

BB REVIEW

State and Local Tax Report April 2005

The Alabama-Mississippi Economic Development Authority

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Mississippi has established the Alabama-Mississippi Joint Economic Development Authority in order to encourage economic development along the Alabama-Mississippi border. The legislation seeks to attract the infusion of capital investment into the area that will create more jobs and improve infrastructure for both states.

The Alabama-Mississippi Joint Economic Development Authority will consist of a board of directors that shall include the Executive Director of the Mississippi Major Economic Impact Authority and the Director of the Alabama Development Office. The legislation empowers the Joint Development Authority to initiate and take all steps required to facilitate the location and development of businesses within the counties of Mississippi that border Alabama and within the counties of Alabama that border Mississippi.

For purposes of determining its state tax liability with respect to the project, an enterprise may request tax incentives offered by the state and shall be subject to taxation in the state in which the project is located. Tax incentives and modifications to implement more favorable incentives may be offered to the project at the sole discretion of the Alabama-Mississippi Joint Economic Development Authority. Any incentives relating to the project must be approved by the legislatures of both Alabama and Mississippi.

Every eligible project must be an industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, U.S. government, or tourism enterprise that includes all the real property required for construction, maintenance, and operation of the enterprise. In addition, a project must: (1) have an initial capital investment of at least three hundred million dollars (\$300,000,000.00) from private or U.S. government sources; (2) have an initial capital investment of at least one hundred fifty million

dollars (\$150,000,000.00) from private or U.S. government sources and create at least one thousand (1,000) net new full-time jobs; or (3) create at least one thousand (1,000) net new full-time jobs that provide an average hourly wage of at least two hundred percent (200%) of the federal minimum wage.

Income Tax Job Credit for Business Enterprise in Economically Distressed Areas

The state legislature has established an income tax job credit, effective as of January 1, 2005, for business enterprises located in economically distressed communities. A business enterprise is defined as an entity primarily engaged in the following: (1) manufacturing, processing, warehousing, distribution, wholesaling and research and development; or (2) permanent business enterprises designated by rules and regulations of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or technology intensive facility or enterprise.

For purposes of the tax credit, economically distressed community means an area of census tracts that: (1) includes and is contiguous to the central business district; (2) at least thirty percent (30%) of the residents have incomes that are less than the national poverty level; (3) has an unemployment rate one and one-half (1.5) times greater than the national average; and (4) has a municipal population of at least four thousand (4,000) if any portion is located within a metropolitan area with a population of fifty thousand (50,000) or more, or has a municipal population of at least one thousand (1,000) of no portion is located within a metropolitan area with a population of fifty thousand (50,000) or more.

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The credit is equal to ten percent (10%) of the payroll for the enterprise for net new full time employee jobs for five (5) years for businesses that increase employment by ten (10) or more employees.

Mississippi Legislature Passes the Economic Redevelopment Act

Effective as of January 1, 2005 is the Economic Redevelopment Act. This legislation is intended to stimulate economic development in environmentally contaminated areas throughout the state. In order to achieve this end, the State of Mississippi is granting temporary income, franchise, and sales and use tax incentives to businesses willing to develop and assume environmental liability in designated areas.

In order to receive these tax incentives, businesses must permanently locate or relocate within an environmentally contaminated redevelopment project area. Businesses that can qualify for these incentives are those involved in the following: manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling any products or goods, research and development, retail, and hospitality, including restaurants, hotels, and sports facilities. These redevelopment project areas must be defined by a county or municipality through resolution and includes up to six hundred fifty (650) acres of adjacent land and waterfront suitable for development.

The legislation creates the Redevelopment Project Incentive Fund through which developers will be paid. The Redevelopment Project Incentive Fund will be funded through revenue from sales tax imposed on sales or purchases, income tax on income earned, and franchise tax imposed on the value of capital used, invested, or employed by businesses within the redevelopment project area. Developers will be paid upon the following schedule: years one (1) through six (6), an eligible developer will receive one hundred percent (100%) of the funds, year seven (7), eighty percent (80%), year eight (8), seventy percent (70%), year nine (9), sixty percent (60%), and year ten (10), fifty percent (50%). The total aggregate amount of incentive payments cannot exceed two and one-half (2.5) times the amount of the allowable remediation costs of the contaminated site.

The Airport Facilities Income Tax Credit

The state legislature has enacted legislation that provides for an income tax credit for corporations that utilize public airport facilities in the state. The credit will be allowed for charges and fees paid by the taxpayer to the airport related to the import and export of cargo.

In order to qualify for the credit, the taxpayer must locate its U.S. Headquarters in Mississippi on or after July 1, 2005. In addition, the taxpayer must make an initial investment within the state of five million dollars (\$5,000,000.00) composed of real and/or personal property. The taxpayer must create at least five (5) new permanent full-time jobs that actually must be located at the state headquarters.

The income tax credit is equal to the following charges on the import or export on cargo paid by the corporation: (1) charges on receiving into the airport; (2) charges on aircraft marshalling or handling fees; and (3) charges on aircraft landing fees. The credit cannot exceed fifty percent (50%) of the tax imposed on the taxpayer for the taxable year less all other allowable credits. The taxpayer must provide the State Tax Commission a statement from the airport certifying the amounts paid and any other required information.

The maximum cumulative credit that can be claimed is limited to: (1) one million dollars (\$1,000,000.00) for taxpayers employing at least five (5) and up to twenty five (25) permanent full-time employees at the Mississippi headquarters; (2) two million dollars (\$2,000,000.00) for taxpayers employing more than twenty five (25) and up to one hundred (100) such employees; (3) three million dollars (\$3,000,000.00) for taxpayers employing more than one hundred (100) and up to two hundred (200) such employees; and (4) four million (\$4,000,000.00) for taxpayers employing more than two hundred (200) such employees. Any unused credit may be carried forward for five (5) succeeding years.

Other Miscellaneous Tax Bills

• *Port Facilities*

Effective as of July 1, 2005, House Bill 193 extends the repeal date to December 31, 2009 for the income tax credit for charges for using certain public port facilities. The credit allowed is equal to the total of the following charges on export cargo paid by a corporation: (1) charges on the receiving into the port; (2) charges on the handling to a vessel; and (3) charges on wharfage. The credit is limited to fifty percent (50%) of the amount of tax imposed upon the taxpayer for the taxable year, reduced by the sum of all other allowable credits.

• *Health Savings Accounts*

Senate Bill 2633, effective January 1, 2005, enacts the Health Savings Accounts Act, which allows the establishment and maintenance of health savings accounts. The Health Savings Accounts Act permits a taxpayer to exclude the amount deposited in a health savings account, and any interest that accrues in such account, so long as the account is part of a health savings

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account program as defined in the Act. The bill provides that if a person withdraws money from a health savings account for any purpose other than paying qualified medical expenses or to procure health coverage, the amount of the withdrawal is considered taxable gross income of the account holder in the tax year of the withdrawal.

• **Aircraft Repair**

As of July 5, 2005, Senate Bill 3026 removes the repairing and servicing of aircraft not registered in Mississippi engaged exclusively in foreign or interstate transportation from the activities subject to sales tax under Miss. Code Ann. Section 27-65-23, the general sales tax imposed on certain services. Senate Bill 3026 also exempts from sales tax the sale of parts used in the repair and servicing of aircraft not registered in Mississippi engaged exclusively in foreign or interstate transportation to businesses engaged in aircraft repair and maintenance.

• **Hotel Tax**

Senate Bill 3134 allows, until July 10, 2010, the City of Madison to impose on operators of a hotel or motel in the city a tax of up to one percent (1%) of the gross proceeds of room rentals for each such hotel or motel. The bill also authorizes the city to impose on operators of a restaurant in the city a tax of up to one percent (1%) of the gross proceeds of the sales of the restaurant.

• **Public Utilities**

Effective July 1, 2005, the Mississippi State Tax Commission can issue direct pay permits to public utility companies.

• **Income Tax**

House Bill 1195 will allow certain individuals that timely file income tax returns to pay pursuant to an installment agreement. In order to qualify, the taxpayer must: (1) be financially unable to pay; (2) have not failed to file a return or pay tax or entered into an installment agreement within the preceding five years; (3) repay the full payment of the tax liability within twelve (12) months of the return filing date; and (4) agree to comply with the agreement terms.