

INDIANA ENACTS TWO TAX CREDITS

Indiana's economy has suffered greatly over the past three (3) years. This decline has hit the manufacturing industries the hardest. In order to encourage growth and investment, and to create a better climate for the creation of well paying jobs, Indiana has adopted two (2) tax credits for the benefit of Indiana businesses.

The first tax credit is the Hoosier Business Investment Tax Credit. This credit is available for qualified capital investments made in the State of Indiana after January 1, 2004, but before December 31, 2005.

Investments that may qualify for the Hoosier Business Investment Tax Credit consist of:

1. Purchase of equipment for:
 - a. Telecommunications.
 - b. Production
 - c. Manufacturing
 - d. Fabrication
 - e. Assembly
 - f. Extraction
 - g. Mining; and
 - h. Processing.
2. New computers and related equipment.
3. Costs associated with modernization of existing equipment used for:
 - a. Telecommunications.
 - b. Production
 - c. Manufacturing
 - d. Fabrication
 - e. Assembly
 - f. Extraction
 - g. Mining
 - h. Processing
 - i. Refining
 - j. Finishing facilities
4. Onsite infrastructure improvements
5. Construction of facilities used for:
 - a. Telecommunications.
 - b. Production
 - c. Manufacturing
 - d. Fabrication

- e. Assembly
 - f. Extraction
 - g. Mining
 - h. Processing
 - i. Refining
 - j. Finishing facilities
6. Costs associated with retooling existing machinery and equipment; and,
7. Costs associated with construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry.

The following factors are considered in the review of Hoosier Business Tax Credit applications:

- 1. The amount of the investment.
- 2. The applicant's business activities in Indiana, which must have been conducted in Indiana for at least one year prior to the submittal of the Hoosier Business Tax Credit application.
- 3. The economic soundness of the proposed project.
- 4. The role of the award of the Credit in the applicant's decision to move forward with the project.
- 5. The positive fiscal impact to the state resulting from the project.
- 6. The average wage that will be paid by the applicant at the project location, which must equal or exceed one hundred fifty percent (150%) of the hourly minimum wage established under state laws.

The Credit equals thirty percent (30%) of the amount of the qualified investment. The amount of the available Credit is limited, however, each taxable year to the lesser of:

- a. The qualified investment amount invested in the taxable year multiplied by thirty percent (30%);
- b. The applicant's state tax liability for a taxable year minus the greater of:
 - i. The taxpayer's state tax liability in the most recent prior taxable year in which the applicant claims a part of the Credit, or
 - ii. The taxpayer's base tax liability, which is the taxpayer's state tax liability in the year preceding the year in which the qualified investment is made.

A taxpayer may carry forward any unused Credit amounts for not more than nine (9) consecutive years after the year in which the qualified investment is made.

The second tax credit is the Venture Capital Investment Tax Credit ("VCI"). The VCI is designed to allow a nonrefundable Indiana tax credit to taxpayers that provide qualified investment capital to qualified Indiana businesses.

The VCI Tax Credit statute requires a "Qualified Indiana Business" to be an independently owned and operated business that is certified as a qualified Indiana business by the Indiana Department of Commerce ("IDOC").

Based upon the information contained in the Venture Capital Investment Tax Credit Application, which is filed with IDOC by applicant businesses seeking to be certified as a qualified Indiana business, IDOC shall certify that a business is a qualified Indiana business if the business:

1. Has its headquarters in Indiana.
2. Is primarily focused on commercialization of research and development, technology transfers, or the application of new technology, or which promotes the purposes of the VCI statute.
3. Has had average annual revenue of less than ten million dollars (\$10,000,000) in the two years preceding the year in which the qualified investment is made.
4. Has at least fifty percent (50%) of its employees residing in Indiana, or at least seventy-five percent (75%) of its assets located in Indiana; and,
5. Is not engaged in real estate related business, insurance, accountant, physician or lawyer-related business, or oil and gas exploration.

The term "qualified investment capital" means debt or equity capital that is provided to a qualified Indiana business after December 31, 2003, but before December 31, 2008. Therefore, capital investments eligible for the VCI Tax Credit cannot be made prior to January 1, 2004.

Taxpayers that propose to make a qualified investment into a Qualified Indiana Business must submit an application, along with the taxpayer's investment plan, to IDOC prior to the investment in order to receive a certification of the investment.

Upon IDOC's receipt and certification of a taxpayer's investment plan, the taxpayer may make the investment within two (2) years from the date of the investment plan's certification. The taxpayer must provide proof of the investment to IDOC in order to receive the certification of the qualified investment.

The taxpayer's VCI Tax Credit equals twenty percent (20%) of the taxpayer's qualified investment capital provided to a qualified Indiana business during a taxable year.

The maximum VCI Tax Credit amount available to a particular qualified Indiana business equals the lesser of:

1. Twenty percent (20%) of the total amount of qualified investment capital provided to the qualified Indiana business; or
2. Five Hundred Thousand Dollars (\$500,000).

If the amount of the allowed VCI Tax Credit claimed by a taxpayer on the taxpayer's tax returns in a particular taxable year exceeds the taxpayer's state tax liability, the taxpayer may carry the excess over to the following taxable years. A taxpayer is not entitled to a carryback.

Pass through entities that are entitled to VCI Tax Credit, but which do not have a state tax liability, may pass the credit through to its shareholders, partners, or members as a percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

The two (2) tax credits are available to assist Indiana businesses. Any clients interested in exploring these credits further, should contact our office. We will be glad to assist you in applying for the credits.

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Legal Update
September 2003 Issue