

## 2009 Year-End Legislative Updates

### Tax Credits & Incentives Summary

#### FEDERAL:

**House Passes Tax Extender Bill (H.R. 4213)** - On Wednesday December 8, 2009 the house passed (281-181) the tax extender bill, H.R. 4213. The Bill includes a one year extension of:

- Empowerment Zones
- Katrina WOTC
- New Market Tax Credit
- NY Liberty Zones
- Renewal Communities
- Tax Incentives for the District of Columbia
- The Indian Employment Tax Credit

*Note: H.R. 1677 the "Empowerment Zone, Renewal Community and Enterprise Community Enhancement Act of 2009" seeks a longer extension to 2015.*

**American Recovery and Reinvestment Tax Act of 2009 Signed Into Law (H.R. 1)** - On February 17, 2009, President Obama signed the American Recovery and Reinvestment Tax Act of 2009 into law. The Bill contains numerous tax credit and incentive provisions. The Work Opportunity Tax Credit program was expanded to include two new categories for disconnected youth and unemployed veterans if hired after December 31, 2008.

#### ALABAMA:

**Rebates for Qualified Production Companies (H.B. 69)** –A qualified production company is entitled to a rebate for production expenditures equal to 35% of payroll paid to Alabama residents and 25% of other production costs. The rebate was enacted on March 24, 2009 and is applicable retroactively to January 1, 2009.

**Capital Credit Expanded (H.B. 568)** – The credit has been expanded to include data processing centers, research and development facilities, and renewable energy facilities, with capital costs of not less than \$2 million (if not located in a favored geographic area) or \$500,000 (if located in a favored geographic area), The legislation also increases the base wage requirement for qualifying projects.

**Governor Proposes Tax Credits and Incentives (Alabama Economic Recovery Plan)** – The Governor proposed the Alabama Economic Recovery Plan, which would benefit individuals currently on state unemployment. The plan would create new jobs and expand economic development incentives. A \$500 tax credit would be available for any employer that hires an Alabama worker on state unemployment. In addition, a \$500 targeted job creation credit would be allowed for three years to companies that create new jobs in the top 25 counties with the highest unemployment rates. The governor also proposed an expansion of economic development incentives for corporate headquarters, research and development facilities and "green" employers.

**Geographic Areas List Updated (Alabama Department of Revenue)** - The geographic areas were updated for taxpayers that claim a capital credit for qualifying projects. The areas are either a state enterprise zone or a less developed county as determined by the Department of Industrial Relations.

## ARKANSAS:

**Rebates for Digital Product and Motion Picture Industry Enacted** (H.B. 1939) Enacted on April 8, 2009, an approved production company may apply for a 15% rebate with no cap per production, on all qualified production costs in connection with the production of a state-certified film project. An additional rebate of 10% will be granted for the payroll of below-the-line employees who are full-time residents of Arkansas.

**Historic Rehabilitation Credit Enacted** (H.B. 1953) – Enacted on March 27, 2009, but applicable to tax years beginning after 2008, Arkansas taxpayers may claim a historic rehabilitation credit. The amount of the credit is equal to 25% of the qualified rehabilitation expenses incurred.

**Reporting Requirements for Payroll Rebate Clarified** (H.B. 1625) – Enacted on April 1, 2009, and effective 90 days after adjournment. When claiming the payroll rebate a company must annually certify payroll figures. Failure to certify will result in a reduction of the rebate.

**Lodging Facility for Tourism Project Credit Extended** (S.B. 446) – Extended on April 2, 2009, A lodging facility with approved costs will not be eligible for tax benefits unless the Arkansas Department of Economic Development designates the lodging facility as an approved company and authorizes the undertaking of the tourism attraction project prior to April 1, 2011 (formerly, April 1, 2009).

**Qualifications for Geotourism Credit Expanded** (H.B. 2191) - The credit was expanded on April 10, 2009. The geographical qualifications have been expanded for the geotourism credit. In addition, the business must be located within 30 miles (previously, 5 miles) of a national scenic byway.

**Biotechnology and Biofuels Credits Repealed and Revised** (H.B. 2081) - Credits for biotechnology, advanced biofuels, and emerging technology are repealed and revised.

- Job Creation Credit (Advantage Arkansas) - The proposed average hourly wage must be equal to or greater than the lowest county average hourly wage.
- Research and Development with Universities Credit – The credit may be used to offset 100% (previously, 50%) of the taxpayer's tax liability.
- Job Creation Credit for Targeted Businesses - Investment must be at least \$250,000 (previously, \$400,000).
- Job Creation Credit (Advantage Arkansas) and Payroll Rebate Credit – The two credits cannot be combined.
- Investment Credit for Technology-based Enterprises and the Sales and Use Tax Refund – The two credits cannot be combined for the same project.

**Wetland, Riparian Zone Conservation Credit Enacted** (H.B. 1577) – Enacted on March 16, 2009, the credit is equal to 50% of the fair market value of a qualified real property interest donation, up to \$50,000. The credit cannot exceed the lesser of the tax due or \$5,000, but may be carried forward for nine years. The donor may earn only one conservation credit per year and is effective for tax years beginning on or after January 1, 2009.

## ARIZONA:

**Schools Granted an Exemption for Personal Property** (S.B. 1196) - Effective September 20, 2009, school districts and charter schools are exempt from municipal tax on the storage, use, or consumption of personal property.

**Credit for Contributions to School Tuition Organizations Expanded** (H.B. 2288) - The voluntary cash contributions to school tuition organizations (STOs) is expanded to allows insurers to take the credit against their insurance premium tax liability, and to repeal the June 30, 2011 sunset date.

**Tax Corrections and Clarifications Enacted (H.B. 2083)** – Corrections were made to correct errors found in tax statutes. Effective September 30, 2009, the following corrections will be made:

- clarifies that the legal classification of property may be appealed, not just the valuation of the property, and codifies current practice;
- clarifies that a personal property appeal to the State Board of Equalization should be done in the same manner as a real property appeal, which is consistent with current policy;
- repeals obsolete language relating to 1980 property values;
- clarifies that owner-occupied homeowner property limitations apply to all mobile homes, not just permanently affixed mobile homes; and
- clarifies that the amendments to the research and development tax credit apply to taxable years, rather than calendar years.

**Renewable Energy Tax Incentives Provided (S.B. 1403)** - Beginning in 2010, a new or expanding renewable energy operation may qualify for refundable tax credits and incentives. The tax credits are available for taxable years beginning after December 31, 2009, through December 31, 2014. Special property tax classifications may be granted through December 31, 2014. The program is scheduled to terminate on January 1, 2016.

**Credit Review Schedule Repealed and New Schedule Created (H.B. 2081)** - The existing review schedule for corporate and personal income tax credits is repealed, and a new automatic review schedule is created. The new schedule will be an automatic five-year review schedule for years ending in 0 and 5, and years ending in 1 and 6.

**New Credit for Contributions to School Tuition Organizations Enacted (H.B. 2001)** – Enacted on June 2, 2009, the credit allows for voluntary contributions to a school tuition organization (STO) that provides educational scholarships or tuition grants to disabled students or displaced students in foster care homes to attend qualified schools.

## CALIFORNIA:

**Five New Enterprise Zones Receive Conditional Designation** (California Department of Housing and Community Development, August 19, 2009) – Zones have been added to replace expired zones. The following zones have been designated conditionally: Pittsburg, Tulare, Taft, Sacramento and Hesperia.

**Reportable Transaction Rules for Enterprise Zone Credits Clarified** (FTB Notice 2009-2, California Franchise Tax Board) - FTB announced that it will exempt transactions involving a refundable or contingent fee relating to an enterprise zone hiring credit (EZ hiring credit). The exemption will apply to all transactions in which the refundable or contingent fee relates to the EZ hiring credit.

**New Jobs Tax Credit for Small Employers Enacted** (*Tax News*, California Franchise Tax Board, December 2, 2009) – Effective January 1, 2009, a nonrefundable job tax credit was enacted for small employers with 20 or less employees. The credit is equal to \$3,000 for each full-time net increase.

**Combined Reporting Credit Assignments Results** (Revenue and Taxation Code Section 23663) - FTB released results of the April 3, 2009 interested parties meeting on the new statute allowing taxpayers to assign corporation franchise and income tax credits among members of a combined reporting group. The statute requires that an election to assign a credit to another member be made on an originally filed return. FTB has taken the position that a second return filed by the original due date is not considered an "original return" for purposes of making the credit assignment.

**Natural Heritage Preservation Credit Expanded** (A.B. 94, 2009 Law) – The credit has been expanded from June 30, 2008 to January 1, 2010 - 2014.

**Guidance Issued Regarding Film and Television Tax Credit and Refund** - The California Film Commission (CFC) issued guidelines regarding the new film and television tax credit.

- Application Process - Begin accepting Form A, at 9:00 a.m. on July 1, 2009 on a first-come, first-served basis.
- Applicants - The applicant is principally engaged in the production of the qualified motion picture.

## COLORADO:

**Guidelines for Alternative Fuel Credits Updated** (Colorado Department of Revenue, January 2009) - The Department of Revenue reissued its guidance document regarding the treatment of alternative fuel tax credits and updated the list of qualifying vehicles on May 4, 2009.

**Alternative Fuel Vehicles and Facilities Credit Amended, New Credit Enacted** (H.B. 1331) - Colorado amends the types of vehicles and fuel technologies eligible for the existing tax credit for tax years 2012 through 2015 for similar fuel-related purchases.

**Vendor's Fee Eliminated** (S.B. 275) – On May 21, 2009 the sales and use vendor's service fee will be temporarily eliminated from July 1, 2009, through June 30, 2011. Vendors will be allowed a grace period on returns made prior to August 1, 2009.

**Economic Development Commission Must Report on Enterprise Zones** (S.B. 234) - Effective June 1, 2009, the Colorado Economic Development Commission must submit a report to the general assembly by March 31, 2010 regarding whether to expand the boundaries of existing enterprise zones and recommending criteria for the creation of a statewide enterprise zone.

**Film Production Incentives Re-established** (H.B. 1010) - On June 9, 2009 the film production was re-established. To qualify a company must spend at least 75% of production and payroll on qualified expenditures.

**Conservation Easement Credit Limit** (Colorado Supreme Court, No. 07SC657) - The credit is limited \$100,000 per donation.

**Enhanced Rural Enterprise Zone Program Announced for 2009-2010** (*Release*, Colorado Office of Economic Development and International Trade, March 2009) - The Office of Economic Development and International Trade has released an updated list of Enhanced Rural Enterprise Zones (EREZ) that are eligible for jobs credits.

**Credit Enacted for Donation of Water Rights** (H.B. 1067) – Effective August 4, 2009, the new enacted credit is equal to one-half of the value of the donated water right, as determined by an appraisal, with a maximum value of \$250,000. The credit applies to tax years beginning on or after January 1, 2009, but prior to 2015. The total amount of credits allowed on an annual basis is limited to \$2 million.

**Refunds Available for Certain Technology Companies** (H.B. 1035) – Effective August 5, 2009, certain clean technology and medical device firms are eligible to receive refunds on Colorado sales and use taxes paid on the purchase of equipment used in research and development. The firms must be headquartered in Colorado and have no more than 50 employees. Sales tax refunds are effective for sales tax paid on or after January 1, 2009, through June 30, 2014.

**Job Growth Tax Credit Created** (H.B. 1001) - Effective January 2, 2009, a taxpayers must create at least 20 new jobs in urban areas or five new jobs in an enhanced rural enterprise zone to qualify for the credit. The created jobs must pay at least 110% of the county wage in which the taxpayer is located and be retained for at least one year.

**Enterprise Zone Investment Credit Expanded** (H.B. 1298) - The credit is expanded to include qualified investments in a commercial truck, truck tractor, tractor, or semitrailer with a gross vehicle rating of at least 16,000 pounds. The amount of the credit ranges from .5% - 3.0% and is available from tax year 2011 through tax year 2015.

**Partial Tax Refund Allowed for New Truck Tractors** (H.B. 1928) - A refund on sales and use taxes paid for Class A vehicles will be refunded based on the proration of annual specific ownership taxes paid on the vehicles. The refund is limited to model year 2010 or newer truck tractors weighing greater than 26,000 pounds. The refund is available starting on January 1, 2011. The refund claim ranges from 10% to 25%.

## CONNECTICUT:

**Enterprise Zone Deadlines Extended** (S.B. 887) – All businesses in an enterprise zone, regardless of whether they are receiving incentives must submit specified information to their municipalities every five years beginning July 1, 2011. The reporting deadline has been extended to November 1, 2011.

**Green Building Credit (S.B. 2052)** - Beginning on or after January 1, 2012, the state allows a tax credit for the construction or renovation of buildings that meet certain energy and environmental standards. The credit ranges from 5% - 10.5% depending on the rating system.

**List of Approved Neighborhood Assistance Act Programs Released (Notice, Connecticut Department of Revenue Services, August 28, 2009)** - The 2009 list of approved programs to which businesses may contribute to claim a Connecticut Neighborhood Assistance Act tax credit was released. Businesses must make a cash contribution of at least \$250 to an approved community program to qualify. The credit is generally equal to 60% of the contribution (100% in the case of certain energy conservation programs). The maximum credit per year is \$75,000 per business.

**Digital Animation Production Credit Regulations Adopted (Reg. Secs.12-217II-1 to 12-217II-12)** - New regulations were adopted for state-certified digital animation production companies that incur qualified production expenses in excess of \$50,000.

**Film Production Credit Regulations Adopted and Expanded (Reg. Secs. 12-217jj-1 to 12-217jj-13)** - New regulations were adopted for qualified movie and digital media production expenses and costs that exceed \$50,000. The credit is 50% if the post production cost spent in Connecticut.

## **DISTRICT OF COLUMBIA:**

**Increase in Motor Fuel Tax and Cigarette/Tobacco Addressed (D.C.B. 18-409)** -

- Increase in Motor Fuel Tax - Applicable as of October 1, 2009, the District will levy and collect a tax of 23.5 cents per gallon (currently, 20 cents per gallon) on all motor vehicle fuels within the District, sold or otherwise disposed of by an importer or by a user, or used for commercial purposes.
- Increases in Taxes on Cigarettes, Little Cigars, and Moist Snuff - Applicable as of October 1, 2009, a tax is levied and imposed on the sale or possession of all non-exempt "cigarettes" in the District at the rate of 12.5 cents per cigarette (that is, \$2.50 per package of 20) (currently, 10 cents per cigarette (that is, \$2.00 per package of 20)).

**New Hiring Credit for Employment of Returning Veterans Enacted (D.C.B. 14)** – Effective January 1, 2009, the credit is equal to \$2,500 for each qualifying veteran.

## **FLORIDA:**

**New Markets Credit Enacted (H.B. 485)** - Effective July 1, 2009, the total credit is equal to 39% of the purchase price of the qualified investment. In the tax year containing the third credit allowance date, the taxpayer may claim 7% of the credit. In each of the remaining tax years containing the fourth through seventh credit allowance dates, the taxpayer may claim 8% of the purchase price.

**Incentive Application Process Amended (H.B. 7031)** – Effective July 1, 2009, certain definitions and eligibility requirements for specific programs have been amended.

- Rural Job Tax Credit Program - A "qualified area" for the rural job tax credit program has been changed to include a county that has a population of 125,000 (formerly, 100,000) or less and is contiguous to a county that has a population of less than 75,000.
- Qualified Defense Contractor and Space Flight Business Tax Refund Program - The amount in tax refunds a qualified applicant may receive has been capped at \$5 million (formerly, \$7.5 million).
- Qualified Target Industry Business Tax Refund Program - A "rural community" has been amended to include a county with a population of 125,000 (formerly, 100,000) or fewer which is contiguous to a county with a population of 75,000 or fewer.
- Brownfield Redevelopment Bonus Refund Program - The definition of an "eligible business" has been expanded to include a business that can demonstrate a fixed capital investment of at least \$500,000 in Brownfield areas that do not require site cleanup.

**Scholarship Contribution Tax Credit Amended** (H.B. 453) - Effective July 1, 2009, the contributions to nonprofit scholarship funding organizations are now allowed against the insurance gross premiums tax. The name of the program has been changed from the Corporate Income Tax Credit Scholarship Program to the Florida Tax Credit Scholarship Program.

## GEORGIA:

**Job Tax Credit Rule Updated** (Reg. Sec. 560-7-8-.36) – The job tax credit has been updated to include certain business enterprises that create and retain new full-time employee jobs in Georgia. Starting January 1, 2009, the job tax credit must be claimed within one year of the earlier of the date the original return was filed or the date such return was due, including extensions.

**New Rule Adopted on Conservation Tax Credit** (Reg. Sec. 560-7-8-.50) – Guidance has been provided on the conservation tax credit. The credit is available for a qualified donation of real property for conservation purposes. To claim the credit a taxpayer must submit a form, certification from the Department of Natural Resources, and the appraisal of the donated property

**Credits for Business Enterprises, Employers Amended** (H.B. 439) – Effective May 4, 2009, tax credits for business enterprises have been amended. .

- The retraining program conditions for "approved retraining" have been expanded. The credit must be claimed within one year of the earlier of the date the original tax return was filed or due, including approved extensions.
- The credit for a business enterprise with qualified research expenses includes a "base amount" which has been amended to reflect gross receipts rather than taxable net income. The definitions of "base year port traffic" and "port traffic" under the alternative tax credit for base year port traffic have been amended to specify imports and exports for taxable years beginning on or after January 1, 2010. Further "base year port traffic" includes the enterprises port traffic during the second preceding twelve month period, for taxable years beginning on or after January 1, 2010.
- Credit for establishing or relocating headquarters into Georgia has been amended to allow the credit to a taxpayer establishing or relocating new quality jobs into Georgia.
- Legislation has been enacted that provides a new Georgia corporate income tax credit for certain business enterprises located in a tier two or tier three county in a less developed area that also qualify and receive the tax credit for a business enterprise in a less developed area.

**Teleworking Tax Credit Extended** (H.B. 186) – Effective May 11, 2009, the teleworking tax credit was extended to taxable years beginning in 2010 and 2011 (formerly, 2008 and 2009). The amount of tax credits also is increased to \$2.5 million (formerly, \$2 million) for the extended period.

## HAWAII:

**Qualified Investment Tax Credit Repealed** (H.B 1743) – The credit was repealed on April 21, 2009.

**High Tech Business Comfort Ruling Issued** (*Letter Ruling 2009-09*, Hawaii Department of Taxation, November 30, 2009) – A comfort ruling has been issued confirming that a limited liability company with qualified research meets the definition of a "qualified high technology business" (QHTB) for purposes of various income tax incentives. The investment in the company must not exceed \$10 million.

**Enterprise Zone Program Expanded** (S.B. 1248) – The program added the definition of "eligible business activity". The term means:

- the manufacture of tangible personal property, the wholesale of tangible personal property, or a service business;
- the production of agricultural products where the business is a producer, or the processing of agricultural products, all or some of which were grown within an enterprise zone;
- the research, development, sale, or production of all types of genetically engineered medical, agricultural, or maritime biotechnology products; or
- the production of electric power from wind energy for sale primarily to a public utility company for resale to the public.

**Renewable Energy Technologies Credit Revised** (H.B. 1464) - The credit has been revised to encourage the use of solar and wind energy systems in the state. The changes apply to taxable years beginning after December 31, 2008, for eligible renewable energy technology systems installed and placed in service on or after July 1, 2009.

#### **IDAHO:**

**Small Employer Incentive Credit Extended** (H.B. 242) – The credit was extended from July 7, 2009 through December 31, 2009.

#### **INDIANA:**

**Research Expense Credit Update** (H.B. 1001) - Effective January 1, 2010, for qualified research expense incurred after December 31, 2009, the amount of the credit is equal to 10% of the taxpayer's Indiana qualified research expense for the taxable year that exceeds 50% of the taxpayer's average Indiana qualified research expense for the three previous taxable years.

**Hoosier Business Investment Credit Extended** (H.B. 1001) - Effective July 1, 2009, the Hoosier Business Investment Credit is extended through December 31, 2013.

**Hoosier Alternative Fuel Vehicle Manufacturer Tax Credit Update** (H.B. 1001) - Effective June 30, 2009, vehicles that use biodiesel or ultra low sulfur diesel fuel are eligible for the credit.

**Media Production Expenditure Tax Credit Update** (H.B. 1001) - Effective July 1, 2009, the maximum amount of credits awarded per year is reduced from \$5,000,000 to \$2,500,000.

#### **ILLINOIS**

**EDGE Tax Credit Provisions for Pass-Through Entities Amended** (H.B. 2414) - The credit is amended to allow pass-through entities to treat the credit as a tax payment.

**EDGE Tax Credit Amended to Include Auto Industry** (H.B. 1526) - The credit is amended to include certain taxpayers in the automobile manufacturing industry. The credit is equal to the amount of the credit awarded. Unused credits may be carried forward 5 years.

**New Markets Tax Credit Enacted** (S.B. 2015) – The credit was enacted on January 15, 2009. It is set to expire after December 31, 2013.

**Exemption Enacted for Wind Energy Businesses** (S.B. 1923) - Business that establish a new wind power facility in Illinois may be designated as a high impact business under the Illinois Enterprise Zone Act and may qualify for the retailers' occupation (sales) tax exemption.

**Investment Credit Extended** (S.B. 1691) - The replacement income tax investment credit is extended to December 31, 2013 (previously, 2008).

**Credit for Wages Paid to Qualified Veterans Increased and Sunset Enacted** (S.B. 2046) - The amended credit is available for tax years beginning after 2006 and ending before 2011. For each year beginning on or after January 1, 2010, the credit amount equals 10%, but in no event to exceed \$1,200, of the gross wages paid to a qualified veteran.

#### **IOWA:**

**Film Promotion Credit Program Rules Amended** (S.F. 480) – The changes include the following:

- establishing application deadlines and allowing the Department to charge an application fee;
- allowing portions of compensation paid to the principal producer, principal director, and principal cast members to become eligible expenditures;
- requiring the principal producer, principal director, and principal cast members to become Iowa taxpayers; and
- spreading the income exclusion for qualified vendors over four years at 25% per year.

**Targeted Jobs Withholding Credit Rules Amended** (Rules 261-71.1—261-71.6, Iowa Department of Economic Development) - The amended rules specify the total award amount of credits cannot exceed the total amount of land and site preparation costs. All applications must be presented to the Iowa Economic Development Board prior to the Department's approval.

**Eligibility for Renewable Energy Credit Expanded** (H.B. 810) – Effective January 1, 2009, owners of a small wind energy system operating within a small wind innovation zone may qualify for the renewable energy tax credit.

**Jobs Withholding Credit Amended** (S.F. 304) - The deadline has been extended to June 30, 2013 for the targeted jobs withholding tax credit (previous deadline was June 30, 2010). In addition, the new regulations will not let the credit exceed the total amount of land and site preparation costs.

**Film Promotion Credit Program Amended and Expanded** (S.F. 480) – Effective July 1, 2009, the program is expanded to include compensation paid to the principal producer, the principal director, or principal cast members as qualified expenditures if they are an Iowa resident or an Iowa-based business. Previously, salary expenditures were excluded from the tax credit calculation. Certain compensation paid to labor and personnel other than the principal producer, the principal director, or principal cast members may also be included.

**Wind Energy Production, Renewable Energy Credits Amended** (S.F. 456) - Effective April 23, 2009, the wind energy production credit is expanded to permit colleges, universities, and schools to apply for the credits. They must have turbines with a combined nameplate capacity of at least 0.75 megawatts and the generated electricity is for the applicant's own use.

**Historic Preservation Credit Cap Increased** (S.F. 481) - Effective July 1, 2009, the total annual amount of historic preservation and cultural and entertainment district tax credits allowed has increased to \$50 million (previously, \$20 million).

**Renewable Energy Component Credit Cap Increased** (H.B. 817) – Effective July 1, 2009, the cap for renewable energy generation components is increased to \$2 million (previously, \$1 million).

**Disaster Recovery Housing Project Credit Enacted** (Sec. 16.191) – Investment in a disaster recovery housing project will qualify for the tax credit. The property must be located in an area that the governor proclaimed a disaster emergency or the president of the United States declared a major disaster during May 1, 2008, and ending August 31, 2008.

## **KANSAS:**

**PEAK Incentive Enacted** (H.B. 2365) – The new legislation allows for a withholding tax credit for businesses that create new jobs and relocate to Kansas.

**Economic Revitalization and Reinvestment Incentive Act Extended to Include Aviation Industry** (H.B. 2006 and S.B. 108) – Under the amendments to this act, the Kansas Development Finance Authority may issue bonds up to \$33 million for eligible aviation projects. The legislation also expands the definition of an "eligible aviation business" to include an entity with an average annual gross Kansas compensation of at least \$150 million (previously, \$300 million).

**Notice on Credit Reduction Legislation Issued** (KS notice 09-09) - The Kansas DOR issued a notice regarding a 10% reduction on a number of tax credits. The credit reduction impacts various refundable and nonrefundable credits allowed in tax years 2009 and 2010.

## **KENTUCKY:**

**Economic Development Credit Updates** (H.B. 3) – Kentucky has replaced KREDA, KEOZ, KJDA and KIDA with a new Economic Development Credit. To qualify for the credit, the taxpayer must create 10 new full-time jobs and at least \$100,000 of investment.

**Manufacturing Reinvestment Credit Update** (H.B. 3) - Effective after December 31, 2009, companies that reinvest at least \$2.5 million in an existing Kentucky manufacturing facility and agree to maintain a full-time employment base of at least 85% under the Kentucky Reinvestment Act (KRA) may claim a nonrefundable credit.

**Film Industry Credit Update** (H.B. 3) - Effective on or after July 1, 2010, film companies may claim a refundable credit for qualifying expenses and payroll. Expenses for a motion picture production must be at least \$500,000. The minimum expenditure for commercials is \$200,000. The threshold is \$50,000 for documentaries and Broadway shows. The credit is equal to 20% of qualifying expenses and payroll.

**Railroad Improvement and Transportation Credits Update** (H.B. 3) - Effective for taxable years beginning after December 31, 2009, nonrefundable credits may be claimed by railroad companies that invest in Kentucky track infrastructure. Eligible companies may claim 50% of the qualified expenditures. The maximum credit is \$3,500 multiplied by a formula.

**Economic Development Program Application Fee** (H.B. 3) – Programs filed after December 31, 2009 require an application fee of \$500. The fee amount will increase annually by \$250.

**Alternative and Renewable Energy Facilities Credit Expanded** (H.B. 3) - The credit is expanded to include companies using tar sands as an energy feedstock.

## **LOUISIANA:**

**Port of Louisiana Tax Credits Enacted** (H.B. 215) – legislation enacted the port investor tax credit and the import export cargo tax credit.

- **Port Investor Credit** - The credit is equal to the total capital costs of a qualifying project and is to be taken at 5% per tax year
- **Import Export Cargo Credit** – A credit is allowed in an amount equal to the product of multiplying \$5 by the taxpayer's number of tons of qualified cargo for the taxable year, but only for the total amount of the allocation provided to the taxpayer by the secretary of the Department of Economic Development for such taxable year.

**Sound Recording Investor Credit Extended, Other Changes Made** (H.B. 458) – The credit is extended until January 1, 2015 (previously January 1, 2010). Other administrative and clerical changes were made and various definitions amended. All infrastructure project applications will now only be accepted on or before August 1, 2009.

**Tax Credit Enacted for Conversion of Vehicles to Alternative Fuel Usage** (H.B. 110) – The credit was enacted for taxpayers who invest in qualified clean burning motor vehicle fuel property. Taxpayers are allowed a refundable credit of 50% of the cost of the property. Purchasers of hybrid vehicles can elect to take the lesser of 10% of the vehicle's cost or \$3,000.

**Research and Development Credit Extended, Amended** (H.B. 790) - The credit has been amended and extended. The expiration date of the credit has been extended to December 31, 2013 (previously, 2009). Various definitions have also been amended.

**Motion Picture Investment Credit Amended** (H.B. 898) – The motion picture investment credit was increased to 30% (previously 25%) for productions approved on or after July 1, 2009. An additional 5% (previously 10%) may be added to the extent that base investment is used on payroll for Louisiana residents.

**Green Job Industries Tax Credit Enacted** (H.B. 733) – The credit was enacted for investment construction, repair, or renovation of a state-certified green project. The credit amount is capped at \$5 million.

**New Markets Tax Credits Investment Cap Increased** (H.B. 753) - The new markets credit investment cap can be issued on or after December 1, 2009. Previously, the credit could not have been issued until 2010. The maximum amount of qualified investments that may be issued is capped at \$7.5 million.

## MAINE:

**Pine Tree Development Zone Program Expanded (H.P. 1024)** - The Pine Tree Development Zone (PTDZ) program has been expanded to a statewide program. The program now offers a two-tier program that allows businesses in Tier 1 locations to receive 10 years of tax benefits, while businesses in Tier 2 locations generally receive five years of benefits. Businesses must add at least one qualified employee to its base level of employment.

## MARYLAND:

**Date Extended for Qualifying Employees with Disabilities Credit (S.B. 604)** - The sunset date for the tax credit that hires qualifying individuals with disabilities has been extended from June 30, 2009 to June 30, 2010.

**Biotechnology Investment Credit Expanded for Individuals (H.B. 493)** - The definition of "qualified investor" has been expanded to include individuals. In addition, the taxable year for which the credit may be claimed is the taxable year in which the investment is made.

**BRAC Zones Effective Date, Procedures Amended (H.B. 1429)** - Maryland has changed the effective date that property tax benefits are available for a zone. The designation of an area as a zone is effective for 10 years beginning on the date the first property in the zone becomes a qualified property. Previously, the benefits were available for 10 years after the date the secretary of business and economic development designated a zone.

## MASSACHUSETTS:

**Motion Picture Credit Amended (H.B. 4129)** – The aggregate salary and compensation amounts have been limited to \$2 million.

## MICHIGAN:

**Credits for Automobile Alternative Power Enacted (H.B. 6611)** - Michigan has enacted and updated four new credits for automobile alternative power.

- Plug-in Traction Battery Packs
- Vehicle Engineering - \$90 million (previously \$70 million)
- Engineering Activities for Advanced Automotive Battery Technologies
- Construction of Integrative Cell Manufacturing Facility – allows three agreements with MEGA (previously only one agreement)

**Credit for Converting Fuel Systems Enacted (H.B. 4523)** – The credit has been created for service stations who convert existing fuel delivery systems. The credit is 30% of the cost for converting the systems.

**Tool and Die Renaissance Zones Expanded (H.B. 1483)** – Ten additional zones have been created (previously, 25). In addition, a recovery zone may include a tool and die business that has 75 or more full-time employees, provided that the business has entered into a written agreement with the board and the city or village in which the business is located.

**Historic Preservation Credit Amended (A.B. 9023)** – The amended changes allow a taxpayer under certain circumstances to assign a credit or elect to forgo the carryover and receive a reduced refund.

**MEGA Granted Additional Authority (H.B. 5977)** – MEGA is granted the authority to determine eligibility and issue certificates to certain taxpayers for the Michigan business tax credit.

**Large Scale Battery Facility Construction Credit (S.B. 777)** – The credit allows for a 25% tax credit for the construction of a large scale battery facility. To qualify the taxpayer must create 500 new jobs. In addition, there is a manufacturing tax credit for battery cell manufacturing facilities.

**Credit for Photovoltaic Energy Manufacturers Revised** (H.B. 4523) - The credit for the development and manufacturing of photovoltaic energy, photovoltaic systems, or other photovoltaic technology is revised. The amount of the credit is 25% (previously, 50%) of capital investments made. The total amount of the credit is capped at \$15 million (previously, \$25 million).

## MISSISSIPPI:

**Credit Enacted for Biomass Fuel Production Facility** (S.B. 3278) - Effective April 7, 2009, a new facility that creates at least 20 full-time jobs with a minimum capital investment of \$50 million may qualify for an investment credit equal to 5% of the initial investment in the facility.

**Port Charges Credit Extended** (H.B. 14) – The credit has been extended to December 21, 2012.

**Airport Facility Charges Credit Extended** (H.B. 626) - The airport facility charge credit is repealed as of July 1, 2012. Previously, the credit was repealed effective July 1, 2010.

**Existing Industry Rebate Enacted; Jobs Credit Revised** (H.B. 1722) – Manufacturing enterprises that have operated in the state for two years are eligible for the credit. The taxpayer will need to choose the lesser of incentive payments of 3.5% of wages or the actual amount of income tax withheld. The taxpayer must apply to the Mississippi Development Authority and create (and maintain) at least 10 jobs within six months after the application date. No applications will be accepted after July 1, 2011.

## MISSOURI:

**Tax Credit Provisions Expanded** (H.B. 802) –Effective June 4, 2009, legislation has been enacted that expands and otherwise revises a number of tax credit programs:

- increases the annual cap on tax credits under the Quality Jobs Program from \$60 million to \$80 million, removes the annual per-company cap for jobs in the high-impact and technology categories, and make various other changes to the program;
- increases the annual cap on tax credits under the Missouri Business Use Incentives for Large-Scale Development (BUILD) program from \$15 million to \$25 million and removes the provision requiring companies to seek a competitive bid from another state;
- increases the annual cap on distressed areas land assemblage tax credits from \$10 million to \$20 million;
- increases the annual cap on tax credits for qualified equity investments under the New Markets Tax Credit Program from \$15 million to \$25 million;
- limits the total amount of tax credits annually authorized or approved for contributions to the Missouri Development Finance Board to \$10 million (previously, the total tax credits annually awarded could not be the greater of \$10 million or 5% of the average growth in general revenue receipts in the preceding three fiscal years), except that such limit may be exceeded (up to a new \$25 million cap) if jointly approved by the Commissioner of Administration, the Director of Economic Development, and the Director of Revenue;
- allows a portion of the tax credits that remain for Brownfield projects to be released when a letter of completion is issued by the of the Department of Natural Resources for a portion of a specific project;
- for purposes of the Tax Credit and Accountability Act information and reporting requirements, adds the enhanced enterprise zone credit and quality jobs credit to the category of business recruitment tax credits, adds the children in crisis credit, residential treatment agency credit, pregnancy resource center credit, food pantry credit, health care access fund credit, and residential dwelling access credit to the category of domestic and social tax credits, adds the alternative fuel stations credit to the category of environmental credits, adds the new markets credit and the distressed areas land assemblage credit to the category of redevelopment tax credits, and creates a new category of financial and Insurance tax credits;
- requires the number of estimated jobs to be created as a result of tax credits, if applicable, to be reported on all applications for all tax credit programs
- requires the recipient of any tax credit program, except recipients of domestic and social tax credits, environmental tax credits, or financial and insurance tax credits, to annually, for a period of three years following the issuance of the tax credits, provide to the administering agency the actual number of jobs created as a result of the tax credits.

## **MONTANA:**

**Recycling Tax Incentives Made Permanent** (H.B. 21) - Effective July 1, 2009, the tax credits for investment in recycling equipment and the deduction for business purchases of recycled materials are made permanent.

**Big Sky Film Production Credits Extended** (H.B. 163) – Effective April 9, 2009, the big sky film production credits are extended through the 2014 tax year. Previously, the credits were scheduled to expire on January 1, 2010.

**Equity Capital Investment Credits Repealed** (H.B. 635) - The equity capital investment credits are repealed, effective April 18, 2009.

## **NEBRASKA:**

**Taxpayers Must Register Under E-Verify for Certain Incentives** (*E-Verify Notice*, Nebraska Department of Revenue) - The E-Verify recommendation was issued for taxpayers planning on applying for a project in Nebraska on or after October 1, 2009. Taxpayers should register for E-Verify now and electronically verify the work eligibility of all newly hired employees employed in Nebraska as of October 1, 2009.

## **NEW JERSEY:**

**Neighborhood Revitalization Areas Expanded** (A.B. 2623) - The definition of "eligible neighborhood" has been expanded to include areas adjacent to a previously eligible neighborhoods.

**Urban Transit Hub Credit Rules Adopted** (N.J.A.C. 19:31-9.1 through 19:31-9.15) - The New Jersey Economic Development Authority has adopted regulations regarding definitions, eligibility criteria, restrictions, amount and allocation of the credit, reduction and forfeiture of the credit, application requirements and fees, reporting requirements, and application review and appeals. The regulations will expire on July 22, 2010.

**Neighborhood Revitalization Credit Rules Readopted** (N.J.A.C. 5:47-1.1 through 5:47-10.3) - Neighborhood revitalization zones, which would have expired September 2009, have been readopted and will expire on April 9, 2014.

## **NEW MEXICO:**

**Investment Credit Changes** (H.B.75) - After June 30, 2020, the value of qualified equipment will be the purchase price of the equipment or the reasonable value if the equipment has been owned for more than one year. In addition the taxpayer is required to employ one additional person for every \$100,000 claimed.

**Sustainable Building Credit Expanded** (S.B. 291) – The credit can now be taken against the corporate income tax.

**Geothermal Heat Pump Credits Enacted** (H.B. 375) - Effective June 19, 2009, a taxpayer who purchases and installs a geothermal heat pump between 2010 and 2020 may qualify for up to 30% of the cost. The credit may not exceed \$9,000 per taxpayer.

**Advanced Energy Credit Extended** (S.B. 237) – The energy credit may be claimed for 6% of the costs of building a qualified generating facility (up to \$60 million per facility). Construction must be started prior to December 31, 2015.

## **NEW YORK:**

**Budget Law Provides Empire Zone Reform** (A.B. 157) – The zone benefits received decertification rules for taxpayers claiming incentives greater than the benefit for returning to the state. The sunset date moved from June 30, 2010 to June 30, 2011. In addition the cost-benefit ratio test is enacted.

**Commercial Production Tax Credit Amended** (A.B. 8018) – The measuring standards have been amended relating to the growth credit and the definition of productions costs have been clarified.

**Power for Jobs Tax Credit Extended** (A.B. 9039) - Power for Jobs Program has been extended through 2010. Previously, the credit was available only through 2009.

**New York City Biotechnology Credit Created** (A.B. 8131) – Effective September 16, 2009, the enacted credit is limited to companies in biotechnology. Eligible taxpayers who increase employment by 5% will receive 100% of the credit available, up to \$250,000 per calendar year. If employment is not increased the taxpayer is eligible for 50% of the maximum amount of the credit, not to exceed \$125,000.

#### **NORTH CAROLINA:**

**Credit for Purchases of Renewable Energy Property Extended and Expanded** (H.B. 512) – Effective for taxable years beginning on or after January 1, 2009, the renewable energy property credit extends the credit to include purchases of geothermal heat pumps and geothermal equipment used for heating and cooling systems. The credit is equal to 35% of qualified costs up to \$8,400. The sunset date has been extended to January 1, 2016.

**Development Tier Designation Criteria Modified for Tax Incentive Purposes** (H.B. 1500) - The development tier designation criterion has been modified and allows tax credits and incentives for businesses located in various development tiers. The credits amounts have increased and the eligibility criteria for the credits and incentives are eased or waived for businesses located in lower-tiered zones.

**Alternative Film Production Credit Enacted** (S.B. 943) - Beginning with the 2010 tax year, qualifying production companies may claim an alternative film production tax credit. The alternative credit will be equal to 25% of the production company's qualifying expenses.

#### **NORTH DAKOTA:**

**Telecommunications Infrastructure Exemption Enacted** (S.B. 2040) - Tangible personal property used to construct or expand telecommunications service infrastructure is exempt from sales and use tax, effective July 1, 2009, through June 30, 2011.

**Renaissance Zone Program Extended, Credit Increased** (H.B. 1428) - Effective for tax years beginning after 2008, a city may withdrawal and replace blocks from the renaissance zones. The department of commerce division of community services may extend the duration of renaissance zone status in increments of up to five years.

**Geothermal, Solar, Wind or Biomass Energy Devices Installation Credit Extended** (S.B. 2033) – Effective for taxable years after 2008, the installation of geothermal, solar, wind or biomass energy devices is extended to January 1, 2015 (previously 2011). Additionally, the carryforward provisions are extended depending on the date of installation and the credit transfer provisions are removed.

**Research Credit Procedures Amended and Other Technical Corrections Made** (H.B. 1086) - Effective for tax credits earned after December 31, 2008, the carryback provisions are amended and must be filed within three years of the due date or extended due date of the return.

**Coal and Power Plant Equipment Exemptions Expanded** (S.B. 2035) - Effective for taxable events after June 30, 2009, and before July 1, 2015, the initial sales of beneficiated coal is not limited to receipts that are subject to the privilege tax on coal conversion facilities. In addition, a plant that process or convert beneficiated coal into electrical power may qualify for the sales and use tax exemption.

#### **OHIO:**

**Training Tax Credit Amended** (Ohio Department of Job and Family Services) - A multiplier is added to calculate a taxpayer liability if they relocate or transfer any employees, for whom the tax credit was issued, to another state or country. Effective August 13, 2009, to determine how much of the credit must be repaid includes a "multiplier".

## OKLAHOMA:

**21<sup>st</sup> Century Quality Jobs Incentive Act Enacted** (S.B. 938) – The credit was enacted for creating and maintaining jobs.

**Motor Vehicle Credits Extended, Amended** (H.B. 1946) - The credit has been extended and amended to increase the credit for certain vehicle property and to update definitions. The credits may now be claimed before 2015 (formerly, 2010). The definition of "clean-burning motor vehicle fuel property" has been amended to add hydrogen fuel cells and to delete methanol and "M-85".

**Task Force Created to Study Transferable Credits** (H.B. 1097) - A task force has been created to conduct a study regarding all transferable tax credits. The nine-member task force will produce a written report, including its recommendations, by December 31, 2009.

## OREGON:

**Discount on Sale of Film Credits Reduced** (OAR 951-003-0005) – Effective July 20, 2009 through December 1, 2009, the Oregon Film and Video Office has temporarily reduced the discount on the sale of credits for contributions from 10% to 5%.

**Sunset Dates Amended, Enacted** (H.B. 2067) - Almost all tax credit have either had their sunset date amended or a sunset date has been added for the first time. All the credits affected by the new law will sunset either after 2011, 2013, or 2015.

**Limitations on Transfer of Credits Enacted** (H.B. 2068) - Applicable to tax years beginning after 2009, the following tax credits may be transferred or sold to a C corporation, an S corporation, or a personal income tax taxpayer:

- the credit for biofuel mass producers;
- the credit for the certified cost of energy conservation facilities;
- the credit for certified film production development contributions; and
- the credit for the certified costs of a repower of a non-road Oregon diesel engine or retrofit of an Oregon diesel engine.

## PENNSYLVANIA:

**Keystone Opportunity Zones Expanded** (Philadelphia Ordinances, Bill No. 040642) – The City of Philadelphia expanded the KOZ to Western Philadelphia.

**Philadelphia Jobs Credit Amended for 2010, 2011** (Philadelphia Ordinances Bill No. 090012) - The job creation tax credit has been increased for tax years 2010 and 2011 to the greater of \$3,000 or 2% of qualifying annual wages paid for each new job created.

## RHODE ISLAND:

**Jobs Development Act Changes Discussed** (H.B. 5983) - A notice was issued regarding the replacement of an existing employee. The new statutory requirements must be met for existing eligible companies that qualified before July 1, 2009.

**Motion Picture Production Credit** (Rhode Island Division of Taxation, Reg. 5204) – Effective January 1, 2009, the new credit equals 25% of certified production costs. To qualify for this new corporate business tax credit, an initial and a final application must be submitted to the Rhode Island Film Office.

## SOUTH CAROLINA:

**Credit Amount for Solar Energy System Increases Temporarily** (*Information Letter 09-16*) - For the 2009 tax year only, the amount of the tax credit for a qualifying solar energy system has been increased to 30% of the cost to purchase and install.

**Enacted Budget Bill** (H.B. 3560) –The Solar Energy Credit increased to 30% and the Film credit was amended to 30% of expenditures.

**Job Tax Credit County Ranking Released** (Code Section 12-6-3360) – The 2009 county rankings were released. Williamsburg, Marlboro and Allendale are not considered “Distressed”.

#### **SOUTH DAKOTA:**

**Refund Claim Deadlines for Construction Projects Revised** (H.B. 1009) - The Department of Revenue must determine and pay the amount of the sales and use tax refund for the construction of agricultural processing facilities and new business facilities within 90 days (previously, 30 days).

#### **TENNESSEE:**

**Jobs Credit Provisions Amended** (S.B. 2318) – Effective July 1, 2009, the amended Jobs credit provisions allow any qualified business, regardless of where it is located, to receive a \$4,500 credit for each qualified job created during the investment period.

**Industrial machinery credit Amended** (S.B. 2318) – Effective July 1, 2009, a taxpayers time frame to meet the required investment has been extended from five years to seven years.

#### **TEXAS:**

**Carbon Sequestration Project Incentives Created** (H.B. 469) – The clean energy incentive was created to reduce emission of carbon dioxide.

**Exemption for Media Production Facility Items Enacted** (S.B. 1929) - Effective September 1, 2009, A sale, lease, or rental of a taxable item to a qualified person is exempt from sales and use tax for a maximum of two years.

#### **UTAH:**

**Venture Capital Credit Increased** (S.B. 160) – The credit has increased to \$20 million for each \$100 million in contingent tax credits.

**Enterprise Zones List Updated** (*Enterprise Zones Chart*, Utah Governor’s Office of Economic Development) – The Office of Economic Development has updated its list of areas designated as enterprise zones and the expiration dates for those zones.

**Renewable Energy Development Credit Enacted** (H.B. 430) - Effective on or after January 1, 2009, a new refundable credit is available to business entities that invest in a renewable energy projects in a renewable energy development zone.

**Motion Picture Incentives Provided** (S.B. 14) - The new motion picture incentives are provided in the form of cash rebate incentives for small budget productions and refundable tax credits for larger budget productions. The office may commit or authorize a motion picture incentive not to exceed 20% of the dollars left in the state by the motion picture company. Motion picture cash rebate incentive may not exceed \$500,000 per production.

#### **VERMONT:**

**R&D Credit Enacted** (H.B. 442) - A new research and development credit has been enacted. The credit is equal to 30% of the federal research credit for eligible research and development expenditures made within Vermont after 2010.

**Business Solar Energy Credit Repealed** (H.B. 446) – The credit was repealed on for investments after September 30, 2009.

**Captive Insurance Industry Enacted** (H.B. 452) – The credit is available for insurance companies first licensed after May 26, 2009 and before 2011.

**Seed Capital Credit Amended** (H.B. 313) – The credit is extended through 2019 and may be claimed against the captive insurance premium tax.

## VIRGINIA:

**Neighborhood Assistance Credit Expanded and Extended** (H.B. 1790) – Effective July 1, 2009, veterinarians will be added to the list of professionals who are eligible for tax credits. The legislation also extends the credit's sunset date from 2009 to 2011.

**Incentives for Green Roofing Enacted** (H.B. 1975) – The program was enacted to encourage the use of green roofs in the construction, repair, and remodeling of commercial and residential buildings.

**Enterprise Zone Grant Program Amended** (H.B. 2332) - Effective July 1, 2009, the grant program will increase the minimum amount of investment required to be eligible for an enterprise zone incentive grant.

**Land Preservation Credit Reduced** (Virginia Department of Taxation 09-4) – The credit has been reduced to \$50,000 (previous amount was \$100,000). The carryforward has been extended from 10 years to 12 years.

**Business Facility Tax Credit Extended** (H.B. 2575) – The sunset date has been extended from January 1, 2010 to December 31, 2019. In addition the credit may be claimed over two years rather than three years.

**Qualified Equity and Subordinate Debt Investment Credit Amended** (H.B. 1600) – The credit is now capped at \$3 million. In addition it is retroactive until 2006.

**Clean Fuel Vehicles Job Credit Expanded** (S. B. 1357) - New types of fuels have been added to which the new jobs must relate in order to qualify for the credit. In addition, the legislation also reorganizes the definition of "job" and the list of approved job fields. The amendments apply to taxable years beginning on and after January 1, 2009.

## WASHINGTON

**Environmental Incentives Enacted** (S.B. 6170) – The following incentives were enacted for biomass energy, solar energy, and radioactive waste cleanup. The legislation expands the investment cost recovery incentive program for renewable energy systems and contains a public utilities tax incentive for log transportation businesses.

## WEST VIRGINIA:

**New Methodology for High-Technology Property Valuation Created; Sales Tax Exemptions Enacted** (S.B. 1003) - Effective July 1, 2009, the state of Virginia has enacted a methodology for high-technology business property valuations. In addition, a new consumer sale tax exemption is available for certain computer equipment and related materials.

**Film Industry Incentives Amended** (S.B. 227) – Language is amended for wages and submission requirements. The changes for the 27% tax credit are retroactive starting after December 31, 2007.

**Economic Opportunity Tax Credit Revised** (Decision No. 08-010) – The salary related the program has been revised due to inflation.

## WISCONSIN:

**Enterprise Zone Credit Program Expanded** (A.B. 233) - New legislation has been added to expand the enterprise zone credit available for taxable years beginning on or after January 1, 2009. The program changes affect the investment amounts and credit percentage.

**Budget Bill Passed with Tax Provisions** (A.B. 75) – The budget bill includes numerous changes for the Jobs Tax Credit program regarding tier levels for wages of new jobs.

If you have any questions about these Tax Credits and Incentives, contact us at [moreinfo@talx.com](mailto:moreinfo@talx.com).