

JOBS TAX CREDITS

- **Jobs Tax Credit**
 - **New Quality Jobs Tax Credit**
 - **Opportunity Zone Jobs Tax Credit**

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Jobs Tax Credits

Georgia business enterprises are allowed an annual credit against their Georgia income tax liability for qualifying new full-time employee jobs for five years beginning with the first taxable year in which the new job is created and for the four immediately succeeding tax years (prior to 2009, the credit was for years two through six following creation of the jobs). A “business enterprise” is any business that is engaged in manufacturing, telecommunications, warehousing and distribution, processing, broadcasting, tourism, research and development industries, and services for the elderly and persons with disabilities, but does not include a retail businesses. However, in counties recognized and designated as the first through fortieth least developed counties, job tax credits shall be allowed, in addition to business enterprises, to any business of any nature.

The commissioner of the Department of Community Affairs (“DCA”) annually ranks all 159 counties in Georgia based on unemployment rate, per capita income, and percentage of residents whose incomes are below the poverty level. Based on these rankings, each county is designated in one of four tiers. Counties ranked as the least developed are classified as tier 1, where counties ranked as the most developed are classified as tier 4. Each tier has different jobs thresholds and credit amounts, as illustrated by the following table.

Tier	Jobs Threshold	Credit Amount¹	Payroll Withholding²
1	5	\$3,500	Yes
2	10	\$2,500	“Competitive Projects” only ³
3	15	\$1,250	“Competitive Projects” only
4	25	\$750	“Competitive Projects” only

¹ A business enterprise located within the jurisdiction of a joint development authority as described in Georgia Code Section 36-62-5.1(e) will qualify for an additional \$500 credit for each new full-time job created.

² Business enterprises may use the amount of credits that exceed income tax liability credit limitations against quarterly or monthly withholding tax, but not to exceed in any one taxable year \$3,500 for each new full-time employee job when aggregated with the credit applied against income taxes.

³ “Competitive Project” means an expansion or location of some or all of a business enterprise’s operations in this state having significant regional impact where the commissioner of economic development certifies that but for some or all of the tax incentives provided by Georgia Code Section 48-7-40, the business enterprise would have located or expanded outside of Georgia.

Withholding tax. A taxpayer may claim any excess jobs tax credit against its withholding tax liability by filing revenue Form IT-WH with the Georgia Department of Revenue (“DOR”) at least 30 days prior to the due date of the Georgia income tax return (including extensions) or at least 30 days prior to the filing of the income tax return, whichever occurs first. A taxpayer must notify the DOR each year of their irrevocable election to take all or part of the credit against the quarterly or monthly withholding tax payments for such taxpayer. When this election is made, the excess jobs tax credit will not pass through to the shareholders, partners, or members of the taxpayer if the taxpayer is a pass-through entity.

The DOR has 90 days from the date the income tax return claiming the credit is received to review the credit and make a determination of the amount eligible to be used against withholding tax. Once the review is completed, a letter will be sent to the taxpayer stating the tax credit amount that may be applied against withholding and when the taxpayer may begin to claim the credit against withholding tax.

Wage and health-insurance requirements. The average wage of the new job created must be above the average wage of the county that has the lowest average wage of any Georgia county. Currently, Glasscock County has the lowest average wage of any county in Georgia, with an average weekly wage of \$423. The business enterprise must also make health-insurance coverage available to employees filling the new jobs, but need not pay for any part of the coverage if the employer does not pay for any part of the health insurance provided to existing employees.

Filing requirements. A business enterprise must submit form IT-CA with its Georgia income tax return for each year in which the credit is claimed.

Carryforward provisions. The credit amount for a taxable year in tier 1 and tier 2 counties cannot exceed 100% of the taxpayer's Georgia income tax liability for that year. The credit amount for a taxable year in tier 3 and tier 4 counties cannot exceed 50% of the taxpayer's Georgia income tax liability for that year. However, credits claimed but unused in any taxable year can be carried forward for 10 years from the close of the tax year in which the credit is claimed.

Job maintenance requirement. In any year in which the net employment increase falls below the required number (based on the county’s tier ranking), a taxpayer must forfeit the credit claimed for that taxable year and is liable for all past taxes for that tax year.

New Quality Jobs Tax Credits

Effective for taxable years beginning on or after January 1, 2009, a tax credit against Georgia income taxes is available for a taxpayer establishing or relocating new quality jobs in Georgia. A taxpayer that establishes “new quality jobs” in Georgia or relocates quality jobs into Georgia is eligible for a credit against Georgia corporate income tax if the taxpayer:

- elects not to receive other tax credits for jobs and investments created by, arising from, related to, or connected in any way with the same project; and
- within one year after it first withholds wages, employs at least 50 persons in new quality jobs in Georgia.

For each new quality job created, the credit may be taken for the first taxable year in which the new quality job is created and for the four immediately succeeding taxable years. The new quality jobs must be created within seven years from the close of the taxable year that the business enterprise first becomes eligible for the credit.

The amount of the credit ranges from \$2,500 to \$5,000 annually per eligible new quality job depending on much the salary of the new quality job exceeds the average wage of the county in which it is located.

Wage	Amount of tax credit
110 percent or more but less than 120 percent of the average wage of the county in which the new quality job is located	\$2,500
120 percent or more but less than 150 percent of the average wage of the county in which the new quality job is located	\$3,000
150 percent or more but less than 175 percent of the average wage of the county in which the new quality job is located	\$3,500
175 percent or more but less than 200 percent of the average wage of the county in which the new quality job is located	\$4,500
200 percent or more of the average wage of the county in which the new quality job is located	\$5,000

The credit is not allowed during any year after the initial qualifying year that the net employment increase falls below the 50 new quality jobs threshold. Any credit received for years prior to the year in which the net employment increase falls below the 50 new quality jobs required is not affected. The number of new quality jobs is determined by comparing the monthly average of new quality jobs subject to Georgia income tax withholding for the taxable year with the corresponding average for the prior taxable year.

Withholding tax. A taxpayer may claim any excess quality jobs tax credit against its withholding tax liability by filing revenue Form IT-WH with the Georgia Department of Revenue (“DOR”) at least 30 days prior to the due date of the Georgia income tax return (including extensions) or at least 30 days prior to the filing of the income tax return, whichever occurs first. A taxpayer must notify the DOR each year of their irrevocable election to take all or part of the credit against the quarterly or monthly withholding tax payments for such taxpayer. When this election is made, the excess quality jobs tax credit will not pass through to the shareholders, partners, or members of the taxpayer if the taxpayer is a pass-through entity.

The DOR has 90 days from the date the income tax return claiming the credit is received to review the credit and make a determination of the amount eligible to be used against withholding tax. Once the review is completed, a letter will be sent to the taxpayer stating the tax credit amount that may be applied against withholding and when the taxpayer may begin to claim the credit against withholding tax.

Opportunity Zone Jobs Tax Credits

The Opportunity Zone Tax Credit Program is a subset of Georgia's Job Tax Credit that provides a tax credit for business enterprises in certain designated "less developed areas." An area may be designated by the DCA commissioner as a less developed area under one of the four circumstances identified by Georgia Code Section 48-7-40.1 paragraphs (c)(1) through (c)(4). In 2008, the General Assembly passed House Bill 1273, which amended and expanded paragraph (c)(4) of Section 48-7-40.1. Following the enactment of House Bill 1273, paragraph (c)(4) now provides "(4) Any area which is within or adjacent to one or more contiguous census block groups with a poverty rate of 15 percent or greater as determined from data in the most current United States decennial census, where the area is also included within a state enterprise zone pursuant to Chapter 88 of Title 36 or where a redevelopment plan has been adopted pursuant to Chapter 61 of Title 36 and which, in the opinion of the commissioner of community affairs, displays pervasive poverty, underdevelopment, general distress, and blight."

Under rules promulgated by DCA, Georgia Code Section 48-7-40.1(c)(4) is generally referred to as the "The Opportunity Zone Job Tax Credit Program."

Under the Opportunity Zone Jobs Tax Credit Program, the following incentives apply:

- a \$3,500 tax credit for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years;
- the credit may be claimed against 100% of the employer's income tax liability and employee payroll withholding;
- a reduced threshold of 2 new jobs; and
- in addition to eligible "business enterprises", the tax credit is available to businesses of any nature.

Wage and health-insurance requirements. The average wage of the new job created must be above the average wage of the county that has the lowest average wage of any Georgia county. Currently, Glasscock County has the lowest average wage of any county in Georgia, with an average weekly wage of \$423. The business enterprise must also make health-insurance coverage available to employees filling the new jobs, but need not pay for any part of

the coverage if the employer does not pay for any part of the health insurance provided to existing employees.

The DCA commissioner has adopted rules providing procedures for the application and designation of Opportunity Zones at Ga. Reg. Sec. 110-24-1-.01 *et seq.*

More Information

This White Paper is a quick-reference guide for company executives and managers, economic developers, community developers, participants in the real estate and financial industries, and their advisors. The information in this White Paper is general in nature. Various points which could be important in a particular case have been condensed or omitted in the interest of readability. Specific professional advice should be obtained before this information is applied to any particular case. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Additional information concerning this topic, as well as White Papers and references on other topics, can be found at <http://danmcrae.info/>.

If you have any specific questions or comments, we would be pleased to provide more information. Please contact:

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