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RULE ADOPTIONS

OTHER AGENCIES

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

44 N.J.R. 1794(a)

Adopted Amendments: *N.J.A.C. 19:31-9.3, 10.4, 12.2, and 14.2*

Urban Transit Hub Tax Credit Program; Business Employment Incentive Program; Technology Business Tax Certificate Transfer Program; and Business Retention and Relocation Assistance Grant Program

Proposed: March 19, 2012 at *44 N.J.R. 665(a)*.

Adopted: May 24, 2012 by the New Jersey Economic Development Authority, Caren S. Franzini, Chief Executive Officer.

Filed: May 24, 2012 as R. 2012 d.119, **without change**.

Authority: *N.J.S.A. 34:1B-207, 34:1B-124* et seq., *34:1B-7.42a* et seq., and *34:1B-112* et seq.

Effective Date: June 18, 2012.

Expiration Date: November 9, 2017.

Summary of Public Comment and Agency Response:

No public comments were received.

Federal Standards Statement

The adopted amendments are not subject to any Federal standards or requirements; therefore, a Federal standards analysis is not required.

Full text of the adoption follows:

SUBCHAPTER 9. URBAN TRANSIT HUB TAX CREDIT PROGRAM

19:31-9.3 Eligibility criteria

(a) In order to be eligible to be considered for an urban transit hub tax credit:

1.-3. (No change.)

4. For a qualified business facility that is part of a mixed use project, the business shall:

- i. Make or acquire capital investments in a qualified business facility that is part of a mixed use project provided that the qualified business facility represents at least \$ 17,500,000 of the total capital investment in the mixed use project and the total capital investment in the mixed use project of which the qualified business facility is a part is not less than \$ 50,000,000;
- ii. Employ not fewer than 250 full-time employees at the qualified business facility; and
- iii. Demonstrate to the Authority that the State's financial support of the proposed capital investment will yield a net positive economic benefit, equaling at least 110 percent of the approved tax allocation amount, to both the State and the eligible municipality for the period equal to 75 percent of the useful life of the investment, not to exceed 20 years.

5. For a qualified residential project that is part of a mixed use project, the developer shall:

- i. Make or acquire capital investments in a qualified residential project that is part of a mixed use project provided that the qualified residential project represents at least \$ 17,500,000 of the total capital investment in the mixed use project and the total capital investment in the mixed use project of which the qualified residential project is a part is not less than \$ 50,000,000;
- ii. Demonstrate to the Authority that the qualified residential project is likely to be realized with the provision of tax credits at the level requested, but is not likely to be accomplished by private enterprise without the tax credits; and
- iii. Not be required to meet the employment requirements required for a qualified business facility.

(b)-(h) (No change.)

(i) If a developer of a mixed use project obtains tax credits for its capital investment in a qualified residential project that is part of that mixed use project, it shall not be allowed a credit for the same qualified residential project pursuant to other sections of this subchapter. For a developer that is allowed a credit for its capital investment in a qualified residential project that is part of a mixed use project, it, or an eligible tenant, shall also be allowed a credit for the capital investment in a qualified business facility that is part of the same mixed use project, in the respective amounts set forth in *N.J.A.C. 19:31-9.9(a)*, provided that the criteria in (a)4 and 5 above are satisfied.

SUBCHAPTER 10. BUSINESS EMPLOYMENT INCENTIVE PROGRAM

19:31-10.4 Amount/term of grant

(a)-(b) (No change.)

(c) The following criteria shall be considered when determining the grant amount and term that a business will be eligible to receive:

1.-18. (No change.)

19. Whether the business is within a designated industry and is located within a New Jersey Economic Development Authority Innovation Zone;

20. Whether the business is located within Federally-owned or former Federally-owned land recommended for closure by the Base Realignment and Closing Commission and approved by the President on September 8, 2005 and U.S. House of Representatives on October 27, 2005 or within a facility used as a base for military activity that may include Federal offices and private businesses; and

21. (No change in text.)

(d)-(h) (No change.)

SUBCHAPTER 12. TECHNOLOGY BUSINESS TAX CERTIFICATE TRANSFER PROGRAM

19:31-12.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Full-time employee working in this State" means a full-time employee whose primary office is in New Jersey and who spends at least 80 percent of his or her time in New Jersey, or who spends any other period of time generally accepted by custom or practice as full-time employment in New Jersey, as determined by the Authority.

...

"New or expanding" means a technology or biotechnology company that:

1. On June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L. 1997, c. 334 (*N.J.S.A. 34:1B-7.42a* et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America;
2. On June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated or formed, irrespective of corporate structure or tax status, for less than three years, has at least five full-time employees working in this State if the company has been incorporated or formed, irrespective of corporate structure or tax status, for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated or formed, irrespective of corporate structure or tax status, for more than five years; and
3. On the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in paragraph 2 above.

In calculating the number of employees under this definition, employees of all affiliates and subsidiaries as shown on its consolidated financial statements, employees of any company that owns or controls at least 50 percent of the applicant, as well as the employees of any consolidated group of affiliated corporations as filed for Federal income tax purposes shall be included.

...

SUBCHAPTER 14. BUSINESS RETENTION AND RELOCATION ASSISTANCE GRANT PROGRAM

19:31-14.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Capital investment" means expenses that the business incurs following its submission of an application to the Authority pursuant to section 5 of P.L. 1996, c. 25 (*N.J.S.A. 34:1B-116*), but prior to the Capital Investment Completion Date, as shall be defined in the project agreement, for: the site preparation and construction, renovation, improvement, equipping of, or obtaining and installing fixtures and machinery, apparatus or equipment in, a newly constructed, renovated or improved building, structure, facility, or improvement to real property in this State; and obtaining and installing fixtures and machinery, apparatus or equipment in a building, structure, or facility in this State. Provided, however, that

"capital investment" shall not include soft costs such as financing and design, furniture or decorative items such as artwork or plants, or office equipment if the office equipment is property with a recovery period of less than five years. The recovery period of any property, for purposes of this definition, shall be determined as of the date such property is first placed in service or use in this State by the business, determined in accordance with *section 168 of the Federal Internal Revenue Code of 1986 (26 U.S.C. § 168)*. For the purposes of this definition, cubicles and cubicles that include office equipment shall constitute capital investment. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be.

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