

110-24-1-.05 Opportunity Zone Tax Credit.

(1) For eligible businesses within a currently designated Opportunity Zone, tax credits may be earned in accordance with O.C.G.A. § 48-7-40.1 and the accompanying regulations. Nothing in this regulation shall be construed as authorization for businesses to claim multiple job tax credits for the same jobs. By way of further explanation, no business may add credits for the same jobs by qualifying simultaneously under the various provisions of O.C.G.A. §§ 48-7-40 and 48-7-40.1. Thus businesses may only claim the credit for jobs created under either the county tier program or the Opportunity Zone program, but not both programs.

(2) All applicable laws and regulations of the Job Tax Credit Program (see O.C.G.A. § 48-7-40.1 and Chapter 110-9-1) must be met before a business may earn Opportunity Zone credits.

(3) Before claiming Opportunity Zone tax credits, a business must apply for a certification that the business location where jobs are being created is within a currently designated Opportunity Zone.

(a) The business' application must contain the business' address and parcel number. If requested, the business will supply geographic coordinates to assist in verifying the location within an Opportunity Zone.

(b) The business must file the certification with the local jurisdiction's contact person for the Opportunity Zone. The local jurisdiction must then certify that the business location is within the Opportunity Zone and forward the certification on to the department of community affairs for acknowledgement.

(c) Once certified and acknowledged, a copy will be provided back to the business, the local jurisdiction and the department of revenue.

(4) These regulations shall be applicable to all taxable years beginning on or after January 1, 2008 unless otherwise required by law. Businesses may earn Opportunity Zone tax credits beginning with tax years on or after January 1st of the year in which a completed application for an Opportunity Zone has been submitted by the applicable local government to the department of community affairs, provided the application for designation is approved by the department of community affairs and provided the business has received a valid certification that the business location is within the designated Opportunity Zone.

(5) Procedures to Ensure Business Enterprises Can Claim Credits in Future Years. For business enterprises that plan a significant expansion in their labor forces, the following procedures ensure that they can claim credits in future years without regard to whether or not a particular Opportunity Zone is still in existence: Business enterprises that plan a significant expansion in their labor forces in a currently designated Opportunity Zone may file a notice of intent with the commissioner of community affairs stating the Opportunity Zone in which the business enterprise is planning to locate or expand, the number of new jobs planned, and the dates for the planned expansion. The notice of

intent may only be filed for locations or expansions that are planned within three (3) years of the date of the notice of intent, except when evidence satisfactory to the commissioner of community affairs is submitted that demonstrates a high probability that significant job creation will result within the time frame submitted in the notice of intent. The notice of intent, once received and accepted by the commissioner of community affairs, will allow the business job tax credits at the time of acceptance of the notice of intent if the planned location or expansion takes place within the time frame submitted in the notice of intent and if all other program requirements are satisfied as specified in these regulations and in the Official Code of Georgia Annotated Sections 48-7-40.1, 36-61 and 36-88. No credit for new jobs may be generated outside the time frame of a notice of intent unless otherwise provided for in these regulations. Credit for maintained jobs may still be taken even after a notice of intent has lapsed.

(a) Notices of intent may be updated or amended by any business enterprise not more often than once a year unless necessitated by the expiration, amendment, or revocation of an Opportunity Zone.

(b) Notices of intent may only be submitted to the commissioner of community affairs during periods in which the zones are active or by the deadline specified herein.

(c) The notice of intent procedures described in these regulations are intended to protect companies, for the limited period of three years under the following circumstances: the expiration of an Opportunity Zone, a change in the boundary of an Opportunity Zone, or the revocation of an Opportunity Zone. These procedures, however, do not protect companies from changes in law unless otherwise specified in law. Protection provided by notices of intent include the following potential changes in benefits: changes in credit amount, changes in job threshold, changes in above average wage requirements, changes in limitations in the amount of tax liability that may be offset, changes in ability to apply credits against payroll withholding, and changes in the types of businesses eligible for the credit.

(d) The commissioner of community affairs will receive notices of intent that are postmarked within three months of the expiration of the Opportunity Zone in which the business intends to create jobs that qualify for Opportunity Zone credits. Properly filed and accepted notices of intent will apply to the three years beginning with the year after the expiration of the Opportunity Zone. For example, if the Opportunity Zone expires on December 31, 2010, then the Notice of Intent must be filed no later than March 31, 2011, and will apply to years 2011 through 2013. The commissioner of community affairs is not obligated to accept notices of intent unless they are properly prepared and meet the requirements of law and regulation.

Authority O.C.G.A. Sec. 48-7-40.1. **History.** Original Rule entitled "Opportunity Zone Tax Credit" adopted. F. Oct. 4, 2004; eff. Oct. 24, 2004. **Amended:** F. Sept. 16, 2008; eff. Oct. 6, 2008.