several enterprise zones announced their intention to stop issuing vouchers well before the end of 2013, which would leave taxpayers unable to document qualified hires. This new proposed legislation permits vouchering throughout 2014, among other changes.

**A.B. 106** would clarify and amend certain elements of the Legacy EZ Program, including: (1) authorizing vouchering until January 1, 2015; (2) clarifying that all qualified hiring ends on December 31, 2013; and (3) clarifying that the ten tax-year carryover period for credits unused by 2013 generally begins on January 1, 2014.

**S.B. 100** would modify one element of the Legacy EZ Program sales/use tax credit, which generally provides that property must be purchased *and placed in service* by the time the program expires on December 31, 2013. S.B. 100 provides that property must be purchased by December 31, 2013, and may be placed in service as late as December 31, 2014.

Both bills have been approved by the California Legislature and await action by the governor for his signature. For either bill, the governor may sign it, allow it to become law without his signature, or veto it. It is our understanding that the governor supported the passage of these bills and it is our expectation that he will sign them.

**UPDATE:** The governor signed A.B. 106 and S.B. 100 on September 26, 2013.

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## *In detail*

### ***Enterprise zone hiring credit vouchering authorized through January 1, 2015***

The Legacy EZ Program (set to expire after 2013) authorizes a hiring credit for qualified employees hired within certain targeted geographic areas (e.g. enterprise zones). Generally, to

document the credit, a taxpayer must receive a voucher from a local administrative entity (e.g. from an enterprise zone coordinator). Effective January 1, 2014, the Legacy EZ Program is repealed and replaced with a new temporary economic development program, which provides for a new hiring credit, a new partial sales/use tax

exemption, and an incentives credit (all of which are temporary).

With the repeal of the Legacy EZ Program effective on January 1, 2014, localities did not have the authority to issue vouchers after 2013 for employees hired in

2013 (or earlier). This left taxpayers facing a statutory requirement that they obtain a voucher for qualified hires with potentially no ability to obtain a voucher. In addition, several enterprise zones announced their intention to stop issuing vouchers well before the end of 2013.

A.B. 106 would authorize localities to continue to accept applications for certification and to issue vouchers up to, but no later than, January 1, 2015. Specifically, A.B. 106 provides that “a local entity formerly authorized . . . to issue a certification that provides that a qualified employee, qualified disadvantaged individual, or qualified displaced employee meets the specified eligibility requirements under [the Legacy EZ Program] may continue to accept applications for the certification and to issue the certifications up to but no later than January 1, 2015.”

Although some zones recently announced an intention to discontinue issuing vouchers prior to 2014, should A.B. 106 become enacted and authorize the issuance of vouchers through January 1, 2015, hopefully these zones will commit to issuing vouchers throughout 2014.

#### ***All qualified hiring ends on December 31, 2013***

The July legislation provides that the Legacy EZ Program ceases to be operative beginning on January 1, 2014. This raised a question as to whether there were different effective dates for fiscal year taxpayers.

A.B. 106 would provide that all qualified hiring under the Legacy EZ Program ends on December 31, 2013. Specifically, the bill provides that no Legacy EZ Program credit shall be allowed “with respect to an employee who first commences employment with a qualified taxpayer on or after January 1, 2014.”

#### ***Ten-year credit carryover period begins in 2014***

The July legislation allows taxpayers with excess credits generated from the Legacy EZ Program to carry the credits forward for ten tax years (as opposed to an indefinite carryover under the Legacy EZ Program). This raised questions regarding the starting point of such carryover period. Is the starting point when the credit was first qualified? When the Legacy EZ Program expires? Some other date?

A.B. 106 would clarify that the ten tax-year carryover period begins with the first taxable year beginning after January 1, 2014.

#### ***Qualified sales tax credit purchases may be placed in service by December 31, 2014***

Under the Legacy EZ Program, taxpayers are allowed an income tax credit equal to the amount of sales or use tax paid in connection with qualified property that is purchased and placed in service before the date the targeted geographic area (e.g., enterprise zone) designation expires, is no longer binding, or becomes inoperative. Based upon the July legislation, property would have had

to be purchased *and placed in service* by December 31, 2013, to qualify for the Legacy EZ Program sales/use tax credit.

S.B. 100 provides that the Legacy EZ Program sales/use tax credit would be available for qualified equipment purchased before January 1, 2014, and placed into service before January 1, 2015.

#### ***Additional reading***

[California Enterprise Zones replaced with temporary incentives \(August 19, 2013\)](#)

[California enacts sweeping changes to Enterprise Zone credit program \(July 12, 2013\)](#)

#### ***The takeaway***

The expiring Legacy EZ Program hiring credits are extremely valuable and may provide up to approximately \$1 million dollars of credit for every 25 qualified hires. By extending for an additional year the period during which qualified hires may be vouchered under the Legacy EZ Program, more businesses should be able to qualify hires under the program before it ends. It continues to make sense to participate in the Legacy EZ Program as soon as possible. In addition, the extension of the deadline to place property in service for the Legacy EZ Program sales/use tax credit is also likely to be seen by many as a helpful change.

## **Let's talk**

For more information about changes to California's Enterprise Zone program, please contact our author:

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