

New Jersey - new law permits conversion of BEIP grant to refundable credit

Overview

On January 11, 2016, Governor Chris Christie signed into law Senate Bill No. 3232 [1R] of 2015 (SB 3232).¹ Effective immediately, a business that has been approved to receive a Business Employment Incentive Program (BEIP) grant from the New Jersey Economic Development Authority (NJEDA) may apply to voluntarily convert the grant to a refundable tax credit for use against its state corporation business or insurance gross premiums tax liability, or apply to sell or assign such credit. Businesses that had been approved for the BEIP grant should have received annual cash grants based on the number of new jobs they created in New Jersey.² However, apparently due to state budget priorities, many companies are still awaiting their cash grant payments. This enacted legislation essentially revises New Jersey's method of payment under the BEIP grants by potentially permitting receipt in the form of tax credits that may be used, sold, or assigned.³ Businesses seeking to convert a BEIP grant to a refundable tax credit have 180 days from the effective date of SB 3232 to direct the NJEDA to convert the grant.

This Tax Alert summarizes the provisions within SB 3232 related to converting qualifying BEIP grants to refundable tax credits, as well as discusses related taxpayer considerations.

Summary of provisions within SB 3232

The direction to convert a qualified grant to a refundable tax credit is irrevocable and must be made within 180 days of SB 3232's enactment. Once converted, the tax credit would be issued in anywhere from one to five installments, depending upon the year the grant was accrued but not paid. For example, for a grant accrued but not paid during calendar years 2008 through 2013, the tax credit would be issued in five installments over a five-year period as follows: in year one, 30 percent; in year two, 30 percent; in year three, 20 percent; in year four, 10 percent; and in year five, 10 percent. Approved tax credits may only be applied in the tax period for which they were issued and may not be carried forward. If the credit exceeds the amount of tax liability due, the excess is deemed an overpayment and the business would receive a refund without interest.

A business that does not pay New Jersey corporation business tax or insurance gross premiums tax may apply to the NJEDA for a tax credit transfer certificate covering one or more years.⁴ If approved, the tax credit transfer certificate may be sold or assigned, in full or in part for: (1) not less than \$100,000, or a lesser amount if the refundable tax credit issued is less than \$100,000, and (2) not less than 75 percent of the transferred credit amount. SB 3232 additionally provides that the tax credit transferee may not transfer the tax credit to any other party, and is subject to the same conditions that apply to the credit's use by the business that originally applied for and was granted the tax credit, including treating the amount of excess over the tax liability due as an overpayment.

Considerations

Businesses seeking to convert a BEIP grant to a tax credit must contact the NJEDA within 180 days of January 11, 2016 (i.e., by July 11, 2016).⁵ A business may claim the credit on its New Jersey corporation business or insurance gross premiums tax return beginning in the 2017 tax accounting or privilege period for grants accrued but not paid during calendar years 2008 through 2013. For grants accrued but not paid in calendar years 2014 and 2015, such credits may be claimed on a taxpayer's New Jersey corporation business or insurance gross premiums tax return beginning in the 2019 tax accounting or privilege period. SB 3232 provides a schedule of when credits may be claimed for grants accrued but not paid in later years.⁶

¹ N.J. Pub. L. 2015, ch. 194, located [here](#).

² See "Inactive EDA Programs - Business Employment Incentive Program" guidance issued by the New Jersey Economic Development Authority subsequent to the enactment of SB3232, located [here](#).

³ Note that the BEIP grant has been phased out pursuant to the New Jersey Economic Opportunity Act of 2013, N.J. Pub. L. 2013, ch. 161, wherein approval of any new awards under this program ceased after December 31, 2013.

⁴ N.J. Pub. L. 2004, ch. 65; N.J.S.A. 34:1B-120.2.

⁵ See "Inactive EDA Programs - Business Employment Incentive Program" guidance issued by the New Jersey Economic Development Authority subsequent to the enactment of SB3232, located [here](#).

⁶ N.J. Pub. L. 2015, ch. 194, located [here](#).

Contacts

If you have questions regarding the ability to obtain a refundable tax credit for a qualifying BEIP grant, or other credit and incentive matters, please contact any of the following Deloitte Tax professionals:

[Charles Ruby](#)

Director
Deloitte Tax LLP, Parsippany
+1 973 602 6247

[Norman Lobins](#)

Director
Deloitte Tax LLP, Parsippany
+1 973 602 5373

[Michael Bryan](#)

Director
Deloitte Tax LLP, Philadelphia
+1 215 977 7564

For further information, visit our website at www.deloitte.com

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