

Title 35 Mississippi State Tax Commission

Part X Economic Development

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Chapter 01 Jobs Tax Credit

- 100 Qualifying for and Calculating the Jobs Tax Credit
- 101 Under Miss. Code Ann. Section 57-73-21, income tax credits are available for:
1. Permanent business enterprises primarily engaged in manufacturing, processing, distribution, wholesaling, research and development, warehousing and warehousing activities.
 2. Permanent business enterprises designated by rule or regulation of the Mississippi Development Authority (MDA) as air transportation and maintenance facilities, final destination or resort hotels having a minimum of 150 guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunication enterprises, data or information processing enterprises, computer software development enterprises or any technology intensive facility or enterprise.
- 102 No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.
- 103 The credit is not available to businesses that move from one location within the state to another location within the state without increasing employment. Any business that utilizes the MDA Job Training Grant Fund will not be eligible for the Jobs Tax Credit authorized under Miss. Code Ann. Section 57-73-21.
- 104 The jobs tax credit is for each net new full time job created as long as the minimum increase has been achieved and maintained. The minimum increase in jobs necessary to qualify for the credit must occur within 1 year. A full-time job is a job of at least thirty-five (35) hours a week and includes leased employees from an entity that is in the business of leasing employees as long as all other requirements are met. Part-time jobs may not be combined to add up to a full-time job. The credit is based on filled positions and the employees must be employed in this state and subject to Mississippi Withholding Tax. The

credit is allowed each year for 5 years beginning in years 2 through 6 after the creation of the job. The year the jobs are created is year 1. The unused portions of the credit can be carried forward for up to 5 years from the original year in which the excess credit could not be used. The earliest year's unexpired credit may be used first.

105 For purposes of this credit, the counties in Mississippi are classified as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year based on the unemployment rate and per capita income of each county for the most recent 36 month period. They are then divided into the three previously mentioned groups with one-third of the counties in each group. The classification for a specific county can change from year to year based on this evaluation.

106 This classification is used to determine the minimum number of jobs a business enterprise must create in a given year before it qualifies for the credit. It is also used to determine the amount of credit per job created. The amount of credit per employee and the job levels for each county classification are as follows:

<u>County Classification</u>	<u>Minimum Annual Increase in Number of Jobs</u>	<u>Credit per Job</u>
Tier One	20	2.50% of payroll
Tier Two	15	5.00% of payroll
Tier Three	10	10.00% of payroll

107 If, after qualifying for one five year period, the business increases the number of jobs substantially enough to qualify again for another five year period, they may apply for a second five year period. Each five year period is accounted for separately. Jobs created within an existing five year period that do not meet the minimum number of jobs required to qualify for an additional five year period are allowed to be included within the existing five year period.

108 After a taxpayer has qualified for the credit, the credit is not allowed for a year if the net employment increase falls below the minimum required for qualification. The credit is only lost for the year(s) that the taxpayer is below the minimum. A recapture of credit taken in previous year(s) is not required. If the taxpayer's employment level increases back above the minimum, then the taxpayer may use the credit for the remainder of the period. However, the original five year period for the credit (years 2 through 6) is not extended. A taxpayer can only earn credit at a given level of employment for a single five (5) year period.

109 To determine whether a taxpayer with an existing facility has created the minimum number of jobs to qualify for the credit, the taxpayer must compare the average annual employment level for the previous year with the average annual employment in the current year. If the amount of the increase exceeds the minimum required, then the employer will qualify for the credit. This allows the credit for employers who have not constructed a new facility, but have substantially increased employment at an existing facility.

- 110 To determine whether a taxpayer with a new facility qualifies for the credit, the average employment for the portion of the year after production was started should be compared with the same period for the previous year. If the increase exceeds the minimum, then the taxpayer will qualify for the credit. For example, a calendar year taxpayer begins doing business in Mississippi and constructs a new facility that begins production on June 1, 2014. To determine whether the taxpayer qualifies for the credit, June through December of 2014 should be compared to June through December of 2013. If the increase meets the minimum requirement, then the taxpayer would qualify for the credit.
- 111 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Commissioner shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require the business enterprise to submit such information as needed for substantiation and qualification.
- 112 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 113 The total of the Jobs Tax Credit, the Headquarters Credit and the Research & Development Skills Credit is limited to 50% of the Mississippi income tax liability. These credits may be used in combination with any of the other credits. The credit is not refundable.
- 114 Compliance with the equal pay provisions of the federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 and the fair pay provisions of the Civil Rights Act of 1964 is required in order to qualify for these credits.
- 115 (Reserved)
- 200 Same Ownership
- 201 If an employer qualified for the credit but then reduced employment levels through layoffs or plant closures, the reduction in employment must continue for a minimum of five (5) years before the employer may use the reduced employment levels in the computation of additional credit. If the reduction in employment is for five (5) years or more, then the employer may requalify for the credit on any additional jobs. If the reduction has continued for less than five (5) years, then the employer may requalify in very limited circumstances. Such situations will be considered on a case by case basis. The taxpayer should submit a letter with a request to receive the credit and a justification for the request. The credit will be granted at the discretion of the Commissioner.

- 202 If an employer retains ownership of a facility and replaces some, or all, of the existing equipment, but makes the same or a similar product, then the base employment level is not affected by the equipment replacement. The jobs tax credit would not be available unless a qualifying increase in employment has occurred.
- 203 If an employer retains ownership of a facility, suspends operations and retools the production floor with ninety-five percent (95%) new equipment that makes a new product not similar to the old product, then the facility will be treated as a new facility.
- 204 If an employer closes an old facility and opens a new facility making the same or a related product, then the employment level at the old facility would be used to determine whether employment increases at the new facility qualify for the jobs tax credit.
- 205 (Reserved)
- 300 Different Ownership
- 301 If an employer sells a plant to a related party, then the related party will be treated the same as the employer. If an employer sells a facility to an unrelated third party, and the new owner continues the old operations, then the new owner must exceed the old owner's peak employment by a qualifying increase in order to receive any jobs tax credit. If an employer sells a facility to an unrelated third party and the new owner suspends operations to retool the production floor, then the facility will be treated as a new facility for the new owner. However, the retooling must include replacing ninety-five (95%) of the equipment to make a new product that is not similar to the old product.
- 302 If an employer ceases operations at a facility for a year or more and sells the facility to an unrelated third party, then the facility will be treated as a new facility for the new owner, even if the same or a similar product is being made. If the new owner has shut down a facility with similar operations at the same time, then the facility will not be treated as a new facility. If a completely different product is being made, the one-year shut down requirement may be shortened. This will be considered on a case by case basis.
- 303 If, the new employer requesting the incentive produces a product that was manufactured at a facility in this state that was closed, then the new employer will not earn the jobs tax credit for the new facility unless the employment levels exceeds any previous high at the closed facility. If the employer who owns the new facility is located in this state, it will be able to earn the jobs tax credit, but only to the extent that its level of employment plus the level of the original location (up to any previous high level of employment at the old location before the closing or retooling level) combined is in excess of any previous high level of employment at the original location. The definition of original product will include upgrades and modifications of a normal product line.
- 304 A business that acquires an unrelated business enterprise that has ceased operation and laid off all of its employees, and that continues operation of the enterprise in the same or similar

type of business as the old owner may be eligible for the credit. The new owner would be eligible for the credit as long as the cessation of the business enterprise by the old owner was not for the purpose of securing new eligibility for the credit.

305 This credit is authorized under Miss. Code Ann. Section 57-73-21(2), (3) and (4).

306 (Reserved)

400 Jobs Tax Credit for Economically Distressed Communities

401 This credit is available to the same types of businesses which are eligible for the basic Jobs Tax Credit. These businesses must create at least ten (10) new full-time jobs and be located in an area within a city where thirty percent (30%) of the residents are below the national poverty level and where the unemployment rate is 1½ times the national average.

402 All other requirements, instructions or limitations as previously defined for the basic Jobs Tax Credit in Sections 100 through 300 above apply, except for the following:

1. The amount of credit is equal to ten percent (10%) of the payroll of each new full-time job.
2. The credit can offset fifty percent (50%) of the income tax liability attributable to the income generated by the operations in this state.
3. The business may choose when to begin taking advantage of the credit, but it must be within five (5) years of the beginning of commercial production.
4. The business must attach a map to the application showing the location of the business inside the economically distressed area.
5. There is no extension of the credit period.

403 The MDOR must certify the area as an economically distressed community before the Economically Distressed Community Jobs Tax Credit can be taken. For the MDOR to certify an economically distressed community, the city officials must provide the following:

1. A map detailing the area to be certified.
2. A copy of the documentation from the US Census Bureau proving that thirty percent (30%) of the residents are below poverty level.
3. The census tract grouping unemployment rate for the area and the national unemployment rate for the same area for the same time period.
4. The population of the city.

After receiving this information, the MDOR will verify the information and, if all requirements are met, will certify the area as an economically distressed community.

404 This credit is authorized under Miss. Code Ann. Section 27-7-22.27.

405 (Reserved)

500 Jobs Tax Credit for Brownfields

- 501 This credit is available to any commercial or industrial property owner who incurs costs in the remediation of contaminated property in accordance with the Mississippi Brownfields Voluntary Cleanup and Redevelopment Act. There is no minimum number of new full-time jobs that must be created.
- 502 All other requirements, instructions or limitations as previously defined for the basic Jobs Tax Credit in Sections 100 through 300 above apply, except for the following:
1. There is no minimum number of new full-time jobs that must be created, regardless of where the property is located.
 2. This Brownfields Jobs Tax Credit cannot be taken in conjunction with the National or Regional Headquarters Credit or the Research and Development Skills Credit.
 3. The owner of the brownfields property must attach a copy of the certification from the Commission on Environmental Quality of the completion of the remediation and the amount of cost incurred in the project to the application.
- 503 This credit is authorized under Miss. Code Ann. Section 57-73-21(7).
- 504 (Reserved)
- 600 Jobs Tax Credit for Alternative Energy Suppliers
- 601 This credit is for a business engaged in the manufacture or production of alternative energy; 50% of the finished product of the alternative energy project must be derived from resources or products from this state.
- 602 All other requirements, instructions or limitations as previously defined for the basic Jobs Tax Credit in Sections 100 through 300 above apply, except for the following:
1. A minimum of 25 new jobs must be created.
 2. The amount of credit is equal to \$1,000 per new full-time job regardless of where the business is located.
 3. The business may choose when to begin taking advantage of the credit, but it must be within five (5) years of the beginning of commercial production.
 4. The credit is good for a period of 20 years.
 5. The credit can offset 100% of the income tax liability attributable to the income generated by the alternative energy project in this state.
 6. The Alternative Energy Jobs Tax Credit cannot be taken in conjunction with the basic Jobs Tax Credit, the National or Regional Headquarters Credit or the Research and Development Skills Credit.
 7. An affidavit from the producer describing the resources and products from this state used in the production of the alternative energy and attesting to the truthfulness of the statement must be attached to the application.
- 603 This credit is authorized under Miss. Code Ann. Section 27-7-22.29.
- 604 (Reserved)

- 700 Jobs Tax Credit for Upholstered Household Furniture Manufacturer
- 701 This credit is for any business owning or operating an upholstered household furniture manufacturing facility employing new, full-time, cut and sew jobs that did not exist before January 1, 2010.
- 702 All other requirements, instructions or limitations as previously defined for the basic Jobs Tax Credit in Sections 100 through 300 above apply, except for the following:
1. There is no minimum number of jobs provision.
 2. The amount of credit is equal to \$2,000 per new full-time job regardless of where the business is located.
 3. The business may choose when to begin taking advantage of the credit, but it must be within five (5) years from the close of the tax year in which the credits were earned.
 4. The credit is good for a period of 5 years.
 5. The credit can offset up to 100% of the income tax liability of the business each year.
 6. The Upholstered Furniture Manufacturer Jobs Tax Credit cannot be taken in conjunction with the basic Jobs Tax Credit, the National or Regional Headquarters Credit or the Research and Development Skills Credit.
 7. A description of the items being manufactured and the jobs being performed must be attached to the application.
 8. There is no extension of the credit period.
- 703 This credit is authorized under Miss. Code Ann. Section 27-7-22.36.
- 704 (Reserved)
- 800 Applying for the Credit and Claiming the Credit
- 801 An application is not required to qualify for the Jobs Tax Credits but may be submitted for review. An application is only required in order lock in the county classification.
- 802 If an employer plans to expand its labor forces in a facility in a Tier Three or Tier Two county, then the employer may complete the certification application and make a request in a letter that the current designation of the county be retained. This allows an employer to retain the county designation and the amount of anticipated credit that was in effect for the expansion.
- 803 If there is no construction or expansion of a facility, the expansion in labor forces must take place by the end of the following tax year for the certification and county designation to remain valid. If there is a construction or expansion of a facility, it must begin within one (1) year of the certification for the certification and county designation to remain valid. This initial certification applies to the credits covered under the specific certification generated during years two (2) through six (6) after the expansion of labor. This

certification to lock in the county's classification will not be granted retroactively. For subsequent qualification and credit for additional increases in employment, the county designation in effect at that time should be used to determine the qualification and amount of the credit.

804 For detailed instructions concerning the application process or claiming the credits see the Mississippi Tax Incentives, Exemptions and Credits Book.

805 (Reserved)

35.X.01 revised effective June 1, 2016.

Chapter 02 National or Regional Headquarters Credit and National or Regional Headquarters Relocation Tax Credit

100 National or Regional Headquarters Tax Credit

101 A credit is available to any company transferring or establishing a national or regional headquarters from within or outside the State of Mississippi and creating a minimum of twenty (20) jobs at the headquarters. A credit is also available to any company expanding or making additions to its national or regional headquarters already in Mississippi after January 1, 2013, and creating a minimum of twenty (20) jobs at the headquarters. The minimum increase of twenty (20) jobs must occur within one (1) year.

102 The amount of the credit is \$500.00 for each net new full time employee for the first five (5) years. The amount of the credit is increased to \$1,000.00 provided the employee's salary (excluding benefits not subject to Mississippi income tax) is one hundred twenty-five percent (125%) of the average annual wage of the state. If the employee's salary (excluding benefits not subject to Mississippi income tax) is two hundred percent (200%) of the average annual wage of the state, the credit is increased to \$2,000.00 for that employee. The average annual wage is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

103 A full-time employee is an employee who works at least thirty-five (35) hours a week. To be used in the credit computation, the employee must be located in Mississippi and subject to withholding tax. Part-time jobs cannot be combined to add up to a full-time job.

104 No enterprise in the business of transporting, handling, storing, processing or disposing of hazardous waste is eligible to receive these credits. No regional or national sales office is eligible for these credits.

105 A national headquarters is that office or location of a multi-state business where managerial, professional, technical and administrative personnel are domiciled and employed. It is the location where the centralized functions such as financial, legal, technical and personnel functions are performed. The function and purpose of the national headquarters is to plan, direct and control all aspects of the organization's operations and it has final authority over all regional offices, operating facilities or any other offices of the

business enterprise. The national headquarters is subordinate only to the ownership of the organization or its representatives.

- 106 A regional headquarters is one of several management offices or facilities of a multi-state business that is responsible for planning, directing and controlling all aspects of the business operations within a sub-divided area of the United States. A regional headquarters performs a function that is separate from the management of operational facilities within the region. A regional headquarters performs functions similar to the national headquarters, but within a more limited area. It has final authority over all matters within its region and is subordinate only to the national headquarters.
- 107 Before the credit is granted, the taxpayer must show that the headquarters will have officers and other high level employees with the support staff normally associated with a headquarters. The support staff for the headquarters is also included in the computation of the credit. The support staff are those full time employees required to assist management and other headquarters personnel to perform functions that are unique to, or required by, the headquarters operation. The classification of support personnel as headquarters employees is dependent on their duties being in direct relationship to the functions of the office or facility and not solely on their physical presence at the location. Employees who are physically present at the location, but whose work is not related to the office functions of the headquarters, such as salesmen, truck drivers, janitors, etc., are not considered headquarters personnel and may not be counted toward the minimum twenty (20) jobs to be created.
- 108 Companies that transfer full time headquarters employees into the state that are employed in Mississippi for less than twelve (12) months will be allowed a pro-rated portion of the yearly credit in the first and last years. The amount of the credit is pro-rated based on the number of months the employee is employed in this state divided by twelve (12).
- 109 If the number of jobs falls below the twenty (20) required within a year, the credit is lost for that year and cannot be recovered. If the minimum number of jobs is achieved again, the credit is available for the remainder of the original five (5) year period. The original period is not extended.
- 110 If the salaries that originally qualified for the additional amount of credit fall below the required average annual state wage, the amount of credit must be adjusted for that year and cannot be recovered. But, if the salaries once again meet the criteria, the additional credit is available for the remainder of the original five (5) year period.
- 111 The total of the Jobs Tax Credit, the National or Regional Headquarters Credit, the National or Regional Headquarters Relocation Credit and the Research & Development Skills Credit is limited to fifty percent (50%) of the Mississippi Income Tax liability. The unused portions can be carried forward for up to five (5) years from the original year in which the excess credit could not be used, but you may use the oldest year's unexpired credit first. They may be used in combination with any of the other credits. The credit is not refundable.

- 112 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused credit may be transferred and continued by any transferee of the business enterprise. The Department of Revenue shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require such information as needed for substantiation and qualification.
- 113 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 114 If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Commissioner of the Department of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years. The extension must be authorized in writing by the Commissioner.
- 115 This credit is authorized under Miss. Code Ann. Section 57-73-21(5).
- 116 (Reserved)
- 200 National or Regional Headquarters Relocation Tax Credit
- 201 A relocation income tax credit is available to any company that transfers or relocates its national or regional headquarters to Mississippi from outside Mississippi in an amount equal to the actual relocation costs paid by the company. A minimum of twenty (20) jobs must be created in order to qualify for the credit.
- 202 Relocation costs for which the relocation income tax credit may be taken includes nondepreciable expenses that are necessary to relocate headquarters employees to the national or regional headquarters. These qualified relocation expenses include travel expenses for employees and members of their households to and from Mississippi in search of homes and moving expenses to relocate furnishings, household goods and personal property of the employees and members of their households and other similar nondepreciable relocation expenses.
- 203 The relocation credit is applied to the tax year in which the relocation costs are paid. The maximum cumulative amount of tax credits that may be claimed by all taxpayers claiming a relocation tax credit in any one (1) fiscal year cannot exceed One Million Dollars (\$ 1,000,000.00), exclusive of credits that might be carried forward from previous years. A

company may not receive a credit for the relocation of an employee more than one (1) time in a twelve-month period for that employee.

204 This credit may be used in combination with any of the other credits. The total of the Jobs Tax Credit, the National or Regional Headquarters Tax Credit, the National or Regional Headquarters Relocation Tax Credit and the Research and Development Skills Tax Credit is limited to fifty percent (50%) of the income tax liability attributable to the income derived from operations in this state for that year. Any excess credit amount can be carried forward for up to five (5) years from the original year in which the excess credit could not be used. The credit is not refundable.

205 If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Commissioner of the Department of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years. The extension must be authorized in writing by the Commissioner.

206 This credit is authorized under Miss. Code Ann. Section 57-73-21(7).

207 (Reserved)

300 Applying for the Credits and Claiming the Credits

301 To apply for the credits, an Application for Certification of Economic Incentives and a letter requesting the credit must be submitted. The letter must contain sufficient information to allow a determination of whether the location qualifies as a national or regional headquarters. A list of eligible relocation expenses must be provided when applying for the National or Regional Headquarters Relocation Tax Credit. A letter will be issued informing the taxpayer if the applicable credit is granted.

302 Compliance with the equal pay provisions of the federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 and the fair pay provisions of the Civil Rights Act of 1964 is required in order to qualify for these credits.

303 For detailed instructions concerning the application process or claiming the credits see the Mississippi Tax Incentives, Exemptions and Credits Book.

304 (Reserved)

Chapter 03 Research and Development Skills Credit

100 Under Miss. Code Ann. Section 57-73-21(6), a credit of \$1,000.00 is available for the first five (5) years for each net new full-time employee in any job requiring research and development skills. The employee must be engaged in research and development activities. Qualification of jobs for this credit would require at a minimum, a Bachelor's degree in a scientific or technical field of study from an accredited four (4) year college or

university, employment in the employees' area of expertise, compensation at a professional level and two (2) years of related job experience. Examples are chemists and engineers.

- 101 This credit is available to most companies regardless of the business in which it engages. However, no business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.
- 102 A full time employee is an employee who works at least thirty-five (35) hours a week. The employees must be located in Mississippi and subject to Mississippi withholding tax. Part-time positions cannot be combined to add up to a full-time position.
- 103 If the employee is employed in Mississippi for less than twelve (12) months, credit will be allowed for a pro-rated portion of the yearly credit in the first and last years. The amount of the credit is pro-rated based on the number of months the employee is employed in this state divided by twelve (12).
- 104 The total of the Jobs Tax Credit, the National or Regional Headquarters Credit, the National or Regional Headquarters Relocation Credit and the Research & Development Skills Credit is limited to 50% of the Mississippi Income Tax liability. The unused portions can be carried forward for up to (5) years from the original year in which the excess credit could not be used. This credit may be used in combination with any of the other credits and is not refundable.
- 105 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused credit may be transferred and continued by any transferee of the business enterprise. A letter detailing the facts surrounding such an occurrence and requesting a ruling on the eligibility of any credits must be presented to the Department to determine whether qualifying net increases have occurred or proper transfers of credit have been made.
- 106 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually creating the jobs qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 107 Compliance with the equal pay provisions of the federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 and the fair pay provisions of the Civil Rights Act of 1964 is required.
- 108 An application is not required in order to take this credit but may be submitted for review. The taxpayer may apply for certification of the credit by submitting the Application for Certification of Economic Development along with a letter requesting the credit. The letter

should contain sufficient information to allow a determination of whether the employee qualifies for the credit

109 For detailed instructions concerning the application process or claiming the credits see the Mississippi Tax Incentives, Exemptions and Credits Book.

110 This credit is authorized under Miss. Code Ann. Section 57-73-21(6)

111 (Reserved)

Chapter 04 Basic Skill Training or Retraining Tax Credit

100 An income tax credit is allowed to employers that are:

1. Permanent business enterprises primarily engaged in manufacturing, processing, distribution, wholesaling, research and development and warehousing.
2. Permanent business enterprises designated by rule or regulation 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, telecommunication enterprises, data or information processing enterprises, computer software development enterprises or any technology intensive facility or enterprise.
3. Employers that have qualified for the national or regional headquarters credit.

101 The credit allowed is fifty percent (50%) of qualified expenses, not to exceed fifty percent (50%) of the income tax liability. Any excess credit will not be refunded, but may be carried forward for up to five (5) years. The program must be certified for a specific number of years not to exceed five (5) years. The credit may offset up to fifty percent (50%) of the income tax due. It may be used in combination with any of the other credits. The training or retraining credit cannot exceed \$2,500 in the aggregate per employee for a three (3) year period.

102 To qualify for the credit, the basic skills training or retraining must be offered through, or be approved by, the community or junior college in the district where the business is located. Employers must be certified as eligible for the tax credit by the local community or junior college that serves the employer and the Mississippi Department of Revenue. The training does not have to be on the community or junior college campus to qualify if it is sponsored and approved by the college. A copy of the certification must be furnished to the Department of Revenue by the taxpayer when the certification is granted. When a return is filed on which the credit is taken, a schedule showing the expenses and computation of the credit and a copy of the certification must be attached to the return.

103 The credit may be available for basic skills training that enhances reading, writing or math skills up to the twelfth (12th) grade level for employees who are unable to function effectively on the job due to deficiencies in these areas or who would be displaced because such deficiencies will inhibit their training for new technology. The credit may also be available for retraining programs for hourly employees who have been employed for a

minimum of one (1) year by the employer that, upon successful completion, increase the employee's opportunity for consideration for promotion or retention with the employer. For either type of training to qualify for the credit, it must be job-related and increase opportunities for employee advancement or retention.

- 104 Employers may contact the Mississippi Community College Board Office of Workforce Education for a list of Community Colleges and the cities where the main campuses are located at:

Office of Workforce Education
Mississippi Community College Board
3825 Ridgewood Road
Jackson, MS 39211
(P) 601-432-6519
(F) 601-432-6365

- 105 The credit is applied to qualified training or retraining expenses, which are expenses related to instructors, instructional materials and equipment and the construction and maintenance of facilities by the employer that are designated for training or retraining provided through such community or junior college or training approved by such community or junior college. The qualified expenses are net of any reimbursement.
- 106 Tuition reimbursement programs will qualify as long as they are related to the employee's job and there is an agreement between the employer and employee that the employee must work for the employer for a reasonable period of time after the tuition reimbursement program has been completed so that the training may be utilized. The expenses that qualify are net of any reimbursement or paybacks to the employer. If an employee begins a program and is terminated for cause by the employer, the employer does not have to recapture the amount previously taken as a credit, unless the employee has to repay the employer. If so, the employer has to recapture those amounts.
- 107 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credit. Credit received by a partnership, LLC or S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass-through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 108 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.
- 109 This credit is authorized under Miss. Code Ann. Section 57-73-25, as amended.

110 (Reserved)

111 (Reserved)

Chapter 05 Rural Economic Development (Red) Credit

100 An income tax credit is available for debt service on certain bonds issued by the Mississippi Business Finance Corporation. Debt service may include the total amount paid to service the debt. This credit is also known as the Mississippi Business Finance Corporation Revenue Bond Service Credit.

101 Only debt service paid on revenue bonds issued by the Mississippi Business Finance Corporation to finance economic development projects to induce the location of manufacturing facilities within this state can be taken as a credit. This credit can be used against the taxes due from the income generated by or arising out of the economic development project. The bonds that qualify for this credit are the bonds issued under the authority of Sections 57-10-401 through 57-10-439 of the Mississippi Code of 1972.

102 For more information on the benefits of this program contact the Mississippi Development Authority, Post Office Box 849, Jackson, MS 39205-0849.

103 This credit has been amended several times and the credit carry forward periods will vary. Currently, excess credits may be carried forward to the three (3) succeeding years following the year in which the credit was earned. The credit is limited to eighty percent (80%) of the income tax due on income generated by the economic development project that gave rise to the credit. This income is determined by a formula adopted by the Mississippi Business Finance Corporation. It may be used in combination with any of the other credits.

104 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.

105 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.

106 To apply for this credit: You do not have to apply for this credit, but you must attach a schedule of computation of the current year's credit and expenses that created the credit. You must also attach a schedule of credits used in prior years with any carry forward amounts showing the amounts used and carried forward by year.

- 107 This credit is authorized under Section 27-7-22.3 of the Mississippi Code of 1972, as amended.
- 108 This regulation is effective January 1, 2001.
- 109 (Reserved)
- 110 (Reserved)

Chapter 06 Ad Valorem Credit

- 100 An income tax credit is available for ad valorem tax paid on commodities, goods, wares and merchandise held for resale by manufacturers, distributors, and wholesale or retail merchants. The credit is limited to the lesser of \$5,000.00 per location or the income tax attributable to the location. For the credit to be taken, the ad valorem tax must be determined by specific location. Within these limitations, this credit may offset up to one hundred percent (100%) of the income tax due. It may be used in combination with any of the other credits.
- 101 The credit may be claimed only in the tax year in which the ad valorem taxes are paid. A carry forward is not available.
- 102 A copy of the tax receipt from the county, city or school district that shows the inventory valuation and a schedule showing the calculation by location of the ad valorem tax paid based on the valuation must be attached to the return.
- 103 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 104 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.
- 105 To apply for this credit: You do not have to apply for this credit ahead of time, but you must attach a copy of the tax receipt to your return to claim this credit. If you have more than five (5) locations, you should attach five (5) receipts and a schedule of all receipts including the ones attached.
- 106 This credit is authorized under Miss. Code Ann. Section 27-7-22.5, as amended.
- 107 (Reserved)

Chapter 07 Child/Dependent Care Credit

- 100 An income tax credit is allowed to any employer providing dependent care for its employees during the employee's working hours. The credit allowed is 25% of qualified expenses. Starting January 1, 1998 the credit allowed is 50% of qualified expenses. This credit can offset up to 100% of the income tax due from the entity. Any excess credit will not be refunded, but can be carried forward for up to five (5) years.
- 101 An employer must have its child care program certified by the Department of Health for programs serving children twelve (12) years of age or younger and for programs serving elderly adults. The State Tax Commission certifies programs serving dependents older than twelve (12) years of age. To request certification from the Tax Commission, the employer should submit a letter explaining the employer's child care program and specifically requesting certification for child care credit. A copy of the certification from the Department of Health must be furnished by the taxpayer to the Tax Commission when the certification is granted. Information concerning the Department of Health's certification may be obtained at the following office: Mississippi State Department of Health, Division of Child Care and Special Licensure, Post Office Box 1700, Jackson, MS 39215-1700.
- 102 To qualify, the facility must have an average daily enrollment for the taxable year of no less than six (6) children who are twelve (12) years of age or younger and be licensed according to the regulations governing licensure of child care facilities in Mississippi; or must serve five (5) or fewer children and/or elderly adults in a family child care/elder care home approved by the Department of Health for participation in the United States Department of Agriculture child and adult nutrition program; or must serve children over twelve (12) years of age but less than eighteen (18) years of age in either a community-based facility or a facility at the employment site; or must serve adult relatives of employees in either a community based elder-care facility or a facility at the employment site; or must serve children or adult dependents having physical, emotional or mental disabilities in either a community-based facility or a facility at the employment site.
- 103 The net cost of any contract executed by the employer for a third party to provide dependent care is a qualified expense. If the employer elects to provide dependent care directly, then the qualified expenses are expenses for staff, learning and recreational materials and equipment, and cost associated with the construction and maintenance of a facility. Additional eligible expenses include costs assumed by the employer which increases the quality, availability and affordability of dependent care in the community used by employees during the employee's work hours. For facilities and equipment, the eligible expense is the amount of depreciation expense allowable in computing taxable income. These cost are net of any reimbursement.
- 104 Any unused credit may be carried over for 5 years. An expense cannot be used both as a deduction and as the basis for a credit. **Any expense used in computing the allowable credit cannot be taken as a deduction.** The expense must be added back to Mississippi taxable income.

- 105 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 106 The credit is not refundable. The Child Care Credit may offset up to 100% of the tax due. It may also be used in combination with any of the other credits.
- 107 To apply for this credit: You must have had your program previously certified and have furnished a copy of the certification to the Tax Commission. You must attach a schedule showing the computation to the return.
- 108 This credit is authorized under Section 57-73-23 of the Mississippi Code of 1972, as amended.
- 109 This regulation is effective January 1, 2001.
- 110 (Reserved)
- 111 (Reserved)

Chapter 08 Export Port Charges Credit

- 100 An income tax credit is available to taxpayers that utilize port facilities at Mississippi State, county and municipal ports or harbors as established pursuant to Miss. Code Ann. Sections 59-5-1 through 59-5-69, Sections 59-7-1 through 59-7-519, Sections 59-9-1 through 59-9-85 or Sections 59-11-1 through 59-11-7.
- 101 The amount of credit allowed shall be the total of export cargo charges paid on receiving into the port, handling to a vessel and wharfage. This credit shall not exceed fifty percent (50%) of the income tax reduced by the sum of all other credits, except credits for tax payments. Any excess credit will not be refunded, but can be carried forward for up to five (5) years.
- 102 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 103 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.

104 To obtain the credit, the taxpayer must provide to the Mississippi Department of Revenue, a statement from the governing authority of the port certifying the amount of changes paid by the taxpayer for which credit is claimed.

105 This credit is authorized under Miss. Code Ann. Section 27-7-22.7, as amended.

106 (Reserved)

107 (Reserved)

Chapter 09 Motion Picture Production Tax Incentive

100 Definitions

101 A motion picture production company (MPPC) is one that produces a nationally distributed motion picture, video, DVD, television program or series, commercial, or computer or video game. This includes a company engaged in the business of making such productions through the use of animation, interactive media, preproduction and postproduction 3D applications, video game cinematics, virtual production, visual effects, and motion capture within the fields of feature film, television, commercials and games. The production of news or athletic events do not qualify, nor does any project that contains any material or performance deemed obscene as defined in Miss. Code Ann. Section 97-29-103. The company cannot have defaulted on any state loan or have declared bankruptcy where a state obligation had been discharged because of the bankruptcy.

102 A Mississippi vendor is a business that either owns an office building in Mississippi or has signed a lease for office space in Mississippi for at least a year, has at least one employee stationed full time at the Mississippi office, is known in the trade as a vendor active in the relevant line of business and advertises as a Mississippi vendor.

103 An employee is defined as an individual directly involved in the physical production and/or post-production of a motion picture produced in this state and who is employed by a MPPC, personal service corporation or loan out company.

104 Payroll is defined as salary, wages or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

105 Fringes means costs paid by a MPPC on or after September 1, 2013, for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits and health insurance premiums.

106 A Mississippi resident is defined as a person domiciled in Mississippi or who has maintained a permanent home in this state and spends in the aggregate more than six (6)

months each year within the state. Proof of domicile or maintenance of a permanent home includes: valid Mississippi driver's license, Mississippi voter registration, valid Mississippi car tag, and current Mississippi property taxes or homestead exemption.

107 (Reserved)

200 General

201 The Motion Picture Production Tax rebate is based on the amount of the base investment made in Mississippi and Mississippi resident and nonresident employee payroll and fringes as defined in Miss. Code Ann. Section 57-89-3. The rebate is available for a MPPC that expends at least \$50,000 in base investment, payroll and/or fringes, in this state on a production certified by the Mississippi Development Authority. The amount of the rebate is twenty-five percent (25%) of the base investment made and expended in this state. Payroll and fringes for a Mississippi resident is eligible for a thirty percent (30%) rebate and payroll for a non-resident is eligible for a twenty-five percent (25%) rebate. An additional five percent (5%) rebate is available for payroll of honorably discharged veterans. Purchases made before the MDA approval date are not included in the rebate. Only eligible expenses purchased directly by the MPPC certified for the incentive will be allowed for the rebate.

202 The total amount of rebates authorized for a motion picture production will not exceed \$10,000,000 in the aggregate and the total amount of rebates authorized in any fiscal year will not exceed \$20,000,000 in the aggregate.

203 A MPPC is responsible for registering with the proper state authorities to legally conduct business within this state. This includes the Mississippi Department of Employment Security, Mississippi Worker's Compensation Commission, Mississippi Secretary of State, etc.

204 A MPPC is responsible for registering for a withholding tax account and reporting any withholding tax due on this account.

205 (Reserved)

300 Base Investment

301 Base investment includes purchases of goods and services from Mississippi vendors, as defined above, housing, housing allowances, food, rental of equipment, dry cleaning, per diem and anything else that the MPPC actually spends in Mississippi that is related to the production.

302 Purchases of services and tangible personal property must be made from a Mississippi Vendor, as defined above, in order to qualify for the rebate. Payments made to out of state independent contractors or vendors for tangible personal property and services do

not qualify for the rebate. Purchases of services from a vendor must satisfy the following five criteria to be eligible for the rebate:

1. The vendor must qualify as a Mississippi vendor;
2. The service must be wholly performed in this state;
3. The payment may not be for a qualified personnel expenditure;
4. The service must be directly attributable to the production; and
5. The transaction must be subject to taxation in this state.

303 Items that do not qualify as base investment:

1. Online Purchases, regardless if Mississippi sales tax is charged.
2. Postage
3. Mileage
4. Bank fees
5. Credit Card fees
6. Taxes
7. Personal Expenditures
8. Out of state expenses billed through a Mississippi pass through company.
9. Any other items that do not meet the definition of base investment.

304 Airline tickets must be purchased through a Mississippi travel agent and the sales invoice must indicate the airports in which the flight departed and arrived. Airports located in Mississippi or one of the following cities are eligible for the rebate:

1. Memphis, TN
2. New Orleans, LA
3. Baton Rouge, LA
4. Mobile, AL

305 Location rentals for housing or a set should include the Vendor/Owner name, address of the rental property, description of use, dates used, and a copy of payment.

306 Items purchased during production that are sold in Mississippi at the end of production must be decreased by the sales price of the item before being included in the rebate.

307 Contract labor paid to a Mississippi resident is eligible for a twenty-five percent (25%) rebate, while non-resident contract labor is not eligible for the rebate. A rebate request for contract labor should include the name of the individual, city of residence, social security number, copy of payment and a link to an image of Form 1099, if applicable, journals and any other supporting documentation.

308 Purchases of property or services from a local vendor who has acquired the property or services from out of state may qualify for the rebate if:

1. The Mississippi vendor is regularly engaged in the business of providing that same type of good or service.
2. The Mississippi vendor is a permanent business enterprise; and
3. The Mississippi vendor's sales to the motion picture production company are at an arm's length basis as evidenced by an added markup that is consistent with industry

norms. The MPPC must not provide any assistance to the local vendor in providing the services or tangible personal property.

- 309 The use of a local production company to provide goods and services may also qualify for the rebate as long as the local production company meets the requirements in Paragraph 308 above and the company was not established specifically for the needs of any one production.
- 310 Employee reimbursements do not qualify for the rebate. Petty cash is not specifically allowed under Miss Code Ann. Section 57-89-1 et seq. but may be allowed as a convenience to the MPPC by the Mississippi Department of Revenue (MDOR). Petty cash expenses may qualify for the rebate if documentation of a petty cash accounting system is provided in the rebate request along with copies of invoices and payment information. Examples of petty cash expenses that may qualify for the rebate include meals, gas, office supplies, set design, art department expenses and other similar production related expenses.
- 311 (Reserved)
- 400 Payroll
- 401 If the eligible production has physical production or post production activities both inside and outside the state, the rebate will only be allowed on a prorated amount of the eligible payroll based on the percentage of activities performed in Mississippi. Source documentation should include a journal indicating time worked between states.
- 402 An individual who is hired through a loan out company or a temporary staffing company will be considered an employee if the loan out company or temporary staffing company is withholding Mississippi tax, otherwise, the individual will be treated as a contract employee. Loan out companies will be able to claim the withholding as an estimated payment on their Mississippi income tax return. Loan out companies must contact the MDOR before filing the return to ensure that there will not be a delay or problem in regards to the withholding being claimed as an estimated payment.
- 403 Payments made to personal service corporations may qualify for the rebate as long as Mississippi income tax has been withheld and remitted.
- 404 Payroll fees paid to Mississippi payroll companies qualify for the rebate.
- 405 If the payroll and fringes paid for an employee exceeds \$5,000,000, then the rebate is only authorized for the first \$5,000,000 of the single employee's payroll and fringes.
- 406 The production company may receive an additional 5% of the wages payroll and fringes paid for an employee who is an honorably discharged veteran of the United States Armed Forces upon which Mississippi income tax is due and has been withheld. A copy of

Federal Form DD 214 Proof of Military Service is required to qualify for the additional 5%.

407 (Reserved)

500 Rebate Request Submission

501 To claim the rebate, the motion picture company must submit an electronic Excel spreadsheet upon completion of the project containing a detailed accounting of the base investment and the employee payroll to the MDOR.

502 The base investment tab must include a listing of purchase invoices showing the name and address of the vendor, date, description of items purchased and the amount of expenditures made to those vendors. Proper documentation to prove payment by the MPPC that was certified for the rebate is also required. This includes copies of bank statements, credit card statements and any other form of payment used to purchase items eligible for the rebate. The appropriate stage of production in which the purchase was made should also be indicated: Preproduction, Production or Post Production. Each location should be grouped together by date for productions that take place in more than one location.

503 The payroll tab should list both residents and non-residents of Mississippi, including social security numbers, names, addresses, and a breakdown of the amount of wages paid to and withheld from those individuals. The payroll documentation should include a payroll detail with a breakdown of employee benefits and employer fringes by employee, copies of W-2s, and copies of 1099s.

504 Both tabs of the spreadsheet must contain links to pdf images of all source documentation contained in the rebate request. Links to internet drop boxes will not be accepted. All source documentation must be kept for verification and additional documentation may be requested. The MDOR conducts a line-by-line review of the spreadsheet submission. The rebate request Excel spreadsheet and pdf images are to be submitted on a flash drive and mailed to: Mississippi Department of Revenue, Office of Tax Policy, and P.O. Box 22828, Jackson, MS 39225. After reviewing and approving the rebate request, the MDOR will issue the rebate check to the certified production company. The rebate check is not transferrable.

505 The rebate will be paid with one check once all of the expenses in the rebate request have been received and reviewed.

506 (Reserved)

Chapter 10 SMART Business Incentive

100 General

- 101 The SMART (Strengthening Mississippi Academic Research Through) Business rebate is based on an investor incurring qualified research costs subject to a research agreement as defined in Miss. Code Ann. Section 37-148-1 et seq. The amount of the rebate is twenty-five percent (25%) of the qualified research costs.
- 102 The total amount of rebates authorized for an investor will not exceed \$1,000,000 in the aggregate and the total amount of rebates authorized in any fiscal year will not exceed \$5,000,000 in the aggregate.
- 103 In order to receive the rebate, the investor must submit the SMART Business Incentive form as well as proof of payment to college or research corporation, a copy of the SMART Business certificate from IHL, a copy of the research agreement, and any other documentation requested by the Department of Revenue.
- 104 Rebates may not be issued more than once a year to any one investor.
- 105 Any research performed prior to certification by IHL will not be considered qualified research costs.
- 106 Any research performed outside the state of Mississippi will not be considered qualified research.
- 107 Any research funded by any grant, contract or otherwise by another person or governmental entity will not be considered qualified research.
- 108 (Reserved)