



MULTISTATE INCOME/FRANCHISE TAX

## Multiple states enact legislation addressing technologies specified in federal IRA and CHIPS Acts

### Tax Alert

### Overview

Two federal economic development bills providing various federal grants, tax credits, and incentives for investment in the United States (“U.S.”) were recently enacted into law – the Creating Helpful Incentives to Produce Semiconductors Act (“CHIPS Act”) codified as [P.L. 117-167](#) was enacted on August 9, 2022 and the Inflation Reduction Act (“IRA”) codified as [P.L. 117-169](#) was enacted on August 16, 2022. Many states have existing grants, credits, and incentives applicable to the type of investments contemplated by the IRA and the CHIPS Act. In addition to these existing programs, states may consider new legislation specifically addressing the technologies covered by the IRA and/or the CHIPS Act in the coming months.

This Tax Alert summarizes state credits and incentives related bills recently enacted by Idaho, Illinois, Massachusetts, and New York. Each requires an application to, and preapproval by, the applicable state agency.

### [Idaho House Bill 678 \(ID H.B. 678\)](#)

Enacted March 23, 2022 and effective from July 1, 2022, ID H.B. 678 includes but is not limited to the following provisions:

- Known as the Idaho Semiconductors for America Act, the bill was contingent on the enactment and funding of a federal law providing semiconductor incentives by December 31, 2026. The passage of the CHIPS Act removed the contingency on the Idaho bill.
- Provides sales and use tax exemptions on the purchase or use of construction and building materials by a qualifying entity for a qualifying project during the project term.
- Qualifying project includes activities conducted in Idaho to “construct, expand, or modernize a facility for the fabrication, assembly, testing, advanced packaging, or research and development of semiconductors, including a facility used primarily for qualified research for such

purposes based on the criteria in section 41 of the Internal Revenue Code.”

- To qualify for the exemption, a qualifying entity must also qualify for federal incentives for the expansion of domestic fabrication, assembly, testing, advanced packaging, or research and development of semiconductors.

### [Illinois House Bill 1769 \(IL H.B. 1769\)](#)

Enacted on and effective from November 16, 2021, IL H.B. 1769 includes but is not limited to the following provisions:

- Creates the Reimagining Electric Vehicles in Illinois Act (“REV Illinois”) to provide financial incentives to eligible manufacturers of electric vehicles, electric vehicle component parts, and electric vehicle power supply equipment.
- Qualifying applicants must commit to a level of capital investment and job creation to be eligible for the REV Illinois program. The investment level ranges from \$100M in capital improvements for EV or EV component parts manufacturers with existing operations in Illinois converting or expanding a traditional facility to an EV facility to \$1.5B in capital improvements for a new EV manufacturer.
- The credit amount under the REV Illinois program varies by project location and number of employees.
- The credits may begin being awarded on and after January 1, 2022 and taxpayers may claim the awarded credit for taxable years beginning on or after January 1, 2025.

### [Massachusetts House Bill 5060 \(MA H.B. 5060\)](#)

Enacted on and effective from August 11, 2022, MA H.B. 5060 includes but is not limited to the following provisions:

- Establishes an offshore wind tax incentive program, and provides that the Massachusetts Clean Energy Center, in consultation with the Department of Revenue, may annually authorize up to \$35 million in tax incentives for certified offshore wind companies.
- Clarifies that the incentives must be expressly granted by the secretary of administration and finance in writing.
- Provides for a qualifying owner or tenant to take a refundable tax credit of up to 50 percent of its total capital investment in an offshore wind facility. To be eligible for the tax credit:
  - An owner must demonstrate it is a certified offshore wind company; its total capital investment in the offshore wind facility is at least \$35,000,000; and the offshore wind facility will employ not less than 200 new full-time employees by the fifth year of the certification period.
  - A tenant must demonstrate it is a certified offshore wind company; the owner has made a total capital investment in the facility of at least \$35,000,000; the tenant occupies a leased area of the offshore wind facility that represents at least 25 percent of the owner’s capital investment in the facility; and the tenant will employ, in the aggregate with other tenants at the facility, not less than 200 full-time employees by the fifth year of the tenant’s certification period. The amount of tax credits awarded to a tenant for a taxable year shall not exceed the tenant’s total lease payments for occupancy of the offshore wind facility for the taxable year.

## [NY Senate Bill 9467 \(NY S. 9467\)](#)

Enacted on and effective from August 11, 2022, NY S. 9467 includes but is not limited to the following provisions:

- Expands the existing Excelsior tax credit program to allow for eligibility of Green CHIPS projects.
- Green CHIPS project means a project that meets the following criteria:
  - (a) is within the semiconductor manufacturing and related equipment and material supplier sector;
  - (b) includes sustainability measures to mitigate the project's greenhouse gas emissions impact over its lifetime;
  - (c) provides for the payment of not less than federal prevailing wage rates for its project construction;
  - (d) makes commitments to worker and community investment, including through training and education benefits paid by the participant and programs to expand employment opportunity for economically disadvantaged individuals;
  - (e) will create at least five hundred net new jobs and make at least three billion dollars in qualified investment; and
  - (f) the participant undertaking a Green CHIPS project shall maintain a Green CHIPS benefit-cost ratio of at least fifteen to one.
- The total amount of credits issued for taxable years 2022 to 2024 for Green CHIPS projects shall not exceed \$500M per year.
- Qualifying taxpayers may be eligible to claim credits for taxable years up to January 1, 2050.

### Consideration

Taxpayers should keep in mind that as a result of the new federal credits and incentives under the CHIPS Act and the IRA, states may consider passing comparable provisions or consider other ways to align with federal programs, which may include grants, credits, sales and use tax exemptions, property tax abatements, or similar incentives.

### Get in touch

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