

# **Economic Development Incentives**

2009 - 2010



**TENNESSEE**

DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT

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W A R R E H O U S E



## Tennessee Taxes & Incentives

**Qualified, new or expanded warehouse and distribution facility** - means a new or expanded facility, which meets the requirements set out in 67-6-102(42)(H) & (I) (summarized below) for the storage or distribution of finished tangible personal property. Such facilities shall not include a building where tangible personal property is fabricated, processed, assembled, or sold over-the-counter to consumers.

### **Requirements to qualify as a Warehouse or Distribution Facility**

- A capital investment in excess of \$10 million over a period not exceeding three (3) years, in a newly constructed or previously unoccupied building and/or equipment for the facility;  
**OR**
- An expansion to a previously qualifying existing warehouse or distribution facility through an additional investment in excess of \$10 million over an additional period not exceeding three (3) years, for additions to the building and the purchase of new equipment for use in the expanded facility.

### **Franchise Tax**

- Tax on the greater of apportioned net worth or book value of property owned or used in Tennessee
- Tax rate is 25 cents per \$100

### **Incentives**

- Finished goods inventory<sup>1</sup> in excess of \$30 million may be excluded from franchise tax base
- Pollution control equipment is exempt from franchise tax base
- Property under construction and not being utilized is not included in franchise tax base
- Property rented from the industrial development corporation may be valued by capitalizing it on the books
- 2/3 of capital investment for super job tax credit is excluded from franchise tax base in those tax years in which the annual super credit is allowed under Tenn. Code Ann. § 67-4-2109(b)(2)(B).

### **Excise Tax**

- Tax is based on the net earnings of the company derived from the business in Tennessee
- Tax rate is 6.5%

### **Incentives**

- All capital losses claimed in the year incurred
- Net operating losses can be carried forward for 15 years



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- Tennessee's Excise Tax is based on the net earnings of the company derived from business in Tennessee as determined by a three factor apportionment formula of property, payroll and sales with sales double-weighted.
- Tennessee does not have a throwback provision – thus the state does not require companies with sales outside of Tennessee that are not apportioned to or taxed by another state to be included in the numerator of sales in Tennessee.

### **Job Tax Credit**

A taxpayer who makes a minimum capital investment of \$500,000 in a qualified business enterprise in a twelve (12) month period qualifies for a job tax credit as follows:

- \$4,500 per net new full-time job in any Tennessee county.<sup>2</sup>
- \$5,000 per net new full-time job for companies that qualify for the super job tax credit by investing over \$100 million and creating at least 100 net new full-time jobs paying 100% of the average occupational wage.
- The Job Tax Credit may offset up to 50% of the combined franchise and excise tax.<sup>3</sup>
- Must create 25 net new full-time jobs and increase capital investment<sup>4</sup> by \$500,000 in a qualified business enterprise<sup>5</sup> within twelve (12) months of the effective date of the business plan filed with the Department of Revenue, unless in a Tier 2 or Tier 3 county.
- Qualified business enterprises that are in a Tier 2 enhancement county shall have three (3) years in order to create the minimum number of 25 jobs necessary to qualify for the Job Tax Credit.
- Qualified businesses in a Tier 3 county shall have five (5) years to create the minimum number of 25 jobs to receive the Job Tax Credit.
- Job Tax Credit for taxpayers investing less than \$1 billion may be carried forward until used, but not more than fifteen (15) years.
- In order to qualify for the Job Tax Credit, the taxpayer must file a business plan<sup>6</sup> in a manner prescribed by the Commissioner of Revenue. The business plan must describe the investment to be made, the number of jobs the investment will create, the expected dates the jobs will be filled and the effective date of the business plan. Tenn. Code Ann. § 67-4-2109(c)(2)(D) as amended by Tenn. Pub. Chap. No. 530, Public Acts 2009 (effective July 1, 2009).

### **Enhanced Job Tax Credit for Tier 2 and Tier 3 Enhancement Counties**

Tennessee recently enacted new legislation that allows for an additional tiered Job Tax Credit. This credit had been created to promote new industry locations and expansions in the more rural areas of the state. The tiers are based on each Tennessee counties' per capita income, unemployment, and poverty level. Evaluation and analysis of each county is performed each year in order to determine each Tennessee counties' tiered status. Projects which locate in a Tier 2 or Tier 3 county will be eligible for this additional credit.



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- \$4,500 per net new full-time job applied to offset both franchise and excise tax
- Must increase capital investment by \$500,000 in a qualified business enterprise within a twelve (12) month period and create 25 net new full-time jobs during the investment period of three (3) years in a Tier 2 county and five (5) years in a Tier 3 county.
- Tier 2 counties - Enhanced Job Tax Credit of additional \$4,5000 per job can offset up to 100% of the total franchise and excise tax liability each year for three (3) years after the investment period with no carry forward.
- Tier 3 counties - Enhanced Job Tax Credit of additional \$4,500 per job can offset up to 100% of the total franchise and excise tax liability each year for five (5) years after the investment period with no carry forward.
- Credit is in addition to the regular Job Tax Credit as set forth above.

### Super Job Tax Credit<sup>7</sup>

Tennessee has enacted legislation that provides a job tax super credit (“super credit”) for taxpayers investing in excess of \$100 million in a qualified business enterprise creating 100 or more net new full-time jobs paying at least 100% of the average occupational wage in the state.<sup>8</sup>

This super credit may be used to offset up to 100% of a taxpayer’s Tennessee franchise and excise tax liability annually beginning with the first tax year after the investment and job creation thresholds have been met. The super credit is taken annually and does not have a carry forward provision.

- The super credit is in addition to the regular Job Tax Credit which will still have the fifteen (15) year carry forward and normal percentage of offset. The only difference is by qualifying for the super credit, the amount of the regular Job Tax Credit increases to \$5,000 per new occupational wage job instead of the regular \$4,500.
- In addition, the super credit allows for the offset of total franchise and excise tax liability to be up to 100% during the time when the super credit is being taken on an annual basis.
- In addition to the jobs portion of the credit, a company that qualifies for the super credit may exclude 2/3 of its capital investment made during the investment period from its Franchise tax base on Schedule G of the franchise and excise tax return during the tax years in which the additional annual credit is actually taken.
- The super credit investment period is three (3) years, but can be expanded to five (5) years for investments of \$100 million or more and to seven (7) years for investments of \$1 billion or more with the approval of the Commissioner of ECD.
- The number of years a company may take the annual super credit of \$5,000 per job is dependent upon the capital investment and number of jobs created as follows:



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Capital Investment	Number of Net New Jobs	Number of Years for Annual Credit
\$100,000,000 or more	100	3
\$250,000,000 or more	250	6
\$500,000,000 or more	500	12
\$1 billion or more	500	20

### **Industrial Machinery Credit for Warehouse and Distribution Facilities**

An industrial machinery tax credit of 1% to 10% of the cost of industrial machinery purchased or leased during the tax year and located in Tennessee may be used to offset up to 50% of the total franchise and excise tax liability. Tenn. Code Ann. § 67-4-2009(4)(A). Any unused credit may be carried forward for up to fifteen (15) years.<sup>9</sup>

The credit is for the purchase of material handling equipment and racking systems purchased for a qualified new or expanded warehouse or distribution facilities as defined in Tenn. Code Ann. 67-6-102(42)(H)(i). Industrial machinery includes computer equipment and software, including peripheral devices such as printers, external drives, modems and telephone units. For purposes of the 1% credit, the equipment must have been purchased in making the required capital investment for the job tax credit.

Capital Investment	Percentage of Credit	Must File A Business Plan
Less than \$100,000,000	1%	No
\$100,000,000	3%	Yes
\$250,000,000	5%	Yes
\$500,000,000	7%	Yes
\$1,000,000,000	10%	Yes

The investment period is three (3) years, but may be expanded to five (5) years for qualified businesses investing less than \$1 billion and to seven (7) years for qualified businesses investing \$1 billion or more.

### **Sales and Use Tax**

No sales tax on the purchase of material handling and racking systems for qualified warehouse and distribution facilities meeting the requirements set forth in 67-6-102(42)(H) & (I).<sup>10</sup>

- A required capital investment of \$10 million
- The investment period not to exceed three (3) years
- Taxpayer must submit an application for the sales and use tax exemption with a plan describing the investment to be made with the Department of Revenue.<sup>11</sup>



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### Property Tax

- No state property tax



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### **FastTrack**

Tennessee has a state funded program called FastTrack. Included in the program is the FastTrack Infrastructure Development Program (FIDP)-[*Community* generated] and the FastTrack Job Training Assistance Program (FJTAP)-[*Company* generated].

Under the guidelines of this program the state can make grants to local governments to help them meet the public infrastructure requirements for locating and expanding industries as well as address the training needs of a company.

Both programs require application for financial assistance.

### **FastTrack Infrastructure Development Program (FIDP)**

The FastTrack Industrial Development Program is Tennessee's initiative to support the public infrastructure needs of the local community to support expansion or location of industry. Project funding is determined by evaluating each project in terms of capital investment, new jobs created, the types of the created jobs, and the community in which the project locates. Once a targeted funding amount of eligible activity is established, final approval is subject to FIDP funding appropriated by the Tennessee General Assembly and approval by the Department of Economic and Community Development's Loan & Grant Committee. There are state regulations that apply relative to procurement/bidding procedures.

### **FastTrack Job Training Assistance Program (FJTAP)**

The FastTrack Job Training Assistance Program is Tennessee's initiative to support industrial recruitment and expansion through direct training assistance for newly hired employees, employees in upgraded positions, and employees retained through instruction. FJTAP staff assists each individual company to develop customized training plans and to provide funding. Eligibility for FJTAP support and levels of funding for training assistance are determined by:

- The amount of company investment
- The number of new hires
- The types of skills and knowledge that must be obtained by prospective or newly hired employees

**Job Specific Training** (*Training assistance is targeted to production/technician level individuals.*)

- Classroom - formal instruction relating to specific skills presented in a classroom environment



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- On-the-Job Training - instruction that focuses on the development of specific skills and knowledge vital to production. Training is provided by company technicians or instructors mutually acceptable to FJTAP and the company.
- Vendor - manufacturer of actual manufacturing equipment or service provider being used by the client may be utilized to deliver specific skills training.
- System Support - instruction associated with plant-wide applications. Instruction may include new methods for increasing mechanization, quality, materials handling, etc.
- Development and Coordination – supports the cost associated with the development of instructional materials and coordination of the overall training program.

### Travel

- Supporting the expense of travel for the purpose of training can be considered as a viable option for the training of new hires and especially for persons who will serve as a company instructor.

### Job Based Training (JBT)

Program to offer potentially faster reimbursement monies associated with training. Once the project commitment is determined and cost per job established, this quick start program may offer the company an accelerated portion of training dollars.

- After the first 3 months (60 work days) The Company records are reviewed *{proper documentation will be required}* for number of new jobs created.
- Calculation is made to determine salary paid to those new jobs multiplied by 25%.
- Calculation is made of predetermined cost-per-job multiplied by the number of jobs created during this period.

The company will be entitled to Job Based Training dollars for whichever above scenario is LESS.

- After 3 additional months the same calculation is run, with proper documentation, to allow an additional 25% computation on salaries for jobs created during the period, compared to the calculation of number of new jobs multiplied by again, the established cost-per-job.

The company is again entitled to JBT dollars for whichever scenario is LESS.

Depending on the number of new jobs to be created during the periods of review, it may be possible for the company to receive the entire training commitment *IF the total committed job number is reached.*



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It is the company's elective to pursue the training commitment in either type of reimbursement method or in a combination thereof. If the commitment is not met in JBT, then direct training can be used for the balance ***IF the total job commitment is met.***

### **Employee Recruitment and Screening (Provided by Dept. of Labor & Workforce Dev.)**

The Tennessee Department of Labor and Workforce Development, Job Service Division, will provide recruitment and screening services. Utilizing the client/company's prepared job specifications, Job Service will recruit the number of persons requested by the company. The persons will be screened using the company's specifications. Those persons meeting the specifications will be referred to the company for employment considerations.

### **Workforce Development**

- Leadership Training - is directed toward providing supervisors, team leaders, and managers with the interpersonal skills necessary to motivate and lead production workers towards the accomplishment of organizational goals.
- Team Training - is provided for manufacturing/production employees where interpersonal communication is important in fostering interdependence, cooperation, commitment, motivation, etc.
- Instructor Certification - Certification of company personnel insures the availability of certified instructors not only at startup but also on a long term basis. The weeklong certification seminar provides candidates with the facilitation skills necessary to deliver a wide range of programs.

### **State Industrial Access Program (SIAP)**

Other state assistance can be considered for providing needed transportation improvement for the project. Through the State Industrial Access Program (SIAP), local governments submit their requests on behalf of new industry moving into their communities, which the Department of Transportation reviews to determine the most feasible design.

### **Industrial Revenue Bond Financing**

Industrial revenue bond financing is available in Tennessee for both taxable and tax-free situations.

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All Tennessee tax and tax-based incentive information herein is intended for informational purposes only. For more specific information on whether a facility qualifies as a Warehouse or Distribution Facility for purposes of specific tax incentives please contact your ECD Jobs Development Specialist.



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<sup>1</sup> Finished goods inventory” means tangible personal property that is: (1) owned by the taxpayer; (2) stored in a facility used primarily for manufacturing, warehousing of distribution of such inventory and (3) held for wholesale or retail sale by the taxpayer, but not sold over the counter at the location where stored.

<sup>2</sup> Legislation effective July 1, 2009 sets the job tax credit for all counties at \$4,500 per new full-time job. For jobs created prior to 2009 in non-economically distressed counties such as Hamilton County, Knox County, Loudon County, Montgomery County, Shelby County and Williamson County the job tax credit was \$2,000 per job. Tier 2 and Tier 3 enhancement counties are entitled to additional enhanced incentives as detailed below. For information on which counties qualify as enhancement see “Tennessee Job Tax Credit Enhancement Counties” map.

<sup>3</sup> A taxpayer that makes a capital investment in excess of \$1 billion may be allowed to carry forward any unused credit until fully utilized if it is determined by the Commissioner of Revenue and Commissioner of ECD to be in the best interests of the state. Tenn. Code Ann. § 67-4-2009(4)(c) as amended by Tenn. Pub. Chap. No. 530, Public Acts 2009 (effective July 1, 2009).

<sup>4</sup> “Capital investment” means a business investment in real property, tangible personal property, or computer software owned or leased in Tennessee valued in accordance with generally accepted accounting principles.

<sup>5</sup> “Qualified business enterprise” means an enterprise in which the business has made the required capital investment necessary to permit the creation or expansion of manufacturing, warehousing and distribution, processing tangible personal property, research and development, computer services, call centers, headquarters facilities as defined in § 67-6-224(b), or convention or trade show facilities. Tenn. Code Ann. § 67-6-2109(c)(1)(F)(i).

<sup>6</sup> For information on how to obtain the appropriate Job Tax Credit Business Plan forms please contact your local ECD Jobs Development Specialist.

<sup>7</sup> A taxpayer that qualifies for the job tax credit in connection with a capital investment in excess of \$100 million shall be allowed to carry forward its net operating losses beyond the initial 15 year period if the Commissioner of Revenue and Commissioner of ECD determine it is in the best interest of the state. The Commissioners shall determine the amount of time allowed beyond the initial 15 year period. Public Chapter No. 1106, Public Acts, 2008 Section 43

<sup>8</sup> The current Average Occupational Wage data can be found on the website for the Tennessee Department of Labor and Workforce Development - [www.state.tn.us/labor-wfd/wages/intro.htm](http://www.state.tn.us/labor-wfd/wages/intro.htm)

<sup>9</sup> Taxpayers making a capital investment of \$1 billion in the State of Tennessee may carry forward any unused credits until fully utilized if the Commissioner of Revenue and Commissioner of ECD determine that the allowance of such additional carry forward is in the best interests of the state. Section 15 of Tenn. Pub. Chap. No. 530, Public Acts 2009 (effective July 1, 2009).amending Tenn. Code Ann. § 67-4-2009(4)(C).

<sup>10</sup> Equipment must be directly and primarily used for the storage or handling and movement of tangible personal property in a qualified new or expanded warehouse or distribution facility. Equipment must be purchased beginning one (1) year prior to the start of the construction or



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expansion and ending one (1) year after the substantial completion of the construction or expansion of the facility, but in no event shall the period exceed three (3) years. Tenn. Code Ann. § 67-6-102(42)(H)(i).

<sup>11</sup> An application for the exemption can be found on the Department of Revenue's website or by contacting your ECD Business Development Specialist. Upon approval of the exemption request and plan for investment, purchases of the equipment may be made without payment of the sales or use tax.