

Tompkins County Empire Zone

Zone Capital Credits – DIRECT EQUITY INVESTMENTS

(August 27, 2007)

The Tompkins County Empire Zone has available \$500,000 in capital credits to encourage economic activity by offering a 25% tax credit against New York State franchise taxes or personal income taxes for qualified equity investments to Empire Zone Certified businesses.

Direct Equity Investment Credits provide an Empire Zone Certified business a competitive advantage when seeking new investors or partners to expand its business. The businesses may offer a potential investor an immediate 25% New York State tax credit for the amount of their investment in the business. This is in addition to any return-on-investment offerings the business and investor may otherwise negotiate. Direct Equity Investment credits are not an as-of-right benefit of Empire Zone Certification. Businesses must meet the following requirements and be approved for an allocation of credits:

Basic State Requirements

- An Empire Zone Certified Business must request and receive approval of an allocation of credits from the Zone Administrative Board prior to making an offering to an investor.
- The Empire Zone Certified Business must employ 250 or fewer workers during the 12-month period preceding the month in which the investment is made.
- The investor may not be the owner, existing stockholder or partner of the business (defined by IRS Code as owning 10% or more of the business prior to the investment) or a related person to any of the above (defined in IRS Code 465(b) (3)(C)).
- The investment must contribute significantly to an activity, which has tangible economic benefits such as start-up, expansion or modernization.
- The investment must have the potential to cause the creation of new jobs.
- The investment must increase the capital available to the business, not merely replace existing debt or equity.

Tompkins County Requirements

- The project must advance the Tompkins County Empire Zone Development Plan.
- Only manufacturing and/or strategic industries as identified in the Tompkins County Empire Zone Development Plan are eligible to apply for an allocation of credits. Priority will be given to start-ups and expansion projects for businesses that employ less than 25 employees.
- There will be a minimum of \$5,000 and a maximum of \$75,000 in credits available per business. The amount allocated will be based on the total capital investment needs of the business. Generally, credits will be allocated for a maximum of 50% of the total projected capital investment. If a business uses an allocation of credits within twelve months, the business may reapply for additional credits.
- Individuals and corporations will be eligible for New York State income tax credits on contributions of \$10,000 or more to approved projects.

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- The Board will revoke all credits not used within twelve months of the allocation. The Zone Administrative Board may consider an extension for six to twelve months.

Project Approval

- An Empire Zone Certified Business must apply to the local Zone Administrative Board to determine the amount of credits the business will be allowed to offer potential investors.
- Once the Zone Administrative Board makes a commitment, the business owners may begin negotiations with potential investors.
- Interested business should contact the Empire Zone Coordinator, Heather Filiberto, at 273-0005 or heatherf@tcad.org to set up a meeting to discuss the project and obtain an application.

Direct Equity Investment Project Example

The ABC Technology Corporation, a start-up business that is located within the county's Empire Zone boundaries, plans to raise \$600,000 in private equity investments to develop a new product. The funds will be used to build out new lab space and purchase materials for new product development. ABC anticipates that eight new employees will be hired within the next three years if the product is successful.

ABC Technology Corporation must first apply to become an Empire Zone Certified Business. Once the certification is in place ABC applies to the Empire Zone Administrative Board for an allocation of \$75,000 in capital credits (to allocate to \$300,000 in investments – 50% of the total investment goal). The ZAB approves the allocation and ABC is notified they can begin soliciting investments.

Within 90 days, ABC receives a \$300,000 investment from a venture capital company that is located in another state. The venture capital company does not have any New York State income tax liability and does not anticipate any in the future, so there is no use for the credits.

ABC also receives two private investments from individuals that are located in New York State, each in the amount of \$150,000. Each of the two individual investors would be eligible to receive a capital credit (i.e. a state income tax credit) equal to 25% of the investment. In this example the credit would equal \$37,500 for each investor.

ABC sends a form to the two eligible investors to fill out and return. When ABC receives both forms they are forwarded along with an additional form to the Empire Zone Coordinator for approval, then forwarded to the State where a credit certificate would be issued and sent to each investor to attach to their NYS income tax filing.

At the end of one year any allocated credits that were not used could be rescinded. In this example, the total allocation of credits was used within 90 days.