

INCENTIVES

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High Wage Jobs Tax Credit

A taxpayer who is an eligible employer may apply for and receive a tax credit for each new high-wage economic-base job. The credit amount equals 10% of the wages and benefits paid for each new economic-base job created.

Qualified jobs:

- Pays at least \$28,000/year in a community with a population of less than 40,000
- Pays at least \$40,000/year in a community with a population of 40,000 or more
- Created on or after July 1, 2004 and is occupied for at least 48 weeks by the employee

Qualified employers can take the credit for 4 years. The credit can be applied to the state portion of the gross receipts tax, compensating tax and withholding tax. Any excess credit will be *refunded to the taxpayer*. The credit shall not exceed \$12,000 per year, per job.

Qualified employers:

- Made more than 50% of its sales to persons outside New Mexico during the most recent 12 months of the employer's modified combined tax liability reporting periods ending prior to claiming this credit
- Are eligible for the Job Training Incentive Program • Are growing with employment greater than the previous year

Qualified employees:

- Must be a resident of New Mexico
- Cannot be a relative of the employer or own more than 50% of the company

Rural Jobs Tax Credit

Eligible employers may earn the rural jobs tax credit for each qualifying job created after July 1, 2000, applying it to taxes due on the CRS return or to corporate or personal income tax. An "eligible employer" is one whom the Economic Development Department (505-827-0300) has approved for *Job Training Incentive Program* assistance. A qualifying job is a job filled by an eligible employee for 48 weeks in a 12-month qualifying period.

Employers receive a credit of 6.25% of the first \$16,000 in wages paid for a qualifying job. If

the job is located in Tier One, the employer receives credit for 4 consecutive years. A Tier Two employer may take it for 2 consecutive years. (Tiers are defined below.) If the amount of credit for a qualifying period exceeds the owner's tax liability for the period, the excess may be carried forward for up to 3 years.

Rural New Mexico is defined as any part of the state other than Los Alamos County, certain municipalities (Albuquerque, Rio Rancho, Las Cruces, Santa Fe) and a 10-mile zone around those select municipalities. The rural area is divided into two tiers: Tier 2 – all the rural area municipalities that exceed 15,000 in population (Alamogordo, Carlsbad, Clovis, Farmington, Gallup, Hobbs, Roswell); Tier 1 – everywhere else in the rural area.

For each new qualifying job created, the amount of credit that may be earned:

- Tier 1: 25% of the first \$16,000 in wages paid – to be claimed in installments of 6.25% per year (a maximum annual credit of \$1,000 per job) for 4 years
- Tier 2: 12.5% of the first \$16,000 in wages paid – to be claimed in installments of 6.25% per year (a maximum annual credit of up to \$1,000 per job) for 2 years

An eligible employer may apply to the Taxation and Revenue Department (TRD) for the credit. As part of the application, the business must certify its eligibility for the credit, the amount of wages eligible for credit and whether the jobs are in Tier 1 or Tier 2. If approved, a document will be issued in the amount of the credit. The document is numbered, carries its date of issuance, and is transferable. If transferred, the parties notify TRD of the transfer within 10 days of transfer. The document remains valid for 3 years after its date of issuance. The owner of the tax credit document may offset the approved credit against state taxes owed on the CRS-1 form (state gross receipts tax, compensating tax and withholding tax) or against income tax (personal or corporate, depending on how the owner is organized). Not all of the credit earned, however, may be taken at once. If the job is in Tier 2, 50% of the credit may be taken within each qualifying period (the 12 months beginning on the anniversary date of the day an eligible employee filled a qualifying job). For Tier 1 jobs, 25% of the credit may be taken within any qualifying period.

Job Training Incentive Program (JTIP)

New Mexico has one of the most aggressive training incentive packages in the country. The Job Training Incentive Program (JTIP) funds classroom and on-the-job training for newly created jobs in expanding or relocating businesses for up to 6 months. The program reimburses between 50% and 80% of employee wages and required travel expenses. Custom training at a New Mexico public educational institution may also be covered.

Eligible Uses

Customized training is conducted at the business facility or at an educational institution in one of three ways:

- (1) Custom classroom training at New Mexico public educational institutions; or
- (2) Training at the business facility, with hands-on skill development, customized to develop unique skills essential to the business; or
- (3) A combination of on-the-job and classroom training

Rates, Terms

Trainee wages are reimbursed to the company at the completion of the approved training period which ranges from 3 to 6 months. Reimbursement is 50% in urban locations, 70% in

rural locations, and 75% on Native American land or in economically disadvantaged areas. Jobs that also meet the wage requirements of the High Wage Jobs Tax Credit are eligible for an additional 5% reimbursement.

Instructional cost of classroom training is reimbursed at a maximum of \$35 per hour, per trainee with a cap of \$1,000 per trainee. Costs include instructional salaries, fringe benefits, supplies and materials, textbooks, expendable tools and other necessary and reasonable costs associated with conducting training.

Travel cost required by training is reimbursable up to 5% of the total amount requested for wages.

Industry Targets

Economic-based businesses are eligible for JTIP funds. This includes new or expanding businesses that manufacture or produce a product in New Mexico and non-retail service sector businesses if at least 50% of the company's revenues are derived from customers outside New Mexico. The company must be creating new jobs as a result of expansion, startup, or relocation to the State of New Mexico.

Other Conditions

To be eligible for JTIP, trainees must be new hires to the company, must have been residents of the State of New Mexico for at least 1 continuous year at any time prior to employment in an eligible position, must be currently domiciled in New Mexico, and must be of legal status for employment. Trainees must not have left a public school program in the 3 months prior to employment, unless they graduated or completed a GED.

Welfare-to-Work Tax Credit

The credit equals 50% of the federal welfare-to-work credit for which the employer is eligible, up to \$1,750 for the first year of employment, increasing to \$2,500 for the second year. The state credit piggybacks on the federal credit of the same name and can be applied to New Mexico personal or corporate income tax.

For a person hired, the employer receives from the state 50% of the credit earned for federal purposes. Credit can be earned on the same individual employed by the same employer for up to 2 years.

State maximum credit amounts are \$1,750 for the first year, \$2,500 for the second year per qualifying employee, and any part of the remaining credit may carry forward at the end of the taxable year for 3 consecutive taxable years. An employer must first qualify for the federal credit.

Additional criteria:

- Hiring of the individual must increase the employer's total number of jobs (over the average in the preceding calendar year) or replace a previous qualified employee
- Wage, benefits and working conditions must be comparable with similar jobs of that same employer
- Employee must live in a high unemployment county, one that has been determined by the Department of Labor to have had an unemployment rate exceeding 10% in 6 or more months during the previous calendar year (determined every January).
- Corporations or individuals attach their NM Department of Labor certification to the

appropriate tax forms and submit to the NM Taxation and Revenue Department.

Community Development Incentive Act (Property Tax Exemption)

Municipalities and counties may exempt commercial personal property of a *new business facility* from property tax for up to 20 years. This incentive is designed to provide communities a less expensive alternative to IDBs (Industrial Development Bonds), or IRBs (Industrial Revenue Bonds) particularly when the project is too small to warrant the expense associated with IDBs or IRBs.

A “*facility*” means any factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex or buildings located within the state, including land on which the facility is located and all machinery, equipment and other real and tangible personal property located at or within the facility and used in connection with the operation of the facility. A “*new business facility*” means a facility that is employed by the taxpayer in the operation of a revenue-producing enterprise. The facility may not be a replacement business facility (by the taxpayer or a relative). The facility must be acquired by or leased to the taxpayer on or after July 1, 2003.

Child Care Corporate Income Tax Credit

Corporations providing or paying for licensed child care services for employees’ children under 12 years of age may deduct 30% of eligible expenses from their corporate income tax liability for the taxable year in which the expenses occur. For a company operating a value-added day care center for its employees, this credit reduces the cost to provide this benefit to employees. The corporate income tax credit is 30% of eligible costs up to \$30,000 in any taxable year. Unused credit amounts may be carried forward for 3 years.

Tax Deductions Using IRBs:

Gross Receipts, Compensating & Property Tax Exemption for Sales of Property to Governments

Applies to Industrial Revenue Bond (IRB) Projects

The gross receipts tax is New Mexico's version of a sales tax. Sales of tangible personal property (other than construction materials) to governments are deductible from this tax. Similarly, importation of tangible personal property for use by governments is also deductible. When the property is purchased with proceeds of an industrial revenue bond, the government entity issuing the IRB takes title to the property, whether purchased locally or imported. Accordingly, purchases of machinery, office equipment, furniture and similar tangibles as part of an IRB project are not subject to the gross receipts tax, compensating tax or property tax (subject to negotiated payments in lieu of property taxes to local schools or governments). Tangible personal property (other than building materials and related construction services) purchased with IRB proceeds is also included.

Cultural Property Preservation Tax Credit

Taxpayers may take this credit on corporate or personal income tax returns for restoring, rehabilitating or preserving properties listed on the New Mexico Register of Cultural Properties. Specifically, a tax credit is available where historic structures are certified as having received rehabilitation to preserve and enhance their historic character.

To qualify, the property must be listed on the official New Mexico Register of Cultural Properties that is maintained by the Historic Preservation Division of the Office of Cultural

Affairs. Any given taxpayer can be involved with more than one project and claim a credit for each qualifying project.

The maximum credit is 50% of the cost of restoration, rehabilitation or preservation; \$25,000 credit maximum per project. The taxpayer may apply the credits against existing tax liabilities only, and may carry unused amounts forward for 4 years.

Texas/Mexico Border Residents' Tax Exemption

Non-resident employees may allocate their compensation to their home state. Since Texas does not have a personal income tax, Texas residents working at the enterprise won't have to pay any state income tax on their compensation from the enterprise. The enterprise must be in the manufacturing business, physically located within 20 miles of the Mexican border, have at least 5 employees who are New Mexico residents and not receiving *Job Training Incentive Program* funds.

Fee-Free Zones Near the Mexican Border

Effective May 17, 2006, this law exempts from the trip tax the use of New Mexico highways by commercial motor carrier vehicles while operating exclusively within 10 miles of a border with Mexico in conjunction with crossing the border with Mexico. This law also exempts from weight distance tax the use of New Mexico highways by commercial motor carrier vehicles while operating exclusively within 10 miles of a border with Mexico in conjunction with crossing the border with Mexico.

Industry-Specific Incentives:

AEROSPACE

Research and Development Tax Deduction

Aerospace services are the research and development services sold or for resale to an organization for resale by the organization to the U.S. Air Force. When R&D services are sold to Phillips Laboratory for resale to the Air Force, the seller's receipts are deductible. If the R&D services are sold to an intermediary for resale to Phillips Laboratory for resale to the Air Force, those receipts are also deductible.

Aircraft Manufacturing Tax Deduction

Receipts of an aircraft manufacturer or affiliate from selling aircraft or aircraft parts, or from selling services performed on aircraft or aircraft components or from selling aircraft flight support, pilot training or maintenance training services may be deducted from gross receipts.

Aircraft Maintenance or Remodeling Tax Deduction

Receipts from maintaining, refurbishing, remodeling or otherwise modifying a commercial or military carrier (aircraft) over 10,000 pounds gross landing weight may be deducted from gross receipts.

Space Gross Receipts Tax Deductions

There are four separate deductions connected with the operation of a spaceport in New Mexico. The four deductions are:

- I. Receipts from launching, operating or recovering space vehicles or payloads

2. Receipts from preparing a payload in New Mexico
3. Receipts from operating a spaceport in New Mexico
4. Receipts from the provision of research, development, testing and evaluation services for the United States Air Force operationally responsive space program

“Space” is defined as any location beyond altitudes of 60,000 feet above mean sea level.

“Payload” means a system, subsystem or other mechanical structure designed and constructed to perform a function in space. “Space operations” is defined as the process of commanding and controlling payloads in space. “Spaceport” is defined as the installation and related facilities used for the launching, landing, operating, recovering, servicing and monitoring of vehicles capable of entering or returning from space.

AGRI-BUSINESS

Agricultural Business Tax Deductions and Exemptions

Gross receipts tax deductions are available for selling to agribusinesses:

1. Feed for livestock, including the baling wire or twine used to contain the feed, fish raised for human consumption, poultry or animals raised for hides or pelts and seeds, roots, bulbs, plants, soil conditioners, fertilizers, insecticides, germicides, insects, fungicides, weedicides and water for irrigation
2. Warehousing, threshing, cleaning, harvesting, growing, cultivating or processing agricultural products including ginning cotton, and testing and transporting milk.
Gross receipts tax exemptions are permitted for feeding, pasturing, penning, handling or training livestock and, for agribusinesses, selling livestock, live poultry and unprocessed agricultural products, hides and pelts.

DEPARTMENT OF DEFENSE CONTRACTORS

Military Acquisition Program Tax Deduction

Receipts from transformational acquisition programs performing research and development, testing and evaluation at New Mexico major range and test facility bases pursuant to contracts entered into with the U. S. Department of Defense may be deducted from gross receipts (through June 30, 2016).

DISTILLING AND BREWING

Preferential Tax Rate

Microbreweries producing less than 5,000 barrels of beer annually and small wineries producing less than 560,000 liters of wine per year qualify for a preferential tax rate.

The Liquor Excise Tax Act imposes taxes on beer, wine and spirituous liquors. The basic tax rate for wine is 45 cents per liter. Wine produced by a small vintner (definition in opening sentence above) carries a tax of 10 cents per liter on the first 80,000 liters and 20 cents on production over that level up to 560,000 liters. The basic tax rate for beer produced by a brewery is 41 cents; beer produced by a microbrewery (defined above) is taxed at 8 cents per gallon.

ENERGY

Advanced Energy Product Manufacturers Tax Credit (Effective July 1, 2007)

Manufacturers of advanced energy vehicles, fuel cell systems, renewable energy systems or any component of an advanced energy vehicle, fuel cell system or renewable energy system or components for integrated gasification combined cycle coal facilities and equipment related to the sequestration of carbon from integrated gasification combined cycle plants, may qualify for a tax credit of 5% of the taxpayer's qualified expenditures and may be deducted from the taxpayer's modified combined tax liability. Unused portions of the credit may be carried forward for 5 years.

Renewable Energy Production Tax Credit

Each qualified energy generator may earn an income tax credit of 1 cent (\$.01) per kilowatt-hour for the first 400,000 megawatt-hours (equivalent to 400,000,000 kilowatts) of electricity produced using a qualified energy source for 10 consecutive years, beginning with the first year of production.

FILM

Film Production Tax Rebate

New Mexico offers a tax rebate of up to 25% on production expenditures that are subject to taxation by the State of New Mexico. Applicable expenses include feature films, television, national commercials, and documentaries. A "film" is defined as a single medium or multi-media program, including national advertising messages, fixed on film, videotape, computer disc, laser disc, or other delivery medium, that can be viewed or reproduced and that is exhibited in theaters or by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing.

Inquiring companies may apply for either the tax credit or gross receipt tax exemption (Nontaxable Transaction Certificates), but not both. The tax rebate includes post-production expenditures, video games, and film technologies. You may also receive a loan of up to 80% of your estimated tax rebate upfront.

Filmmaker Gross Receipts Tax Deduction

Nontaxable Transaction Certificates (NTTCs)

The State of New Mexico charges a gross receipts tax, or sales tax, at the point of sale. As an incentive, the state will issue your company Nontaxable Transaction Certificates (NTTCs), which work much like grocery-store coupons. A certificate is presented at the point of sale, and no gross receipts tax is charged. Film production companies intending to take the income tax credit (see above) may not use the Nontaxable Transaction Certificates. *Contact the New Mexico Film Office, www.nmfilm.com, or 1.800.545.9871 for an application or more information. Additional incentives and services are available for production companies filming in New Mexico, visit the Film Office web site at <http://www.nmfilm.com>*

FINANCIAL MANAGEMENT

Financial Management Tax Credit (Effective July 1, 2007)

Receipts from fees received for performing management or investment advisory services for a related mutual fund, hedge fund or real estate investment trust may be deducted from gross receipts.

MANUFACTURING

Double Weight Sales Factor

A corporation (or family of corporations filing together) with income from sources within New Mexico as well as from sources outside the state, apportions the income based on a three-factor formula. New Mexico taxes the total corporate income multiplied by the average proportion of corporate sales, payroll and property in New Mexico. The 3 factors (sales, payroll and property) have equal weight (33.33% each) in the formula. For a limited time (through the year 2010) manufacturers may elect to use a modified formula which gives the sales factor a 50% weight, reducing the other 2 to 25% apiece. The sales factor now has twice the significance of the other two, thus, the “double-weighted sales factor formula.”

For purposes of electing the four-factor apportionment method, “manufacturing” excludes construction, farming, power generation and processing of natural resources, while allowing certain natural-gas-fired, wholesale power plants to qualify. The taxpayer, having elected to use the double-weighted formula, must use it for at least 3 consecutive years.

Investment Tax Credit for Manufacturers

(Investment Credit Act)

Manufacturers may take a credit against gross receipts, compensating or withholding taxes equal to 5% of the value of qualified equipment imported and put into use in a manufacturing plant in New Mexico, provided the manufacturer meets the criteria of hiring additional workers to earn the credit, as follows:

For Claims 1 new worker employed for each

0-\$30,000,000: \$500,000 qualified equipment;

Over \$30,000,000: \$1 million in qualified equipment.

The credit may be claimed for equipment acquired under an IRB. This is a double benefit because no gross receipts or compensating tax was paid on the purchase or importation of the equipment.

The credit is taken through the CRS-I form. This is the form on which state and local gross receipts, compensating and withholding taxes are paid to the state. The manufacturer simply reduces its payment of those state taxes (by as much as 85% per reporting period) until the amount of investment credit is exhausted. There also are provisions for issuing a refund when the credit balance falls under \$500,000. The credit does not apply against local gross receipts taxes, so the full amount of those taxes remains due every month. Excluded from the manufacturer definition are construction, farming, certain types of power generation and processing natural resources and hydrocarbons.

RAILROADS

Locomotive Fuel Gross Receipts & Compensating Tax Exemption(Effective July 1, 2007)

Receipts from the sale of fuel to a common carrier to be loaded or used in a locomotive engine are exempted from the gross receipts and compensating taxes. “Locomotive engine”

is defined as a wheeled vehicle consisting of a self-propelled engine that is used to draw trains along railway tracks.

TECHNOLOGY-INTENSIVE COMPANIES

Angel Investment Credit (Effective July 1, 2007)

A taxpayer who files a New Mexico income tax return and who is a “qualified investor” may take a tax credit of up to \$25,000 (25% of a qualified investment of not more than \$100,000) for an investment made in a New Mexico company that is engaging in high-technology research or manufacturing. The taxpayer may claim the angel investment credit for up to 2 qualified investments in a taxable year, provided that each investment is in a different qualified business. Any portion of the tax credit remaining unused at the end of the taxpayer’s taxable year may be carried forward for 3 consecutive years.

R&D Small Business Tax Credit

A qualified R&D small business is eligible for a credit equal to the sum of all gross receipts taxes, compensating taxes or withholding taxes due to the state for up to 3 years.

Definitions

Qualified research is defined as that undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the development of a new or improved business component and in which substantially all activities constitute elements of a process of experimentation related to new or improved function, performance, reliability or quality, but not related to style, taste, cosmetic or seasonal design factors.

Qualified R&D small business means a business that:

1. employs no more than 25 employees in any prior calendar month
2. had total revenues of no more than \$5 million dollars in any prior fiscal year
3. did not in any prior calendar month have more than 50% of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the qualified business owned directly or indirectly by another business
4. has made qualified research expenditures for the period of 12 calendar months ending with the month for which the credit is sought of at least 20% of its total expenditures for those 12 months.

Qualified research expenditure means an expenditure directly related to qualified research, but does not include any expenditure on research funded by any grant, contract or similar mechanism by another person or governmental entity, and does not include any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project or expenditures for which the taxpayer has received any other applicable credit.

Research and Development Gross Receipts Tax Deduction

Any service that is exported from the state, including research and development services are not subject to New Mexico gross receipts tax. These services must be produced by a business with a New Mexico office, sold to an out-of-state buyer and delivered and initially used out-of-state. This makes R&D a deductible transaction.

Rural Software Development Gross Receipts Tax Deduction

A taxpayer whose primary business is providing software development services and who had no business location in New Mexico other than in a qualified area during the period for which a deduction under this section is sought. The company must have been established after 7/1/02. Software development services include custom software design and development and web site design and development, but does not include software implementation or support services.

Rural, for purposes of this tax deduction, is defined as statewide except for an incorporated municipality with a population of more than 50,000 (Albuquerque, Las Cruces, Rio Rancho and Santa Fe).

Technology Jobs Tax Credit

This credit has two parts: a basic credit and an additional credit, each equal to 4% of the qualified expenditures on qualified research at a qualified facility. The credit amount doubles for expenditures in facilities located in rural New Mexico (as defined for this tax credit as anywhere outside Rio Rancho or more than 3 miles outside Bernalillo, Dona Ana, San Juan or Santa Fe counties).

Eligible Uses

1. Expenditures: Includes a wide range of non-reimbursed expenses such as payroll, consultants and contractors performing work in New Mexico, software, equipment, technical manuals, rent, operating expenses of facilities (but excludes expenditures on buildings owned by a government pursuant to an IRB or already owned by the taxpayer or an affiliate before 2/2/2000).
2. Research: Must be technological in nature and constitute elements of a process of experimentation leading to new or improved function, performance or reliability (not cosmetic, style).
3. Facility: A building or group, with land and machinery, equipment and other real or personal property used in connection with the operation of the facility; excludes national labs.

Rates, Terms

1. Basic credit: the taxpayer claims the credit within 1 year following the end of the year in which the expenditure was made. The claim is made by filing a form for approval with the Tax and Revenue Department. The amount approved is applied against the taxpayer's state gross receipts, compensating and withholding liabilities until the credit is exhausted.
2. Additional credit: a taxpayer earns the additional credit by increasing its payroll. The annual payroll must increase by at least \$75,000 over the base period and by at least \$75,000 for each \$1 million in qualified expenditures (equivalent to \$40,000 in credit) it wishes to claim. The base period floats; it is defined as the 12-month period ending on the day 1 year prior to the day the taxpayer applies for the additional credit. The base period payroll amount is also to be adjusted for inflation so that merely keeping up with the inflation will not earn any credit. The taxpayer applies for approval of the credit by filing the appropriate form with the tax department; approved credit amounts may be applied against the taxpayer's income or corporate income tax liability; it is not refundable so any excess of credit over liability is carried forward.

Web Hosting Gross Receipts Tax Deduction

Receipts from hosting World Wide Web sites may be deducted from gross receipts. Hosting means storing information on computers attached to the internet.

TELEMARKETING

Telemarketing Gross Receipts Tax Exemption

Receipts from WATS (Wide Area Telephone Service) and private communications services are exempted from gross receipts tax and interstate telecommunications gross receipts tax act.

TRIBAL LAND

Intergovernmental Business Tax Credit

A corporation engaged in growing, processing or manufacturing may receive a credit for up to 50% of the total of all taxes imposed by an Indian nation, tribe or pueblo located wholly or partly in New Mexico on income derived from new business activity on Indian land. This credit is limited to income from a new business established on tribal land after 7/1/97. The credit is non-refundable, and can be applied against the existing tax liabilities only; an excess can be carried forward.