

A close-up photograph of a glass filled with a vibrant green liquid, likely juice. The top of the glass is overflowing with a dynamic splash of water, creating numerous bubbles and droplets that catch the light. The background is a soft, out-of-focus light blue, suggesting a bright, airy environment. The overall composition is clean and fresh, with a focus on natural elements and movement.

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Credits & Incentives talk with Deloitte

New employee-training
credits & incentives
opportunities in New York

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CREDITS & INCENTIVES TALK WITH DELOITTE

New Employee-Training Credits & Incentives Opportunities in New York

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In recent years, employers have increasingly focused on the need to provide learning and development opportunities for employees. Learning has become a business-critical priority for increasing skills, improving the leadership pipeline, and enhancing employee engagement and retention. Traditional employee training is being revolutionized by flipped classrooms,¹ learning-centric models, and a vast increase in the content being delivered over a variety of new online and mobile platforms. Traditional employee training represents a \$130 billion global market, and the average employer spends about \$30 per hour on employee training.²

Deloitte's 2015 *Global Human Capital Trends* report illustrates the vital need to provide learning and development opportunities for employees.³ In this annual report, Deloitte Consulting surveyed more than 3,300 business and human resource leaders from 106 countries to assess the importance of 10 specific talent challenges facing their organization and to judge how prepared they are to meet these challenges.

In the 2015 report, the third most important challenge was the need to transform and accelerate corporate learning, up from number eight in 2014. The percentage of companies rating learning and development as very important tripled since the previous year, but the readiness to address it went down. Only 40 percent of respondents rated their organizations as "ready" or "very ready" in learning and development in 2015, compared to 75 percent in 2014.

With an increased emphasis on employee learning and development, we expect to see businesses setting aside significant resources for employee training in 2016 and beyond. Given this trend, we devoted this month's *Credits & Incentives Talk* column to employee-training tax credits and financial incentives as a potential way to help organizations subsidize this significant cost.

In the course of implementing employee-training programs, businesses should be mindful of a wide range of tax credits and financial incentives that may be available to incentivize such activities, both at the state and federal level (training incentives). Such benefits are potentially available in the form of cash grants, income tax credits, sales or use tax exemptions, or forgivable loans, among other forms. Other significant benefits for organizations to consider in this regard are job-training programs that provide development and delivery of customized training, often through the local community college system.

In recognition that the American workforce needs help preparing for jobs that may otherwise go unfilled, in April 2014, President Obama announced a pair of federal grant programs totaling \$600 million.⁴ One of those programs—to which \$500 million was dedicated—provides funding for employee training, and the other—to which \$100 million was dedicated—provides funding to expand apprentice programs across the country. This effort demonstrates the prevalence of training incentives available to businesses.

Significant funding for employee-training incentives is not just limited to federal grants. A considerable number of states have implemented some form of employee-training incentive in order to maintain a competitive and strong workforce. Some of the more well-known employee-training incentives include the California Employment Training Panel, the Florida Quick Response Training Program, and the Georgia Retraining Tax Credit.

What may be less known is that New York State (NYS), with a population of 19.75 million, recently enacted a statewide employee-training incentive. As part of its 2015-2016 executive budget legislation, NYS enacted the Employee Training Incentive Program (ETIP). This program, which is administered by the NYS Department of Economic Development (DED), provides a refundable income tax credit of up to \$10,000 per employee trained and up to \$3,000 per intern employee for qualifying internship programs in advanced technologies.⁵ The benefit is determined based on the amount of a participant's "eligible training" costs.

For purposes of the ETIP, "eligible training" includes training delivered by an approved training provider that is geared towards upgrading, retraining, or improving the productivity of employees, while serving a business need of the taxpayer.⁶ It may not include training required by any federal or state entity, training done in order to obtain a license or certificate required to perform a particular job function, or culturally

focused training. "Eligible training" also includes an internship program in advanced technology approved by the DED.⁷

To participate in the ETIP, applicants may qualify under either of two eligibility tracks:

1. Under the first track, the business must operate in NYS in a "strategic industry" and either: (i) create at least 10 new full-time jobs, or (ii) make a capital investment of at least \$1 million in equipment or a new business process. "Strategic industries" will be designated by regulations (yet to be published at press time) and will be selected based on criteria, including industries with shortages of trained workers, technological disruptions, and potential to recruit minorities and women.
2. Under the second track, businesses with fewer than 100 employees may qualify by providing eligible training in the form of an internship program in advanced technologies, which provides employment experience to current students, recent graduates, and recently discharged members of the armed forces.⁸

Under either eligibility track, the business must not have any environmental or worker protection violations and must be current on its state and local tax payments in order to participate in the ETIP.

Similar to New York's Excelsior Job's Program, ETIP requires an application and a corresponding pre-approval process. As of October 1, 2015, no application, procedures, forms, or regulations had been issued with respect to the program, but the Empire State Development Corporation has indicated that additional guidance on the ETIP would be available soon. In addition, it is expected that applicants will be able to apply for benefits through the New York State Consolidated Funding Application.

As the total combined amount of tax credits available for all applicants in any taxable year may not exceed \$5 million under the ETIP, interested businesses should move quickly to apply for benefits when applications become available. Once an application is submitted and approval is received, DED will issue a certificate of tax credit to the taxpayer indicating the amount of tax credit awarded and the taxable year in which it may be claimed.

As the tax credit is refundable, it will provide a cash-equivalent benefit for taxpayers, even if they do not expect to have a NYS income tax liability. This potential for refund of the credit may be of significant interest to manufacturers who qualify for the recently enacted zero percent tax rate.

In addition to the significant benefit available under NYS's ETIP, additional training opportunities may be available for businesses providing employee training in New York City.

New York City businesses that wish to provide specialized training for their employees may be eligible to receive funds from the NYC Customized Training Program, which is administered by NYC Business Solutions. Awards up to \$400,000 per applicant may be provided, which can cover 60-70 percent of eligible training costs.⁹ To be eligible, an employer must be pursuing training that aligns with one of the following categories:

- training on recently purchased equipment or software;
- training to offer new services or products to reach new markets;
- training current staff to take on new responsibilities, with the objective of a promotion; or
- training to update obsolete skills in order to keep the employer's business competitive.

Among other requirements, to qualify for the NYC Customized Training Program, a business must project wage increases for all currently employed trainees and propose to train at least 10 new trainees (no more than five of which are new hires). Applications are accepted year-round on the NYC Business Solutions Office's website.

NYC's Media Employee Training Program is geared towards small businesses (having less than \$10 million in annual gross revenues) in the media and entertainment industries that desire to train their employees in new technologies.¹⁰ Grant awards may be provided for up to 70 percent of eligible training costs, including costs for:

- external training providers
- trainee wages
- internal instructor wages
- training facilities
- books and materials¹¹

The program is administered by the NYC Department of Small Business Services and the Mayor's Office of Media and Entertainment. Applications are accepted throughout the tax year. The program was initially funded for up to \$500,000 in cumulative awards for all applicants.

In order to enhance the potential value and the likelihood of securing the NYS and NYC training incentives discussed above, as well as training incentives potentially available in other jurisdictions, businesses should take into account the following basic rules of the road in pursuing such incentives:

Start planning your approach early in the process—Often, training incentives have an application and pre-approval process, making it important to start actively planning approaches to pursue such benefits at the inception of the training process.

Become familiar with the rules and requirements—Read up on program rules and requirements in order to tailor your application to address program requirements. Information on employee training incentives can come from a variety of sources, including the U.S. Department of Labor, state departments of revenue, state and local economic development agencies, and state workforce investment boards, among others.

Apply before you commit to training—Consider completing required applications and taking other initial steps required to secure benefits prior to entering into agreements with training providers to undertake an employee-training project. As training incentives are often provided as an inducement to engage in a training project, entering into training agreements prior to taking steps to secure the incentives may render the incentives unavailable to an applicant.

Obtain administrative agency review of your draft application—Don't hesitate to ask the administering agency if it can review an initial draft application prior to submission. This can provide valuable insight on what the agency is looking for in a successful application.

Capture relevant data—Cost of compliance can be high if you do not have systems and processes in place to capture the relevant data required to be shared with the requisite authorities. Utilization of a learning management system may play a significant role in lowering the overall costs of compliance.

As the corporate learning market undergoes a digital transformation and as organizations try to fill the gaps in talent and skills they are facing, training tax credits, grants, or specialized programs developed at no or low cost should all be part of a comprehensive learning strategy.

¹ "The flipped classroom is a pedagogical model in which the typical lecture and homework elements of a course are reversed. Short video lectures are viewed by students at home before the class session, while in-class time is devoted to exercises, projects, or discussions." EDUCAUSE, *Things You Should Know About*, February 2012, <https://net.educause.edu/ir/library/pdf/eli7081.pdf>.

² Karen O'Leonard, *The Corporate Learning Factbook 2014: Benchmarks, Trends and Analysis of the U.S. Training Market*, <http://www.bersin.com/corporate-learning-factbook-2014>.

³ David Schatsky & Jeff Schwartz, *Global Human Capital Trends 2015-Leading in the New World of Work*, <http://www2.deloitte.com/content/dam/Deloitte/at/Documents/human-capital/hc-trends-2015.pdf>.

⁴ White House Office of the Press Secretary, *Fact Sheet* (Feb. 26, 2014), <https://www.whitehouse.gov/the-press-office/2014/02/26/fact-sheet-president-obama-lays-out-vision-21st-century-transportation-i>.

⁵ N.Y. Tax Law § 210-B(50), *as enacted by* S.B. 2009/A.B. 3009, effective April 13, 2015.

⁶ N.Y. Econ. Dev. Law § 441, *as enacted by* S.B. 2009/A.B. 3009, effective April 13, 2015.

⁷ *Id.*

⁸ N.Y. Econ. Dev. Law § 442, *as enacted by* S.B. 2009/A.B. 3009, effective April 13, 2015.

⁹ NYC Business Solutions, <http://www.nyc.gov/html/sbs/nycbiz/html/summary/training.shtml>.

¹⁰ Mayor's Office of Film, Theatre & Broadcasting, http://www.nyc.gov/html/film/html/jobs_training/sbs.shtml.

¹¹ *Id.*