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Connecticut General Assembly Special "Jobs Session" Tax-Related Measures

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During a special legislative session convened on October 26, 2011 (Jobs Session), the Connecticut General Assembly enacted assorted measures to create and expand business assistance, economic and workforce development, and job training programs throughout the state. Included within the Jobs Session legislation (Public Act 11-1, October Special Session) were several tax-related incentives designed to alleviate the tax burden on noncorporate taxpayers, spur individual investment in Connecticut start-up businesses, and create jobs within the state. The relevant tax-related measures are summarized below.

CREATION OF NEW JOB EXPANSION TAX CREDIT (P.A. 11-1, OCTOBER SPECIAL SESSION, §§ 19-22)

Legislation enacted in the Jobs Session phased out three existing tax credits — the Jobs Creation Tax Credit, the Qualified Small Business Job Creation Tax Credit, and the Vocational Rehabilitation Job Creation Tax Credit — and replaced these with a new Job Expansion Tax Credit, a three-year credit, not to exceed $20 million each year, for businesses that create new jobs and fill those jobs with Connecticut residents who meet certain criteria.

Phaseout of Existing Credits

The Jobs Creation Tax Credit and Vocational Rehabilitation Job Creation Tax Credit will be eliminated on December 31, 2011. The Qualified Small Business Job Creation Tax Credit is set to expire one year later on December 31, 2012.

Eligible Recipients of Credit and Jobs to Be Created

To be eligible for the Job Expansion Tax Credit, a qualifying business must create a certain number of qualifying jobs between January 1, 2012 and January 1, 2014. The qualifying business must have been in existence for 12 consecutive months prior to submitting its application and be subject to the Insurance Premiums Tax, the Corporation Business Tax, the Utility Company Tax, or the Personal Income Tax.

A business with 50 or fewer employees must create one new job to qualify for the credit. Employers with 50 to 100 employees must create at least five new jobs while an entity with over 100 employees must create at least ten new jobs.

The jobs created must not have existed in Connecticut prior to applying for the credit. Temporary or seasonal jobs are excluded from consideration. The job must be (1) at least 35 hours per week for at least 48 weeks per calendar year or (2) 20 hours per week for at least 48 weeks per calendar year if the employee is receiving vocational rehabilitation, is receiving unemployment benefits, or is unemployed after exhausting such benefits. Finally, any employee who maintains any ownership interest in the business or has worked in Connecticut for a related business is not counted as a new employee.

Amount of Credit and Eligible Taxes to Be Offset

The Job Expansion Tax Credit, which may be used against the Insurance Premiums Tax, the Corporation Business Tax, the Utility Company Tax, or the Personal Income Tax, is equal to $500 per month for each new employee hired. The credit is increased to $900 per month if the new employee (1) is receiving unemployment compensation benefits or has not had a full-time job since exhausting unemployment benefits, (2) is a current member of the armed forces or has been honorably discharged or released from active service, or (3) is receiving vocational rehabilitation services from the Connecticut Bureau of Rehabilitative Services.

Credit Application Process and Claiming the Credit

Eligible businesses that hire the requisite number of new employees must apply to the Department of Economic and Community Development (DECD) for a certification letter. The DECD must act on each completed application within 30 days of receipt. The eligible business must claim the credit in the tax year in which the job was created and filled, as well as the two succeeding years, provided that the employee held the job for the full year. The credit is not refundable, and unused credits expire. The legislation is silent as to transferability of the credit.

APPLICABILITY OF THE BUSINESS ENTITY TAX (P.A. 11-1, OCTOBER SPECIAL SESSION, § 23)

The Business Entity Tax is a $250 tax assessed each taxable year on a business entity. Generally, a business entity is any domestic or foreign S corporation, limited liability partnership, limited partnerships, or limited liability company, but not a C corporation. A single member limited liability company is also considered a business entity, provided that it has not elected to be taxed as a C corporation for U.S. federal income tax purposes.

As a result of legislation enacted during the Jobs Session, the $250 Business Entity Tax will be payable every other year, rather than every year, effective with tax years beginning on or after January 1, 2013. This legislative change effectively reduces the Business Entity Tax by 50 percent.

CHANGES TO THE ANGEL INVESTOR CREDIT
(P.A. 11-1, OCTOBER SPECIAL SESSION, § 29)

In 2010, the General Assembly created an Angel Investor Tax Credit, which provided a tax credit to individuals who invested at least $100,000 in the qualified securities of a Connecticut-based business that focuses on bioscience, advanced materials, photonics, information technology, clean technology, or any other emerging technology. To qualify for the Angel Investor Tax Credit, the target business must have gross revenues under $1 million; have fewer than 25 employees, three-quarters of whom must be Connecticut residents; have operated in Connecticut for less than seven consecutive years; and have received less than $2 million in investments from angel investors. The Angel Investor Tax Credit, codified in Section 12-704d of the Connecticut General Statutes, is equal to 25 percent of the angel investor's cash investment, with a maximum credit of $250,000 per investor.

Legislation passed during the Jobs Session reduces the minimum cash investment by an angel investor from $100,000 to $25,000. As the only tax credit available exclusively for individual income taxpayers, the reduced investment thresholds will ease the way for Connecticut start-up businesses to raise vital capital.

EXPANSION OF AIRPORT DEVELOPMENT ZONES
(P.A. 11-1, OCTOBER SPECIAL SESSION, §§ 39-45)

During the 2010 legislative session, a development zone was created for census tracts surrounding Bradley International Airport, allowing manufacturers and other qualifying businesses within the designated zone to qualify for enterprise zone property tax exemptions and Corporation Business Tax credits. The Jobs Session legislation established new airport development zones surrounding the Danielson, Groton/New London, Hartford-Brainard, Waterbury-Oxford, and Windham airports.

REDUCTION IN THE URBAN AND INDUSTRIAL SITE REINVESTMENT TAX CREDIT
(P.A. 11-1, OCTOBER SPECIAL SESSION, § 48)

Enacted in 2000, this credit, found under Conn. Gen. Stat. § 32-9t, was designed to incentivize new investment and development in eligible industrial zones or economically distressed urban areas. The amount of the credit that an individual taxpayer may be eligible for depends upon the projected amount of state tax revenue that the facility will generate, with the credit being collectively capped at $750 million. The Jobs Session legislation reduced the amount of tax credits available under the Urban and Industrial Site Reinvestment Tax Credit from $750 million to $650 million.

EXPANSION OF THE FILM PRODUCTION CREDIT
(P.A. 11-1, OCTOBER SPECIAL SESSION, §§ 53-55)

Created in 2006, the Film Production Tax Credit is available to any eligible production company that produces a qualified production and incurs expenses or costs in excess of $50,000 in Connecticut. The credit is equal to 30 percent of the production expenses and costs incurred in Connecticut. Pursuant to Conn. Gen. Stat. § 12-217jj, a qualified production is any entertainment content created in whole or in part within Connecticut, including motion pictures, documentaries, long-form specials, miniseries, series, sound recordings, videos, music videos, interstitial television programming, interactive television, interactive games, video games, commercials, infomercials, any format of digital media, and any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment.

Legislation passed in the Jobs Session expands the types of qualified productions to include relocated television productions — defined to be an ongoing television program that has filmed all of its prior seasons outside of Connecticut and is created at a qualified production facility. Current-events shows will also be included within this definition. To qualify for the credit, a taxpayer must make a minimum investment of $25 million in the Connecticut production facility and create at least 200 jobs. The jobs must not have existed in Connecticut before January 1, 2012; must require 35 hours of work per week; must not be temporary or seasonal in nature; and must be filled by a new employee.

Finally, the bill increases the credit limitation from 30 percent to 55 percent of the tax liability under the Insurance Premiums Tax or the Corporation Business Tax.

CONTACT US

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