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TAX CREDIT OPPORTUNITIES

CALIFORNIA COMPETES TAX CREDIT OPPORTUNITY

WHAT IT IS

The California Competes Tax Credit is a negotiated tax credit between the taxpayer and the State of California. The credit is to be applied against California income tax owed and may be carried forward to each of the succeeding five taxable years. It is not a refundable tax credit. However, the credit can be assigned to a unitary taxpayer corporation in the combined reporting group.

APPLICATION PERIODS

For each of the fiscal years 2015-16 and 2017-18, the tax credit awards will be \$200 million. For fiscal year 2015-16, applications for the California Competes Tax Credit will be accepted during the following periods:

- ▶ July 24, 2017, through August 21, 2017 (\$75 million available)
- ▶ January 2, 2018, through January 22, 2018 (\$100 million available)
- ▶ March 5, 2018, through March 26, 2018 (\$55.4 million plus any remaining unallocated amounts from the previous application periods)

APPLICATION PROCESS

The application process will take approximately 90 days from application to award. The application is done in two phases.

Phase One

The information provided in the Phase One application includes the company information (name, annual gross receipts, North American Industry Classification System code, federal employer information number, etc.), and information to complete a formula: the amount of the credit requested over the total proposed benefit the company is to provide over the next five years. The total benefit is comprised of the aggregate employee compensation package and the aggregate investment project. The application is reviewed based on this formula and is a quantitative analysis.

The aggregate employee compensation package takes into consideration the number of annual full-time equivalent employees hired during the period of investment. In calculating the aggregate employee compensation package, both gross salary and fringe benefits are included. Additionally, the calculation is based on projected taxable year of hire and annual salary.



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The aggregate investment package takes into consideration the "investment" in real and personal property purchased related to the applicant's business that is placed in service in California during the period of investment. The total investment includes purchases up to one year prior to the date the applicant files its California Competes Tax Credit Application and projected purchases during the 2014-2018 taxable years.

In evaluating the application, the ratio of the requested credit to the sum of the aggregate employment compensation package and the aggregate investment package is reviewed. The closer the ratio is to one, the less likely the application is to be approved for consideration in Phase Two.

Phase Two

The qualitative analysis takes place. This process includes an interview of the company applying for the credit. Phase Two facilitates a review of factors that are less quantitative.

The credit is based on 11 factors:

- ▶ Number of jobs created or retained;
- ▶ Compensation paid to employees;
- ▶ Amount of investment;
- ▶ Extent of unemployment or poverty in business area;
- ▶ Other incentives available in California;
- ▶ Incentives available in other states;
- ▶ Duration of proposed project and duration of commitment to remain in this state;
- ▶ Overall economic impact;
- ▶ Strategic importance to the state, region, or locality;
- ▶ Opportunity for future growth and expansion; and
- ▶ Extent the benefit to the state exceeds the amount of the tax credit.

BDO INSIGHTS

Applicants should be mindful of the fact that, inasmuch as this is a negotiated contract credit, the terms must be met or the credit can be cancelled or reduced (e.g., the company projected creating 15 jobs in next five years and only created two jobs).

We believe that, while the ease of acceptance may be less stringent for the initial fiscal year application process, the credit may be more favorable to taxpayers (perhaps by doing away with limitations based on tentative minimum tax) in future years.

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