

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 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 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 jobs tax credit is for each net new full time job created as long as the minimum increase has been achieved and maintained. 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 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. These credits may be used in combination with any of the other credits.

104 For the 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.

105 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

106 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.

107 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 would 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.

108 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 would qualify for the credit. For example, a calendar year taxpayer begins doing business in Mississippi and constructs a new facility that starts up on June 1, 2007. To determine whether the taxpayer qualifies for the credit, June through December of 2007 should be compared to June through December of 2006. If the increase meets the minimum requirement, then the taxpayer would qualify for the credit.

109 The amount of increase in jobs necessary to qualify for the credit must occur within 1 year. They may not be accumulated over several years. The credit is allowed for net new full time jobs. Part time jobs may not be combined to create full time jobs.

110 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.

- 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 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. The credit is not refundable.
- 114 The form prescribed by the Commissioner which shows the computation of the credit must be attached to the Mississippi state income tax return.
- 200 Certification of the Credit
- 201 An application for this credit is not required. However, an application must be submitted to lock in the county classification.
- 202 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 in relationship to the expansion. This allows an employer to retain the county designation and the amount of anticipated credit that was in effect for the expansion.
- 203 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 is only good for 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.

204 (Reserved)

35.X.01 revised effective August 15, 2008

Chapter 02 National or Regional Headquarters Credit

- 100 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.
- 101 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.
- 102 Any type of business may qualify for the credit as long as the other criteria are met, but a national or regional sales office does not qualify for the credit.
- 103 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.
- 104 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.

- 105 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.
- 106 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). To be used in the credit computation, the employee must be located in Mississippi and subject to withholding tax.
- 107 The total of the Jobs Tax Credit, the Headquarters 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.
- 108 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 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.
- 109 No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.
- 110 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.
- 111 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.

112 The credit is not refundable.

113 To apply for this credit:

1. Before the headquarters is transferred, you must submit an Application for Certification of Economic Incentives and a letter requesting the credit with sufficient information to allow a determination of whether the location qualifies as a national or regional headquarters. Sufficient information includes a list of all facilities inside and outside Mississippi that operate under the company's name, and a description of the activities that will be carried out at the location that justify its designation as a headquarters. You must also furnish a list of employees with their titles, job descriptions, job responsibilities, educational requirements, experience requirements and salaries to justify the credit. A letter of authorization will be issued if the credit is granted.
2. You must attach a copy of the letter giving authority for the credit and a schedule of computation to the state income/franchise tax return.

114 This credit is authorized under Miss. Code Ann. Section 57-73-21(5), as amended.

115 (Reserved)

116 (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 has to be engaged in research and development activity. Qualification of jobs for this credit would require at a minimum, a Bachelors degree in a scientific 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 years of related job experience. Examples are chemist 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 business interested in qualifying for the research and development skills credit should request approval in writing and provide the following information for each employee and position.

1. Title of the job
2. Purpose of the job
3. Education requirements for the job
4. Experience requirements for the job
5. Hours worked per week
6. Salary or compensation

7. Expected hire date

- 103 The applicant will be notified on approval of the application for credit. Credit should not be taken until approval is received by the taxpayer. 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). To be used in the credit computation, the employee must be located in Mississippi and subject to withholding tax.
- 104 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. 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, but you may use the oldest year's unexpired credit first. They may be used in combination with any of the other credits.
- 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 job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission 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.
- 106 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.
- 107 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.
- 109 To apply for this credit:
1. Before any credit is taken on a return, you must send a letter to request the credit with sufficient information to allow a determination of whether the employee qualifies for the credit. If there are several employees, you may attach the information in a list with the letter of request. The credit should not be taken until a letter of authorization is issued.
 2. You must attach a copy of the letter giving authority for the credit and a schedule of computation to the return.
- 110 (Reserved)

111 (Reserved)

35.X.03 revised effective August 15, 2008

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 General

101 The Motion Picture Production Tax rebate is based on the amount of the base investment made in Mississippi and Mississippi payroll as defined in Miss. Code Ann. Section 57-89-3. The rebate is available for a motion picture production company that expends at least \$50,000 in base investment or payroll, or both, 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 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.

102 The total amount of rebates authorized for a motion picture production will not exceed \$8,000,000 in the aggregate and the total amount of rebates authorized in any fiscal year will not exceed \$20,000,000 in the aggregate.

103 In order to receive the rebate, the rebate request must be submitted in two electronic Excel spreadsheets upon completion of the project. One spreadsheet should contain a detailed accounting of the base investment and the other should contain the payroll and contract labor detail.

104 (Reserved)

200 Base Investment

201 Base investment includes purchases of goods and services from Mississippi vendors, housing, housing allowances, food, rental of equipment, dry cleaning, per diem and anything else that the motion picture company actually spends in the State of Mississippi on the production.

202 The rebate request spreadsheet should include a listing of sales invoices that detail vendor name, address, date, description of items purchased and the amount of each expenditure. The spreadsheet must contain links to images of all source documentation contained in the rebate request. Supporting documentation must be kept for verification and additional documentation may be requested. For productions that take place in more than one location, the dates for each location should be grouped together.

203 Purchases of tangible personal property must be made from a vendor with a physical location in Mississippi in order to qualify for the rebate. Purchases of services can be

made from an out of state vendor and remain eligible for the rebate as long as the service is performed wholly in Mississippi. This does not include payments made to out of state independent contractors who have contracted with the motion picture production company to provide services used directly in the production such as artists, crew, actors, directors and producers. Purchases of services from a vendor must satisfy the following four criteria to be eligible for the rebate:

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

204 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. Out of state expenses billed through a Mississippi pass through company.
8. Any other items that do not meet the definition of base investment.

205 Airline tickets included in the electronic spreadsheet in the rebate request 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

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

207 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.

208 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, the amount paid and a link to an image of Form 1099, if applicable, journals and any other supporting documentation.

209 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.
- 210 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 Section 209 above and the company was not established specifically for the needs of any one production.
- 211 (Reserved)
- 300 Payroll
- 301 The payroll portion of the rebate request spreadsheet should include a listing of all Mississippi residents and nonresidents receiving wages during the production. This information should include the name of the individual, address, social security number, and a breakdown of the wages paid. The rebate request should also identify the wages paid as either Form W-2 or Form 1099 income and indicate any tax withheld. The spreadsheet must contain links to images of all source documentation contained in the rebate request including W-2s and 1099s, if applicable, journals, etc. Supporting documentation must be kept for verification and additional documentation may be requested.
- 302 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.
- 303 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.
- 304 Payments made to personal service corporations may qualify for the rebate as long as Mississippi income tax has been withheld.
- 305 Payroll fees paid to Mississippi payroll companies qualify for the rebate.
- 306 If the payroll paid for an employee exceeds \$1,000,000, then the rebate is only authorized for the first \$1,000,000 of the single employee's payroll.
- 307 (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)