

Application for West Virginia Business Investment And Jobs Expansion Tax Credit for Investments Placed in Service On Or After January 1, 1990

Instructions and Form

The Business Investment and Jobs Expansion Credit Law (Super Credit) was amended by the 1990 West Virginia Legislature to promote fiscal stability and to increase emphasis upon job creation as a requirement for receipt of tax credits.

The amendments eliminate use of the Super Credit against the Severance Tax for most investments placed in service or use on or after March 10, 1990. Exceptions to this rule exist for investments covered by transition rules relating to binding contracts executed prior to the date of passage of the legislation and for integrated projects in which at least \$10 million of investment was made prior to March 10, 1990. A 1993 law restricts new credits (i.e., investment placed in service after April 9, 1993) to the activities of manufacturing; information processing; warehousing; goods distribution; destination-oriented recreation and tourism.

The amendments exclude from the definition of property purchased or leased for business expansion: natural resources in place, property whose cost cannot be quantified at the time such property is placed in service or use, uncapitalized costs, and property previously subject to alternative tax credits.

The new law provides that the required net increase in the taxpayer's employment in the State be determined and certified for a controlled group instead of an individual subsidiary. Jobs saved by the making of investment in an ongoing business operation do not count toward the new employee requirement unless the Tax Commissioner determines that the taxpayer is insolvent or bankrupt or that the taxpayer's business facility was destroyed by fire, flood or act of God.

The term "full-time employment" is redefined to mean employment for at least one hundred forty (140) hours per month, as opposed to one hundred twenty (120) hours per month under prior law.

The term "small business" is redefined to mean a business or controlled group of foreign and domestic affiliated businesses with annual gross receipts of not more than \$5.5 million and annual payroll of not more than \$1.7 million. The median salary requirement remains at \$12,000. These amounts are subject to annual inflation adjustment. The criteria for 2000 includes payroll (\$2,212,000), gross receipts (\$7,373,450) and median compensation (\$16,200).

Finally, the law specifies that no credit may be allowed or applied for any qualified investment property placed in service after January 1, 1990, until the person asserting a claim for the credit makes written application to the Tax Commissioner and receives written acknowledgement of such application from the Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 50% of the annual credit allowance otherwise available under this requirement. Form BCS-A is designed to be a general application form for taxpayers wishing to claim credit based upon investments placed into use or service on or after January 1, 1990. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return determined without considering any extension of time for filing such returns.

Instructions To Form BCS-A

- 1a. Application Status: Place a check mark in the block next to the applicable status of your investment. (Check only one block.)
 - (a) In most cases qualified investment property is placed in service or use by one taxpayer over a single tax year.
 - (b) However, a multiple year project certification enables the taxpayer to place investment into service over a period of up to three consecutive tax years.
 - (c) A multiple party project certification enables a group of taxpayers to benefit from collective investment in new jobs and property.
 - (d) Finally, a group of taxpayers may receive both a multiple year and a multiple party project certification.
- 1b. Type of Credit: Place a check mark in the block indicating the type of credit application sought.
- 2a. Investment: Enter the year investment is placed into service or use in the first column, the total dollar amount of

investment placed into service or use in the second column and the dollar amount of qualified investment placed into service or use in the third column. Qualified Investment is determined according to the following useful life (straight line depreciation):

| Useful Life | | | Percent Qualified |
|-----------------|---|---------------|-------------------|
| At Least | | But Less Than | |
| 0 | — | 4 years | 0 |
| 4 | — | 6 years | 33-1/3 |
| 6 | — | 8 years | 66-2/3 |
| 8 or more years | | | 100 |

2b. Enter the location(s) of the qualified investment property (i.e. Main Street, Weston, or 12 miles north of Pipestem at the intersection of State Route 3 and State Route 20).

2c. Provide a general discription of the qualified investment property in the space provided (i. e. \$100,000 to be invested in buildings, \$500,000 to be invested in land, etc.)

3. Employment:

- a) Enter your total West Virginia payroll and number of jobs attributed to that payroll for the twelve month period ending on the day prior to the day of the first placement of qualified investment subject to Super Credit into service or use.
- b) Enter your total West Virginia payroll and number of jobs attributed to that payroll for the tax year to which this application relates.
- c) Enter your total projected West Virginia payroll and number of jobs attributed to that payroll for the third tax year after the qualified investment is first placed into service or use. For example, if you first plan to place investment into service or use in 1996 then, you would use your projected 1998 payroll to complete this question. (Note that the information in 3(b) and 3(c) should be identical if this year is your third tax year.)
- d) Enter the applicable jobs percentage you wish to claim (i.e. 50% if you expect to create at least 50 new jobs) and your projected number of new jobs created up through the third tax year corresponding to the increase in payroll from 3(a)

New Jobs Percentage Table

| Number of New Jobs | New Jobs Percentage |
|-----------------------------------------|---------------------|
| 15 to 49 (Corporate HQ relocation only) | 10% |
| 50 to 279 | 50% |
| 280 to 519 | 60% |
| 520 to 759 | 70% |
| 760 to 999 | 80% |
| 1,000 or more | 90% |

to 3(c). Note that if your business is a member of a controlled group, then the controlled group's West Virginia employment must show a net increase equal to or greater than the necessary minimum new jobs threshold claimed by the member for credit to be available.

Small business taxpayers: 30% for the first ten jobs plus 1/2 of 1% for each job over 10.

- 4. Taxpayers have an option of beginning their utilization of tax credits with the year investment is first placed into service or with the succeeding taxable year. Check yes or no depending upon which option you choose. Once an election is made either way it becomes irrevocable.
- 5. (For Multiple Party Projects Only) Enter the names and federal identification numbers for all other project participants along with their tax year end dates (i.e. 12/31) and their credit allocation percentages and/or allocated credit amounts (i.e. 15% or \$100,000).

Within a reasonable time after receipt of this Application the Tax Commissioner or his designee will acknowledge, in writing, receipt of this application and authorize the Applicant to begin claiming Super Credit benefits. Such acknowledgement and authorization will not bar or otherwise prevent the Tax Commissioner from auditing or examining Applicant's books and records for compliance with the Super Tax Credit law and regulations.

This application must be signed by an officer of the company (primary project participant) to be valid.

Application For Business Investment and Jobs Expansion Credit For Investments Placed In Service On Or After January 1, 1990

| | |
|----------------------------------|-----------------------------------------------------------------|
| Name | Identification Number |
| Business Name | Tax Year _____, ____ to _____, ____ |
| Street Address | |
| City, Town or Post Office | State Zip Code |

Application is hereby made to the Tax Commissioner of West Virginia for allowance of Business Investment and Jobs Expansion Tax Credit ("Super Tax Credit") with respect to qualified investment property placed in service or use during Applicant's tax year ending _____, and the new jobs created by the Applicant that are directly attributable to the qualified investment property and that are filled by persons who are domiciled in this State.

If this Application is being made on behalf of a multiparty project, Applicant represents to the Tax Commissioner that the Applicant is authorized by each of the other participants in the project to make this Application.

1a. Application Status (Check Only One):

| | | | |
|---------------------------------------------------------|----------------------------------------------------|-----------------------------|------------------------|
| Must receive Certification From Tax Commissioner | One Year Investment, One Taxpayer | a) <input type="checkbox"/> | |
| | Multiple Year Investment, One Taxpayer | b) <input type="checkbox"/> | |
| | Single Year Investment, Multiple Party Taxpayers | c) <input type="checkbox"/> | Attach List of Parties |
| | Multiple Year Investment, Multiple Party Taxpayers | d) <input type="checkbox"/> | Attach List of Parties |

1b. Type of Credit: Regular Super Credit Headquarters Relocation Small Business

| | | |
|------------------------|------------------|----------------------|
| <p>2a. Investment:</p> | Total Investment | Qualified Investment |
| <p>(1) Year _____</p> | Amount \$ _____ | \$ _____ |
| <p>(2) Year _____</p> | Amount \$ _____ | \$ _____ |
| <p>(3) Year _____</p> | Amount \$ _____ | \$ _____ |

2b. Location(s) of investment in West Virginia _____

2c. General Description of Qualified Investment:

Narrative: _____
