

— DEPARTMENT OF —
REVENUE
—
STATE OF MISSISSIPPI



Mississippi
Tax Incentives, Exemptions and Credits

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Website: www.dor.ms.gov

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Mississippi Tax Incentives, Exemptions and Credits

Mississippi is committed to encouraging businesses to establish or expand businesses and increase the employment of individuals in the State. To help businesses, Mississippi has authorized several tax incentives, including tax exemptions, rebates, and credits. These incentives will give an economic benefit to those businesses which are eligible. Some incentives have a greater financial benefit when locating in a lesser developed county. Other incentives give greater benefits when employing the more technical positions or the more highly compensated positions in Mississippi.

Most of the incentives require advanced approval either by the Mississippi Development Authority (referred to from this point forward as MDA), the Mississippi Business Finance Corporation (referred to from this point forward as MBFC) or by the Mississippi Department of Revenue (referred to from this point forward as MDOR) or by local governing authorities (referred to from this point forward as County or City) or a combination. In this book, the incentives, exemptions, and credits are grouped by the tax type.

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 for any entity applying for a job-based incentive authorized by Mississippi Code.

Each incentive, whether exemption, rebate, or credit, will have a description, the types of businesses eligible for the incentive, and what is required to claim the incentive. Also included are the code sections that authorize the specific incentive. All references to the code sections will be attributed to the Mississippi Code Annotated, as amended (referred to from this point forward as Miss. Code Ann.). You can locate the code sections at the following web site: <http://www.lexisnexis.com/hottopics/mscode>.

IMPORTANT!!! Detailed records must be maintained on any information used to calculate any incentive benefit. These records may be requested to be presented to a representative of the MDOR upon audit or to be attached to a specific application or tax return. If adequate records are not available to verify exemptions, rebates, credits or other incentive benefits, the incentive may be revoked. Also, if any material omission, misstatement of fact or fraudulent representation is revealed after an economic incentive has been approved, the incentive may be revoked. Any financial benefit as a result of either of the two situations mentioned above may be required to be paid back to the state.

References will be made to various state agencies throughout this book. The agency and the abbreviated reference, along with their associated web site, are listed below. These abbreviated references will be consistent while you read the different incentive opportunities available to businesses in Mississippi.

Mississippi Development Authority	(MDA)	www.mississippi.org
Mississippi Business Finance Corporation	(MBFC)	www.msbusinessfinance.com
Mississippi Department of Revenue	(MDOR)	www.dor.ms.gov
Mississippi Secretary of State	(MSOS)	www.sos.ms.gov
Mississippi Department of Employment Security	(MDES)	www.mdes.ms.gov
Mississippi Department of Archives and History	(MDAH)	www.mdah.ms.gov
Mississippi Institute of Higher Learning	(IHL)	www.ihl.state.ms.us

A. Income Tax Incentives

A.1. Jobs Tax Credit

An income tax credit equal to a percentage of payroll for each newly created job of an eligible business is available for a five (5) year period. A minimum number of jobs must be created to receive the credit. The eligible businesses include:

- manufacturers
- processors
- distributors
- research and development facilities
- wholesalers
- warehouses
- warehousing activities

The following types of businesses require a designation from MDA prior to taking the Jobs Tax Credit:

- air transportation and maintenance facilities
- movie industry studios
- telecommunication enterprises
- data or information processing enterprises
- computer software developers
- any technology intensive facility or enterprise
- recreational facilities that impact tourism
- final destination or resort hotels with more than one hundred and fifty (150) guest rooms

EXCEPTION: No business for the transportation, handling, storage, processing, or disposal of hazardous waste is eligible to receive this credit.

JOBS TAX CREDIT (Credit Code 05)

The Jobs Income Tax Credit is a credit that is available to eligible businesses that increase employment by a specified minimum amount. The minimum amount depends on the location of the jobs created. It is not available to businesses that move from one location within the state to another location within the state without increasing employment.

Warehousing activities refer to businesses that establish or expand facilities that service and support multiple retail or wholesale locations either in or outside the state. Warehousing activities may be performed solely to support the primary activities of the entity, and credits generated shall offset the income of the entity based on an apportioned ratio of payroll for warehouse employees of the entity to total Mississippi payroll of the entity that includes the payroll of retail employees of the entity.

The amount of the credit is based on the number of new jobs created and the county where the jobs are created. Jobs created in less developed counties are eligible for a greater percentage of payroll for each job created while fewer jobs are needed to establish the minimum. The credit is good for a period of five (5) years. This credit may be used in combination with any of the other credits. However, 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 credit claimed but not used in a taxable year may be carried forward for five (5) years. 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.

Each year the MDOR ranks the counties in Mississippi as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year by the MDOR based on the unemployment rate and per capita income of each county for the most recent thirty-six (36) month period. They are then divided into the three previously mentioned groups with one-third of the counties in each group. This ranking is used to determine the minimum number of jobs a business must create in a given year before it qualifies for the credit and the amount of credit per job allowed. The ranking for a specific county can change from year to year based on this evaluation. The amount of Jobs Tax Credit per employee and the job levels for each county ranking are as follows:

<u>County Ranking</u>	<u>Minimum Annual Increase in No. of Jobs</u>	<u>Credit Per Job</u>
Tier One (developed)	20	2.50% of payroll
Tier Two (moderately developed)	15	5.00% of payroll
Tier Three (less developed)	10	10.00% of payroll

The number of jobs must be created within one (1) year and is measured at the end of the fiscal year. To determine when

the new full-time jobs are created, the business compares the average number of full-time positions in one fiscal year with the average for the prior year. When dealing with a short period, compare the short period to the same period of the prior year. Jobs cannot be accumulated over several years to qualify. The credit is available for each net new full-time job created as long as the minimum number has been achieved and maintained. The credit is for full-time positions only. 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. A "full-time job" is a job of at least thirty-five (35) hours a week and includes leased employees.

The credit may be taken each fiscal year for five (5) years beginning in years 2 through 6 after the creation of the jobs. The year the jobs are created is Year 1.

Example: A manufacturer expands and creates 50 new jobs in a developed county. The minimum number of jobs in a developed county is 20 and the amount of credit per job is 2.5% of the payroll of those 50 new jobs. The payroll for those new jobs equals \$2,500,000. The credit available for the 50 jobs would be \$62,500. The credit can be used in Years 2 through 6 on the taxpayer's income tax return. Credit is available each year (Years 2 - 6) for the 50 jobs created, plus any unused credit that has been carried forward.

The Jobs Tax Credit is earned at a given level of employment for one five (5) year period. If, after qualifying for one five (5) year period, the business increases the number of jobs substantially enough to qualify again for another five (5) year period, they may apply for a second five (5) year period. Each five (5) year period is accounted for separately.

Jobs created within an existing five (5) year period that do not meet the minimum number of jobs required to qualify for an additional five (5) year period are allowed to be included within the existing five (5) year period.

If the number of jobs falls below the minimum 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. There are no recapture rules for the credit taken prior to the period of time that the number of jobs fell below the minimum.

Same Ownership

If an employer constructs a new facility or expands an existing facility, without other decreases in employment, then the facility would qualify for the jobs tax credit as long as the other requirements are met.

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.

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.

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.

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.

Different Ownership

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.

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 in this state 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.

If, in any of the above examples, 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 exceed 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.

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. Pursuant to Miss. Code Ann. Section 57-73-21(10)(b), 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.

Calculating the Minimum Number of Jobs to Qualify

To determine whether a business at an existing facility has created the minimum number of jobs to qualify for the credit, a comparison of the average annual employment level for the previous year with the average annual employment in the current year must be made. If the amount of the increase exceeds the minimum required, then the business would qualify for the credit. This allows the credit for businesses that have not constructed a new facility but have substantially increased employment at an existing facility.

To determine whether a business with a construction for 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 business would qualify for the credit.

Example: A business whose fiscal year ends in December begins doing business in Mississippi and constructs a new facility that starts up on June 1, 2018. To determine whether the business qualifies for the credit, June through December of 2018 should be compared to June through December of 2017. If the increase meets the minimum requirement, then the business would qualify for the credit.

The construction of a new facility includes the actual "bricks and mortar" construction of a new building or the expansion (as defined above) of an existing facility that has been purchased by a business establishing a new presence in the area.

Only the business that actually created the jobs qualifying for the credit can receive the credit. Credit received by a partnership, LLC or an S-Corporation may be passed through to only 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.

The sale, merger, acquisition, reorganization, bankruptcy, or relocation from one county to another county within Mississippi of any business 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. A letter detailing the facts surrounding such an occurrence and requesting a ruling on the eligibility of any credits must be presented to the MDOR to determine whether qualifying net increases have occurred, or proper transfers of credit have been made. The MDOR may require additional information as needed for substantiation and qualification.

Extension of the Credit Period

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 result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of the Department of Revenue may extend this time period for not more two (2) years. The extension must be authorized in writing by the Commissioner.

JOBS TAX CREDIT FOR ECONOMICALLY DISTRESSED COMMUNITIES (Credit Code 05)

There is a jobs tax credit for businesses operating in an "economically distressed community" as certified by the MDOR in lieu of the basic Jobs Tax Credit previously defined. 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 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 one and one half (1½) times the national average. The MDOR must certify both the area and the business before the Economically Distressed Community Jobs Tax Credit can be taken. The definition of "economically distressed community" is found in Miss. Code Ann. Section 27-7-22.27.

For the MDOR to certify an economically distressed community, the city officials must provide to the MDOR the following:

1. a map detailing the area to be certified;
2. 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; and
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.

For the Economically Distressed Community Jobs Tax Credit, all other requirements, instructions, or limitations (as previously defined for the basic Jobs Tax Credit) apply, except for the following:

- The amount of credit is equal to ten percent (10%) of the payroll of each new full-time job.
- The credit can offset fifty percent (50%) of the income tax liability attributable to the income generated by the operations in this state.
- 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.
- The business must attach a map showing the location of the business inside the economically distressed area to the Application for Certification for Economic Incentives described in the How to Apply for the Incentive paragraph below.

Extension of the Credit Period

None.

JOBS TAX CREDIT FOR BROWNFIELDS (Credit Code 21)

There is a jobs tax credit for businesses which remediate contaminated property or brownfields. 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.

For the Brownfields Jobs Tax Credit, all other requirements, instructions, or limitations (as previously defined for the basic Jobs Tax Credit) apply, except for the following:

- There is no minimum number of new full-time jobs that must be created, regardless of where the property is located.
- This Brownfields Jobs Tax Credit cannot be taken in conjunction with the National or Regional Headquarters Credit or the Research and Development Skills Credit.
- 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 for Certification for Economic Incentives described in the How to Apply for the Incentive paragraph below.

Extension of the Credit Period

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 result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of the Department of Revenue may extend this time period for not more than two (2) years. The extension must be authorized in writing by the Commissioner.

JOBS TAX CREDIT FOR ALTERNATIVE ENERGY SUPPLIERS (Credit Code 24)

There is a jobs tax credit for a business engaged in the manufacture or production of alternative energy. Fifty percent (50%) of the finished product of the alternative energy project must be derived from resources or products from this state.

For the Alternative Energy Jobs Tax Credit, all other requirements, instructions, or limitations (as previously defined for the basic Jobs Tax Credit) apply, except for the following:

- A minimum of twenty-five (25) new jobs must be created.
- The amount of credit is equal to one thousand dollars (\$1,000) per new full-time job regardless of where the business is located.
- 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.
- The credit is good for a period of twenty (20) years.
- The credit can offset one hundred percent (100%) of the income tax liability attributable to the income generated by the alternative energy project in this state.
- 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.
- 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 for Certification for Economic Incentives described in the How to Apply for the Incentive paragraph below.

Extension of the Credit Period

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 result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of the Department of Revenue may extend this time period for not more than two (2) years. The extension must be authorized in writing by the Commissioner.

JOBS TAX CREDIT FOR UPHOLSTERED HOUSEHOLD FURNITURE MANUFACTURER (Credit Code 05)

There is a jobs tax credit 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.

For the Upholstered Furniture Manufacturer Jobs Tax Credit, all other requirements, instructions, or limitations (as previously defined for the basic Jobs Tax Credit) apply, except for the following:

- There is no minimum number of jobs provision.
- The amount of credit is equal to two thousand dollars (\$2,000) per new full-time job regardless of where the business is located.

- 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.
- The credit is good for a period of five (5) years.
- The credit can offset up to one hundred percent (100%) of the income tax liability of the business each year.
- 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.
- A description of the items being manufactured and the jobs being performed must be attached to the Application for Certification for Economic Incentives described in the How to Apply for the Incentive paragraph below.

Extension of the Credit Period

None

JOBS TAX CREDIT FOR INLAND WATER TRANSPORTATION ENTERPRISES (Credit Code 38)

There is a jobs tax credit for enterprises that are primarily engaged in providing inland water transportation of cargo on lakes, rivers and intracoastal waterways for each full-time employee employed by the enterprise in a Mississippi full-time job that did not exist before January 1, 2019.

For the Inland Water Transportation Enterprises Jobs Tax Credit, all other requirements, instructions, or limitations (as previously defined for the basic Jobs Tax Credit) apply, except for the following:

- There is no minimum number of jobs provision.
- The amount of credit is equal to two thousand dollars (\$2,000) per new full-time job regardless of where the business is located.
- 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.
- The credit is good for a period of five (5) years.
- The credit can offset up to one hundred percent (100%) of the income tax liability of the business each year.
- The maximum aggregate amount of tax credits that may be claimed by all taxpayers claiming a credit under this section in a taxable year shall not exceed two million dollars (\$2,000,000.00).

Extension of the Credit Period

None

HOW TO APPLY FOR THE INCENTIVE

When requesting to "lock in" a county's classification, a completed Application for Certification for Economic Incentives must be completed. This application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. Make sure a detailed explanation of the type of construction or expansion that is being planned is submitted for the regular jobs tax credit. The TAP application contains a link to upload any documentation needed to support the request. A letter acknowledging the county designation and imposing time deadlines will be issued. This allows a business to retain the county designation and the amount of anticipated credit that was in effect at the time the initial construction or expansion was begun, but the construction or expansion must begin within one (1) year of the approval of the certification, or it is no longer valid. This certification to "lock in" the county's classification will not be granted retroactively.

For the other types of jobs tax credit, any additional information required to be attached to the Application for Certification for Economic Incentives will be noted in the bulleted points within that specific paragraph.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a Jobs Tax Credit Worksheet showing each separate five (5) year period of new job creation;
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward; and
- the approval letter, if applicable.

*The Jobs Tax Credit is authorized under Miss. Code Ann. Sections 57-73-21(2), (3) & (4);
the Economically Distressed Communities JTC under Miss. Code Ann. Section 27-7-22.27;
the Brownfields JTC under Miss. Code Ann. Section 57-73-21(8);
the Alternative Energy Suppliers JTC under Miss. Code Ann. Section 27-7-22.29;
the Upholstered Household Furniture Manufacturer JTC under Miss. Code. Ann. Section 27-7-22.36; and
the Inland Water Transportation Enterprises JTC under Miss. Code. Ann. Section 27-7-22.40.*

These are further defined in Title 35, Part X, Chapter 01 of the Mississippi Administrative Code promulgated by the MDOR.

Revised February 1, 2022

A.2. National or Regional Headquarters Tax Credit and National or Regional Headquarters Relocation Tax Credit

An income tax credit for each position assigned to the national or regional headquarters of a business created in or transferred to Mississippi or expanding or making additions to its national or regional headquarters already in Mississippi is available for a five (5) year period. The credit is five hundred dollars (\$500) for each new full-time employee, one thousand dollars (\$1,000) for each new full-time employee whose salary is one hundred twenty-five percent (125%) of the average annual state wage, or two thousand dollars (\$2,000) for each new full-time employee whose salary is two hundred percent (200%) of the average annual state wage. A minimum number of twenty (20) new headquarters jobs must be created to receive the credit.

An income tax credit is available for a five (5) year period 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 number of twenty (20) new headquarters jobs must be created to receive the credit.

EXCEPTION: 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.

A full-time employee is an employee who works at least thirty-five (35) hours a week.

A national headquarters is that office or location of a multistate 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.

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.

NATIONAL OR REGIONAL HEADQUARTERS TAX CREDIT

The National or Regional Headquarters Tax Credit is an incentive created to induce companies to establish or transfer their headquarters in Mississippi or expand or make additions after January 1, 2013, to its national or regional headquarters already in Mississippi. The transfer, establishment, or expansion of a national or regional headquarters must create a minimum of twenty (20) jobs at that location within one (1) year.

These jobs must include officers and other high-level employees, along with the support staff normally associated with a headquarters. Support staff for the headquarters are 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 operation of a headquarters. 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. 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.

The amount of the credit is five hundred dollars (\$500) for each new full-time position for a five (5) year period. The amount of credit is greater if the salaries for those positions are higher than the average annual state wage. For each position whose salary is one hundred and twenty-five percent (125%) of the average annual state wage, the credit is one thousand dollars (\$1,000) for each new full-time position. For each position whose salary is two hundred percent (200%) of the average annual state wage, the credit is two thousand dollars (\$2,000) for each new full-time position. Salary is defined as

the taxable wages paid to the employee or the salary excluding benefits not subject to Mississippi withholding tax. The average annual state wage is the most recently published figure established by the Mississippi Department of Employment Security.

The number of jobs must be created within one (1) year and is measured at the end of the fiscal year. They cannot be accumulated over several years. The credit is allowed for each full-time job assigned as long as the minimum number has been achieved and maintained. The credit is for full-time jobs only. You cannot combine part-time jobs to add up to a full-time job. The credit for employees transferred to the headquarters for less than twelve (12) months will be allowed based on a prorated portion in the first and last years. The amount of the credit is prorated based on the number of months the employee is employed in this state divided by twelve (12). The credit is based on filled positions and the employees must be employed in this state and subject to Mississippi withholding tax.

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.

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.

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. The credit is not refundable. It can only be used to offset the income tax liability. 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. It is more advantageous to use the earliest year's unexpired credit first.

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.

Only the business enterprise or corporation that actually created the jobs qualifying for the credit can receive the credit. 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.

The sale, merger, acquisition, reorganization, bankruptcy, or relocation from one county to another county within Mississippi of any business 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. A letter detailing the facts surrounding such an occurrence and requesting a ruling on the eligibility of any credits must be presented to the MDOR to determine whether qualifying net increases have occurred, or proper transfers of credit have been made. The MDOR may require additional information as needed for substantiation and qualification.

NATIONAL OR REGIONAL HEADQUARTERS RELOCATION TAX CREDIT

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.

Relocation costs for which the relocation income tax credit may be awarded includes non-depreciable expenses that are necessary to relocate headquarters employees to the national or regional headquarters. These qualified relocation expenses include but are not limited to 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.

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.

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. The credit is not refundable. It can only be used to offset the income tax liability. 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. It is more advantageous to use the earliest year's unexpired credit first.

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.

Only the business enterprise or corporation that actually created the jobs qualifying for the credit can receive the credit. 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.

The sale, merger, acquisition, reorganization, bankruptcy, or relocation from one county to another county within Mississippi of any business 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. A letter detailing the facts surrounding such an occurrence and requesting a ruling on the eligibility of any credits must be presented to the MDOR to determine whether qualifying net increases have occurred or proper transfers of credit have been made. The MDOR may require additional information as needed for substantiation and qualification.

HOW TO APPLY FOR THE INCENTIVE

Before the credit can be claimed, you must submit the Application for Certification for Economic Incentives and a letter to request the credit. This application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the letter. The letter should include sufficient information to allow a determination of whether the location qualifies as a national or regional headquarters. Sufficient information would include:

- a list of all facilities inside and outside of Mississippi operating under the company's name;
- a description of the activities that justify the headquarters status;
- a list of the twenty (20) jobs associated with the headquarters, including such information as:
 - title of each job;
 - purpose or description of each job;
 - education requirements for each job;
 - experience requirements for each job;
 - salary or compensation amount.
- a list of eligible relocation expenses, if applying for the relocation credit.

A letter certifying the designation of a headquarters will be issued if the credit is granted.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward; and
- the letter certifying the headquarters designation.

The National or Regional Headquarters Credit Code is 06.

The National or Regional Headquarters Relocation Credit Code is 32.

The National or Regional Headquarters Tax Credit is authorized under Miss. Code Ann. Section 57-73-21(5) and further defined in Title 35 Mississippi Administrative Code Part X, Chapter 02. The National or Regional Headquarters Relocation Income Tax Credit is authorized under Miss. Code Ann. Section 57-73-21(7).

Revised February 1, 2022

A.3. Research and Development Skills Tax Credit

An income tax credit equal to one thousand dollars (\$1,000) per year for a position requiring research or development skills is available for a five (5) year period.

EXCEPTION: No business for the transportation, handling, storage, processing, or disposal of hazardous waste is eligible to receive this credit.

In addition to the Jobs Tax Credit and the National or Regional Headquarters Tax Credit, there is the Research and Development Skills Income Tax Credit which is an incentive to locate full-time positions requiring research and development skills in the state. These positions 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 employee's area of expertise, and compensation at a professional level with two (2) years of related job experience. Examples are chemist and engineers.

A credit of one thousand dollars (\$1,000) for each full-time employee requiring research and/or development skills is available for a five (5) year period. A full-time employee is an employee who works at least thirty-five (35) hours a week. There is no minimum number of positions that must be created to qualify for this credit, but the entity must be increasing their number of employees. The credit is for full-time positions only. Part-time positions cannot be combined to add up to a full-time position. The credit is based on filled positions and the employees must be employed in this state and subject to Mississippi Withholding Tax. The credit for employees employed for less than twelve (12) months will be allowed based on a pro-rated portion 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).

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 (50%) of the income tax liability attributable to the income derived from operations in this state for that year. The credit is not refundable. It can only be used to offset the income tax liability. 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. It is more advantageous to use the oldest year's unexpired credit first.

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.

Only the business enterprise or corporation that actually created the jobs qualifying for the credit can receive the credit. 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.

The sale, merger, acquisition, reorganization, bankruptcy, or relocation from one county to another county within Mississippi of any business 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. A letter detailing the facts surrounding such an occurrence and requesting a ruling on the eligibility of any credits must be presented to the MDOR to determine whether qualifying net increases have occurred, or proper transfers of credit have been made. The MDOR may require additional information as needed for substantiation and qualification.

HOW TO APPLY FOR THE INCENTIVE

The taxpayer may apply for certification 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. The application can be completed online within the applicant's Taxpayer Access Point

(TAP) account by clicking the “Apply for Economic Incentives” link. The TAP application contains a link to upload the letter.

At a minimum, the letter should include the following information for each employee and position:

- Title of the job
- Purpose of the job
- Education requirements for the job
- Experience requirements for the job
- Hours worked per week
- Salary or compensation
- Expected hire date

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- the approval letter, if applicable; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Research and Development Skills Credit Code is 07.

The Research and Development Skills Tax Credit is authorized under Miss. Code Ann. Section 57-73-21(6) and is further defined in Title 35, Part X, Chapter 03 of the Mississippi Administrative Code promulgated by the MDOR.

Revised February 1, 2022

A.4. Skills Training Tax Credit – Repealed July 1, 2016

An income tax credit is available equal to the expense of providing skills training to Mississippi employees for the following businesses:

- manufacturers
- processors
- distributors
- warehousing activities
- wholesalers
- research and development
- warehouses

The following must receive a letter from MDA certifying them as qualified as one of these types of businesses before applying to the MDOR for a certification of their training credit:

- air transportation and maintenance facilities
- movie industry studios
- telecommunication enterprises
- data or information processing
- computer software developers
- any technology intensive facility
- recreational facilities that impact tourism
- final destination or resort hotels with more than 150 guest rooms

EXCEPTION: No business for the transportation, handling, storage, processing, or disposal of hazardous waste is eligible to receive this credit.

The Skills Training Income Tax Credit is an incentive for a business to offer training to their Mississippi employees. For expenses to qualify for the Skills Training Credit, the training program must be offered by, or be approved by, the community or junior college in the district where the business is located, but the training does not have to be held on the community or junior college campus to qualify for the credit. The training offered must enhance skills related to the job that the employee is performing, improve job performance, or relate to a career path that is anticipated for the employee. Life enrichment type training will not qualify. Pre-employment training that involves skills training may be eligible for the credit, but it must be directly related to the employment of these individuals.

Training that is not specifically related to the employee's job but is required by a governmental entity may be used in computing the credit to the extent it is required by the governmental entity. Training in excess of the requirements may not be included in the expenses used to calculate the credit. Example – if OSHA requires a certain number of employees to be certified for CPR, then the training for those employees may be included, but training for any employee in excess of the required number may not be included.

The expenses that qualify for this credit include expenses relating to instructors, instructional materials and equipment, and the construction and maintenance by an employer of facilities designated for training purposes. These expenses may include travel, accommodations, rental of facilities, cost of copies, etc. The eligible amounts are those that are deductible in the employer's Mississippi income tax return. For the purposes of this credit, maintenance means repairs to the physical facility, not janitorial, landscaping, electricity, water, and other similar expenses.

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.

The Mississippi Community College Board may be contacted with questions about the community or junior college district where the business is located. A list of the community and junior colleges and the cities where those main campuses are located are as follows:

Coahoma Community College	Clarksdale
Copiah-Lincoln Community College	Wesson
East Central Community College	Decatur
East Miss. Community College	Mayhew

Hinds Community College	Raymond
Holmes Community College	Goodman
Itawamba Community College	Tupelo
Jones Junior College	Ellisville
Meridian Community College	Meridian
Miss. Delta Community College	Moorhead
Miss. Gulf Coast Community College	Perkinston
Northeast Miss. Community College	Booneville
Northwest Miss. Community College	Senatobia
Pearl River Community College	Poplarville
Southwest Miss. Community College	Summit

If the business has both Mississippi employees and employees whose post of duty is outside of Mississippi in an approved training program, the training expenses that qualify for the credit must be prorated.

The Skills Training Tax Credit can be used in combination with any other credit. The credit equals fifty percent (50%) of the amount of expenses the business incurs in that training. The credit is allowed up to fifty percent (50%) of the income tax liability attributable to the income derived from the operations in Mississippi for that year. The amount of training credit cannot exceed two thousand and five hundred dollars (\$2,500) per Mississippi employee per year. The credit is not refundable. It can only be used against the income tax liability. 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. It is more advantageous to use the earliest year's unexpired credit first.

The skills training expenses cannot be used both as a credit and a deduction. If the expense is used as a basis for a credit, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used to reduce the amount of expense used as a deduction. The credit may be claimed only in the tax year in which the expenses are actually paid.

Only the business or corporation that actually incurred the expenses qualifying for the credit can receive the credit. 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.

The sale, merger, acquisition, reorganization, bankruptcy, or relocation from one county to another county within Mississippi of any business 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. A letter detailing the facts surrounding such an occurrence and requesting a ruling on the eligibility of any credits must be presented to the MDOR to determine whether qualifying net increases have occurred, or proper transfers of credit have been made. The MDOR may require additional information as needed for substantiation and qualification.

HOW TO APPLY FOR THE INCENTIVE

Before the credit can be claimed, the training program of the business must be certified by the local community or junior college. If you wish to determine what type of expenses qualify for the Skills Training Credit, submit the items detailed below and a review of the information will be made and a response will be returned explaining which expenses qualify.

Provide the following:

- a copy of the certification and evaluation of the training program from the local community or junior college;
- a schedule of the names and Social Security Numbers of the attendees;
- a financial summary of the expenses that creates the credit; and
- a schedule showing a year-by-year calculation, including the current year, of all the types of credits taken and any credit carryforward.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Skills Training Tax Credit Code is 09.

The Skills Training Tax Credit is authorized under Miss. Code Ann. Section 57-73-25 and further defined in Title 35, Part X, Chapter 04 of the Mississippi Administrative Code promulgated by the MDOR.

Revised February 1, 2022

A.5. MBFC Rural Economic Development (RED) Bond Tax Credit

An income tax credit is available equal to the debt service on industrial revenue bonds issued by the Mississippi Business Finance Corporation (MBFC) under the Mississippi Rural Economic Development Assistance Program for approved businesses receiving such bonds. This credit is limited to the lesser of the income tax liability attributable to the income generated by the economic development project or eighty percent (80%) of the income tax liability.

The debt service incurred by any eligible business under the Mississippi Rural Economic Development Assistance Program which utilizes Industrial Revenue Bonds issued by the MBFC can be taken as a credit on the MS income tax return. The MBFC was created to finance economic development projects to induce the location of manufacturing, telecommunications, data processing, distribution, or warehouse facilities within this state. To accomplish this, the MBFC issues bonds under the authority of Miss. Code Ann. Sections 57-10-401 through 57-10-439. This credit is equal to the total amount paid to service the debt. This income tax credit is also known as the RED Credit or the Mississippi Business Finance Corporation Revenue Bond Service Credit. The credit is limited to the lesser of eighty percent (80%) of the total income tax liability or the income tax liability attributable to the income generated by the economic development project. The income generated by the project is determined by a formula adopted by the MBFC, referred to as the economic tax valuation percentage or ETVP.

From and after January 1, 2014, an economic development project is expanded to include a related approved company that is merged into or consolidated with another approved company where the approved companies are engaged in a vertically integrated manufacturing or warehouse operation.

The ETVP is determined by multiplying the percentage of total increased employment by two (2), adding the percentage of increase of capital investment, and then dividing by three (3). The resulting ETVP will be the percentage of the Company's state income tax liability eligible for an income tax credit under the RED program. The ETVP must be recalculated annually. For more information regarding the ETVP calculation, contact:

Mississippi Business Finance Corporation
735 Riverside Drive, Suite 300
Jackson, MS 39202
601-355-6232

This credit is good for the life of the bond and may be used in combination with any other credit. Any excess credit amount may be carried forward three (3) succeeding years following the year in which the credit was earned. The debt service expense cannot be used both as a credit and a deduction. If any part of the debt service expense is taken as both a credit and a deduction, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.

Only the business enterprise that entered into a financing agreement with MBFC and has debt service expenses is eligible to take the credit. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset only the income 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.

If, within a group of related companies (parent and sub type), more than one company will benefit from the issuance of the RED bonds, one bond can be issued for the group and the debt service payments can be divided between the companies. Prior to the first payment being made, the group of related companies must obtain written approval from the MDOR for the method by which each separate company would pay their share of the debt service. Each company would then be able to use their share of the RED credit against the income generated from the project that utilized their share of the bond money.

If, within a group of companies that file a combined income tax return, one company incurs debt service on bonds that were issued, each company must calculate their individual tax liability to determine the eighty percent (80%) limit of the

company receiving the credit. The income tax liability of the company incurring the debt service on the bonds attributable to the income generated by the economic development project must be determined by the formula adopted by the MBFC. Then each company's income tax liability within the group is combined and the credit limited by the lesser of the tax liability attributable to the income generated by the economic development project or eighty percent (80%) of the total income tax liability attributed to the entity receiving the bonds is taken. This credit is not refundable.

HOW TO APPLY FOR THE INCENTIVE

The business should complete an Application for Certification for Economic Incentives and the MBFC bond certificate must be attached. The application is found online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. Submit the items detailed below and a review of the information will be made, and a response will be returned explaining which expenses qualify and which do not. The TAP application contains a link to upload the additional items.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward;
- a schedule of computation of the current year's credit and expenses that created the credit;
- documentation showing the calculation of the economic tax valuation percentage (ETVP); and
- a copy of the MBFC bond certificate.

The RED Bond Tax Credit Code is 13.

The RED Bond Tax Credit is authorized under Miss. Code Ann. Sections 27-7-22.3, 57-10-401, 57-10-409 and further defined in Title 35, Part X, Chapter 05 of the Mississippi Administrative Code as promulgated by the MDOR.

Revised February 1, 2022

A.6. Ad Valorem Tax Credit

An income tax credit is available equal to the ad valorem taxes on the inventory of the following businesses:

- manufacturers
- processors
- distributors
- wholesalers
- retailers

The Ad Valorem Tax Credit is an income tax credit equal to the amount of ad valorem tax paid on the commodities, raw materials, works-in-process, products, goods, wares, or merchandise held for resale by a business located in Mississippi. This includes any ad valorem tax paid to a county, city, school district, levee district or any other taxing authority of the state. Each location of the eligible business is considered separately. This means the limitation is applied to each specific location. This credit also includes the ad valorem taxes imposed on rental equipment paid by any person, firm or corporation to any taxing authority. Rental equipment means any rental equipment or other rental items which are held for short-term rental to the public:

- a. Under rental agreements with no specific term;
- b. Under at-will or open-ended agreements; or
- c. Under rental agreements with terms ordinarily of less than three hundred sixty-five (365) days; and
- d. Is not subject to privilege taxes imposed in Miss. Code Ann. Section 27-19-1 et seq.

This credit may be used in combination with other credits. This credit is not refundable and can only be used to offset the income tax liability. The ad valorem tax cannot be used both as a credit and a deduction. If the ad valorem tax is taken both as a credit and as a deduction, then the amount of the deduction taken must be added back to Mississippi taxable income in the year the credit is used. The credit may be claimed only in the tax year in which the ad valorem taxes are actually paid. Any tax credit created in 2013 and forward that was claimed but not used may be carried forward for five (5) consecutive years from the close of the tax year in which the credit was earned beginning on or after July 1, 2013. The tax credit allowed must not exceed the amounts as follows:

- a. For the 1997 taxable year and each taxable year thereafter through taxable year 2013, the credit is limited to the lesser of five thousand dollars (\$5,000) per location or the income tax attributable to such location.
- b. For the 2014 taxable year, the credit is limited to the lesser of ten thousand dollars (\$10,000) per location or the income tax attributable to such location.
- c. For the 2015 taxable year, the credit is limited to the lesser of fifteen thousand dollars (\$15,000) per location or the income tax attributable to such location.
- d. For the 2016 taxable year and each taxable year after, the credit is limited to the lesser of the amount of the actual ad valorem taxes paid or the amount of income taxes due that are attributable to the location

The same apportionment formula used to determine the amount of Mississippi net income and/or loss attributable to Mississippi would be used to determine the amount of Mississippi income attributable to a Mississippi location. When a business or individual is a partner or shareholder in a flow-through entity and has income and/or loss being reported to them generated from a Mississippi location, then such locations income and/or loss will not be used in any calculation of income tax due by such partner or shareholder of the flow-through entity. The credit is not transferable and cannot be applied, used, or assigned to any other person or business or tax account.

To calculate the amount of income tax attributable to each location of the business, the numerator of the sales, property and/or payroll is based on the respective sales, property, and payroll of the business operation at a certain location. The denominator of the sales, property and/or payroll ratios includes the respective total business sales, property and/or payroll within Mississippi. The ratios are computed on the same type of sales, property, including annualized rentals, and payroll as would be employed in the calculation of the sales, property and payroll ratios of a retailer or manufacturer in Mississippi as required by regulation, except no reductions shall be made for general and administrative property or payroll.

Example 1: Manufacturer Selling Principally at Retail

Corporation ABC is a domestic corporation taxable in multiple states. ABC is subject to both income and franchise tax and files its returns on a calendar-year basis. ABC is a manufacturer selling principally at retail with a retail location (location 1) and a manufacturing plant (location 2) located in Mississippi. ABC is required to calculate its Mississippi income tax

using the weighted three-factor apportionment method (the numerator is the average of the sum of the property and payroll factors plus the sales factor, and the denominator is two).

ABC reported Mississippi tax due prior to any adjustments for credits of \$100,000.

Total ad valorem taxes paid during the year were \$90,000.

Corporation ABC has the following amounts of property, payroll, and sales in Mississippi.

Mississippi Property =	\$300,000
Mississippi Payroll =	\$175,000
Mississippi Sales =	\$500,000

ABC has two locations in Mississippi. For tax year one, each location had the following amounts of property, payroll, and sales, and paid the following amounts of ad valorem tax.

<u>Location 1</u> – Retail Store	<u>Location 2</u> – Manufacturing Plant
Ad Valorem Tax Paid = \$ 45,000	Ad Valorem Tax Paid = \$ 45,000
Location 1 Property = \$ 50,000	Location 2 Property = \$250,000
Location 1 Payroll = \$ 25,000	Location 2 Payroll = \$150,000
Location 1 Sales = \$500,000	Location 2 Sales = \$ 0

Calculating the Tax Attributable to Location 1

Location 1 Mississippi Property Factor			
<u>Location 1 Property</u>	=	<u>\$ 50,000</u>	= 16.6667%
Mississippi Property		\$300,000	
Location 1 Mississippi Payroll Factor			
<u>Location 1 Payroll</u>	=	<u>\$ 25,000</u>	= 14.2857%
Mississippi Payroll		\$175,000	
Location 1 Mississippi Sales Factor			
<u>Location 1 Sales</u>	=	<u>\$500,000</u>	= 100.0000%
Mississippi Sales		\$500,000	
Location 1 Mississippi Property Factor			16.6667%
<u>Location 1 Mississippi Payroll Factor</u>			<u>14.2857%</u>
Average of Property and Payroll Factor			15.4762%
<u>Plus Location 1 Sales Factor</u>			<u>+ 100.0000%</u>
Tax Attribution Factor Numerator			<u>115.4762%</u>
Divided by 2			<u>2</u>
Location 1 Tax Attribution Factor			57.7381%
Total Company Mississippi Income Tax Due			<u>\$ 100,000</u>
Tax Attributable to Location 1			\$ 57,738

Calculating the Tax Attributable to Location 2

Location 2 Mississippi Property Factor			
<u>Location 2 Property</u>	=	<u>\$250,000</u>	= 83.3333%
Mississippi Property		\$300,000	
Location 2 Mississippi Payroll Factor			
<u>Location 2 Payroll</u>	=	<u>\$150,000</u>	= 85.7143%
Mississippi Payroll		\$175,000	
Location 2 Mississippi Sales Factor			
<u>Location 2 Sales</u>	=	<u>\$ 0</u>	= 0.0000%
Mississippi Sales		\$500,000	
Location 2 Mississippi Property Factor			83.3333%
<u>Location 2 Mississippi Payroll Factor</u>			<u>85.7143%</u>
Average of Property and Payroll Factor			84.5238%
<u>Plus Location 2 Sales Factor</u>			+ <u>0%</u>
Tax Attribution Factor Numerator			<u>84.5238%</u>
Divided by 2			÷ <u>2</u>
Location 2 Tax Attribution Factor			42.2619%
Total Company Mississippi Income Tax Due			<u>\$ 100,000</u>
Tax Attributable to Location 2			\$ 42,262
Tax Attributable to Location 1		\$ 57,738	
Tax Attributable to Location 2		<u>\$ 42,262</u>	
Total Mississippi Income Tax Due		\$ 100,000	
Location 1 Tax Credit Allowed			
Location 1 Ad Valorem Taxes Paid		\$ 45,000	
Tax Attributable to Location 1		<u>\$ 57,738</u>	
Location 1 Credit Allowed (lesser of)		\$ 45,000	
Location 2 Tax Credit Allowed			
Location 2 Ad Valorem Taxes Paid		\$ 45,000	
Tax Attributable to Location 2		<u>\$ 42,262</u>	
Location 2 Credit Allowed (lesser of)		\$ 42,262	
Location 1 Credit to be Utilized		\$ 45,000	
Location 2 Credit to be Utilized		<u>\$ 42,262</u>	
Total Credit Utilized		\$ 87,262	
Total Ad Valorem Taxed Paid		\$ 90,000	
Total Credit Allowed		\$ 87,262	
Credit Available to be Carried Forward to Next Year		\$ 2,738	

Example 2: Manufacturer Selling Principally at Wholesale

Corporation ABC is a domestic corporation taxable in multiple states. ABC is subject to both income and franchise tax and files its returns on a calendar-year basis. ABC is a manufacturer selling principally at wholesale with a warehouse location (location 1) and a manufacturing plant (location 2) located in Mississippi. ABC is required to calculate its Mississippi income tax using the three-factor apportionment method (the numerator is the sum of the property, payroll, and the sales factor, and the denominator is three).

ABC reported Mississippi tax due prior to any adjustments for credits of \$100,000.

Total ad valorem taxes paid during the year were \$90,000.

Corporation ABC has the following amounts of property, payroll, and sales in Mississippi.

Mississippi Property =	\$300,000
Mississippi Payroll =	\$175,000
Mississippi Sales =	\$500,000

ABC has two locations in Mississippi. For tax year one, each location had the following amounts of property, payroll, and sales, and paid the following amounts of ad valorem tax.

<u>Location 1</u> – Warehouse		<u>Location 2</u> – Manufacturing Plant	
Ad Valorem Tax Paid =	\$ 45,000	Ad Valorem Tax Paid =	\$ 45,000
Location 1 Property =	\$ 50,000	Location 2 Property =	\$250,000
Location 1 Payroll =	\$ 25,000	Location 2 Payroll =	\$150,000
Location 1 Sales =	\$500,000	Location 2 Sales =	\$ 0

Calculating the Tax Attributable to Location 1

Location 1 Mississippi Property Factor			
<u>Location 1 Property</u>	=	<u>\$ 50,000</u>	= 16.6667%
Mississippi Property		\$300,000	
Location 1 Mississippi Payroll Factor			
<u>Location 1 Payroll</u>	=	<u>\$ 25,000</u>	= 14.2857%
Mississippi Payroll		\$175,000	
Location 1 Mississippi Sales Factor			
<u>Location 1 Sales</u>	=	<u>\$500,000</u>	= 100.0000%
Mississippi Sales		\$500,000	
Location 1 Mississippi Property Factor			16.6667%
Location 1 Mississippi Payroll Factor			14.2857%
<u>Location 1 Mississippi Sales Factor</u>			+ 100.0000%
Tax Attribution Factor Numerator			<u>130.9524%</u>
Divided by 3			÷ <u>3</u>
Location 1 Tax Attribution Factor			43.6508%
Total Company Mississippi Income Tax Due			<u>\$ 100,000</u>
Tax Attributable to Location 1			\$ 43,651

Calculating the Tax Attributable to Location 2

Location 2 Mississippi Property Factor			
<u>Location 2 Property</u>	=	<u>\$250,000</u>	= 83.3333%
Mississippi Property		\$300,000	
Location 2 Mississippi Payroll Factor			
<u>Location 2 Payroll</u>	=	<u>\$150,000</u>	= 85.7143%
Mississippi Payroll		\$175,000	
Location 2 Mississippi Sales Factor			
<u>Location 2 Sales</u>	=	<u>\$ 0</u>	= 0.0000%
Mississippi Sales		\$500,000	
Location 2 Mississippi Property Factor			83.3333%
Location 2 Mississippi Payroll Factor			85.7143%
<u>Location 2 Mississippi Sales Factor</u>			+ <u>0%</u>
Tax Attribution Factor Numerator			<u>169.0476%</u>
Divided by 3			÷ <u>3</u>
Location 2 Tax Attribution Factor			56.3492%
Total Company Mississippi Income Tax Due			<u>\$ 100,000</u>
Tax Attributable to Location 2			\$ 56,349
Tax Attributable to Location 1		\$	43,651
Tax Attributable to Location 2		<u>\$</u>	<u>56,349</u>
Total Mississippi Income Tax Due		\$	100,000
Location 1 Tax Credit Allowed			
Location 1 Ad Valorem Taxes Paid		\$	45,000
Tax Attributable to Location 1		<u>\$</u>	<u>43,651</u>
Location 1 Credit Allowed (lesser of)		\$	43,651
Location 2 Tax Credit Allowed			
Location 2 Ad Valorem Taxes Paid		\$	45,000
Tax Attributable to Location 2		<u>\$</u>	<u>56,349</u>
Location 2 Credit Allowed (lesser of)		\$	45,000
Location 1 Credit to be Utilized		\$	43,651
Location 2 Credit to be Utilized		<u>\$</u>	<u>45,000</u>
Total Credit Utilized		\$	88,651
Total Ad Valorem Taxes Paid		\$	90,000
Total Credit Allowed		\$	88,651
Credit Available to be Carried Forward to Next Year		\$	1,349

Example 3: Retailer

Corporation ABC is a domestic corporation taxable in multiple states. ABC is subject to both income and franchise tax and files its returns on a calendar-year basis. ABC is a retail company with two store locations (locations 1 and 2) located in Mississippi. ABC is required to calculate its Mississippi income tax using the single-sales factor method.

ABC reported Mississippi tax due prior to any adjustments for credits of \$10,000.

Total ad valorem taxes paid during the year were \$40,000.

Corporation ABC has the following amount of sales in Mississippi.

Mississippi Sales = \$350,000

ABC has two locations in Mississippi. For tax year one, each location had the following amounts of sales and paid the following amounts of ad valorem tax.

<u>Location 1</u> – Retail Store		<u>Location 2</u> – Retail Store	
Ad Valorem Tax Paid =	\$ 15,000	Ad Valorem Tax Paid =	\$ 25,000
Location 1 Sales=	\$ 250,000	Location 2 Sales =	\$100,000

Calculating the Tax Attributable to Location 1

Location 1 Mississippi Sales Factor			
<u>Location 1 Sales</u>	=	<u>\$250,000</u>	= 71.4286%
Mississippi Sales		\$350,000	
Location 1 Tax Attribution Factor			71.4286%
Total Company Mississippi Income Tax Due			<u>\$ 10,000</u>
Tax Attributable to Location 1			\$ 7,143

Calculating the Tax Attributable to Location 2

Location 2 Mississippi Sales Factor			
<u>Location 2 Sales</u>	=	<u>\$100,000</u>	= 28.5714%
Mississippi Sales		\$350,000	
Location 2 Tax Attribution Factor			28.5714%
Total Company Mississippi Income Tax Due			<u>\$ 10,000</u>
Tax Attributable to Location 2			\$ 2,857

Tax Attributable to Location 1	\$ 7,143
Tax Attributable to Location 2	<u>\$ 2,857</u>
Total Mississippi Income Tax Due	\$ 10,000

Location 1 Tax Credit Allowed	
Location 1 Ad Valorem Taxes Paid	\$ 15,000
Tax Attributable to Location 1	<u>\$ 7,143</u>
Location 1 Credit Allowed (lesser of)	\$ 7,143

Location 2 Tax Credit Allowed	
Location 2 Ad Valorem Taxes Paid	\$ 25,000
Tax Attributable to Location 2	<u>\$ 2,857</u>
Location 2 Credit Allowed (lesser of)	\$ 2,857
Location 1 Credit to be Utilized	\$ 7,143
Location 2 Credit to be Utilized	<u>\$ 2,857</u>
Total Credit Utilized	\$ 10,000
Total Ad Valorem Taxes Paid	\$ 40,000
Total Credit Allowed	\$ 10,000
Credit Available to be Carried Forward to Next Year	\$ 30,000

The Commissioner may require another method if it is determined that the apportionment method used inaccurately reflects the income and/or loss generated by an approved business operation within a Mississippi location.

Incentive credits may be used to offset all or a part of the corporate income tax liability. As mentioned in the overview above, the Ad Valorem Tax Credit has been amended throughout the years resulting in slightly different application and calculation of the credit. A copy of the tax receipt from the county that shows the inventory valuation and a schedule showing the calculation of the ad valorem tax paid based on the valuation must be attached to the return.

The Ad Valorem Tax Credit can be claimed by an individual as well. The credit can be acquired in two ways, the first would be from a pass-through entity and the second from a business whose income is being reported using a Schedule C in the individual tax return. This credit is calculated as follows: multiply the net income passing through from the entity or the income off the Schedule C by the effective tax rate/rates.

Generally, when carryforwards are available from different tax credits a taxpayer would maximize the benefits by using the oldest carrybacks and the credits that are unable to be carried forward, first.

Credit can only be taken by the business enterprise that paid the ad valorem tax. Credit received by a partnership, LLC, or an S-Corporation may be passed through to offset only the 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.

HOW TO APPLY/CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a copy of the tax receipt from each county, city, or school district that shows the inventory valuation and the tax paid on such inventory for each location; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Ad Valorem Tax Credit Code is 14.

The Ad Valorem Tax Credit is authorized under Miss. Code Ann. Section 27-7-22.5 and further defined in Title 35 Miss. Admin. Code, Part X, Chapter 06 promulgated by the MDOR.

Revised February 1, 2022

A.7. Employer Provided Dependent Care Tax Credit

An income tax credit equal to one-half (½) of the expenses of providing dependent day care for employees is available to all types of businesses providing day care which is certified by the Mississippi Department of Health.

The Child/Dependent Care Tax Credit is an incentive to any business providing dependent day care (both children and adult) for its employees during the employee's working hours or assisting community-provided day care. The expenses must be incurred in the operation of a program certified by the Mississippi Department of Health. 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 expenses are net of any reimbursement.

In order to be considered qualified expenses, the programs incurring the costs must meet any one of the following criteria:

- A childcare facility having an average daily enrollment for the taxable year of no less than six (6) children who are twelve (12) years of age or younger;
- A family childcare/elder care facility serving five (5) or fewer children and/or elderly adults approved by the Department of Health for participation in the United States Department of Agriculture child and adult nutrition program;
- A facility serving 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;
- A facility serving adult relatives of employees in either a community-based elder care facility or a facility at the employment site;
- A facility serving children or adult dependents having physical, emotional, or mental disabilities in either a community-based facility or a facility at the employment site.

Employers will be certified as eligible for the tax credit by the Mississippi Department of Health for programs serving children twelve (12) years of age or younger and for programs serving elderly adults and by the MDOR for programs serving other dependents older than twelve (12) years of age. For more information, contact:

Mississippi State Department of Health
Division of Child Care and Special Licensure
P. O. Box 1700
Jackson, MS 39215-1700
601-576-7400

The Child/Dependent Care Tax Credit may be used in combination with any other credit. The credit is equal to fifty percent (50%) of the qualified day care expenses. It is not refundable. It can be used to offset one hundred percent (100%) of the income tax liability. 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. It is more advantageous to use the oldest year's unexpired credit first. The child / dependent care expenses cannot be used both as a credit and a deduction. If the expense is taken both as a credit and as a deduction, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used. The credit may be claimed only in the tax year in which the expenses are actually paid.

Credit can only be taken by the business that incurred the expenses. 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.

HOW TO APPLY FOR THE INCENTIVE

To be eligible for the credit the business should complete an Application for Certification for Economic Incentives. This application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The business should also submit a letter explaining the dependent care program and specifically requesting approval for the dependent care tax credit. Along with the written request include the items detailed below. The TAP application contains a link to upload additional documentation. Once the information is reviewed, a response will be sent detailing the qualifying and non-qualifying expenses.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- the certification from the Mississippi Department of Health or MDOR approving the facilities;
- a financial summary of the expenses that creates the credit; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Child/Dependent Care Tax Credit Code is 08.

The Child/Dependent Care Tax Credit is authorized under Miss. Code Ann. Section 57-73-23 and further defined in Title 35, Part X, Chapter 07 of the Mississippi Administrative Code promulgated by the MDOR.

Revised February 1, 2022

A.8. Export Port Charges Tax Credit

An income tax credit is available equal to the charges a business pays for exporting cargo through certain Mississippi ports.

The Export Port Charges Tax Credit is an incentive available to businesses 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. The credit is equal to the charges on export cargo paid by the business for:

- receiving into the port;
- handling to a vessel; and
- wharfage

The credit is not refundable and can only be used to offset fifty percent (50%) of the income tax liability after all other credits have been used, except for estimated tax payments. 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. It is more advantageous to use the earliest year's unexpired credit first. The export cargo charges cannot be used both as a credit and a deduction. If the expense is taken both as a credit and as a deduction, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used. The credit may be claimed only in the tax year in which the charges are actually paid.

Credit can only be taken by the business that incurred the expenses. 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.

HOW TO APPLY/CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a statement from the governing authority of the port certifying the amount of charges paid by the business; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Export Port Charges Tax Credit Code is 15.

The Export Port Charges Tax Credit is authorized under Miss. Code Ann. Section 27-7-22.7 and further defined in Title 35, Part X, Chapter 08 of the Mississippi Administrative Code promulgated by the MDOR.

Revised February 1, 2022

A.9. Import Port Charges Tax Credit

An income tax credit is available equal to the charges an eligible business pays for importing cargo (except for forest products) through certain Mississippi ports. An eligible business must locate its US headquarters in Mississippi, have at least five (5) permanent full-time employees, and have a minimum capital investment of two million dollars (\$2,000,000) in Mississippi.

The Import Port Charges Tax Credit is an incentive available to businesses 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. The credit is equal to the charges on import cargo paid by the eligible business for:

- receiving into the port;
- handling to a vessel; and
- wharfage.

The business must have established its US headquarters in Mississippi and have at least five (5) permanent employees at the headquarters location. The business must have a minimum capital investment of two million dollars (\$2,000,000) in order to qualify for the credit.

The maximum cumulative credit that may be claimed by the business is:

- One million dollars (\$1,000,000) if the business has between five (5) and twenty-five (25) permanent full-time employees at its headquarters;
- Two million dollars (\$2,000,000) if the business has between twenty-six (26) and one hundred (100) permanent full-time employees at its headquarters;
- Three million dollars (\$3,000,000) if the business has between one hundred and one (101) and two hundred (200) permanent full-time employees at its headquarters;
- Four million dollars (\$4,000,000) if the business has two hundred and one (201) or more permanent full-time employees at its headquarters.

For the purposes of this credit, "full-time employee" means an employee who works at least thirty-five (35) hours per week. This credit is not refundable and can only be used to offset fifty percent (50%) of the income tax liability after all other credits except for estimated tax payments have been taken. 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. It is more advantageous to use the oldest year's unexpired credit first. The import cargo charges cannot be used both as a credit and a deduction. If the expense is taken both as a credit and as a deduction, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used. The credit may be claimed only in the tax year in which the charges are actually paid.

Credit can only be taken by the business that incurred the expenses. 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.

HOW TO APPLY/CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a statement from the governing authority of the port certifying the amount of charges paid by the business; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Import Port Charges Tax Credit Code is 17.

The Import Port Charges Tax Credit is authorized under Miss. Code Ann. Section 27-7-22.23.

Revised February 1, 2022

A.10. Airport Cargo Charges Tax Credit

An income tax credit is available equal to the charges a business pays for utilizing certain Mississippi airport facilities for the import or export of cargo.

The Airport Cargo Charges Tax Credit is an incentive available to eligible businesses that utilize airport facilities in Mississippi established pursuant to Miss. Code Ann. Sections 61-3-1 *et seq.* and 61-5-1 *et seq.* In order to be eligible for the credit, the business must locate its United States headquarters in Mississippi, employ at least five (5) new permanent full-time employees who work at the headquarters, and invest a minimum of two million dollars (\$2,000,000) in real or personal property in Mississippi. For the purposes of this credit, a full-time employee is one who works at least thirty-five (35) hours per week.

The credit is equal to the charges on the import or export of cargo paid by the business for:

- receiving into the airport;
- aircraft marshalling or handling fees; and
- aircraft landing fees.

The maximum cumulative credit that may be claimed by the business is:

- One million dollars (\$1,000,000) for those businesses employing five (5) to twenty-five (25) individuals.
- Two million dollars (\$2,000,000) for those businesses employing twenty-six (26) to one hundred (100) individuals.
- Three million dollars (\$3,000,000) for those businesses employing one hundred and one (101) to two hundred (200) individuals.
- Four million dollars (\$4,000,000) for those businesses employing more than two hundred (200) individuals.

This credit is not refundable and can only be used to offset fifty percent (50%) of the income tax liability after all other credits except for estimated tax payments have been used. 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. It is more advantageous to use the earliest year's unexpired credit first. These airport cargo charges cannot be used both as a credit and a deduction. If the expense is taken both as a credit and as a deduction, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used. The credit may be claimed only in the tax year in which the charges are actually paid.

Credit can only be taken by the business that incurred the expenses. 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.

HOW TO APPLY/CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a statement from the governing authority of the airport certifying the amount of charges paid by the business; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Airport Cargo Charges Tax Credit Code is 22.

The Airport Cargo Charges Tax Credit is authorized under Miss. Code Ann. Section 27-7-22.25.

Revised February 1, 2022

A.11. Income Tax Exemption for Growth and Prosperity (GAP) Areas

An income tax exemption is available for a period of ten (10) years for certain businesses locating in a GAP area. The eligible businesses include ones that:

- manufacture • process • assemble • store • warehouse • service • distribute
- sell any products or goods, including products of agriculture • research and development
- others as determined by MDA which will create at least ten (10) jobs

EXCEPTIONS: These businesses cannot claim the exemption.

- retail establishments • gaming businesses or casinos • electrical generation facilities

The Growth and Prosperity (GAP) Areas Tax Exemption was created to encourage businesses to locate facilities and hire individuals in areas that have thirty percent (30%) or more of the population at or below the federal poverty level according to the most recent official data compiled by the United States Census Bureau or have an unemployment rate that is two hundred percent (200%) of the state's average unemployment rate. A county or supervisor's district applies to MDA to be designated as a GAP Area. After the application has been approved, the GAP Area is issued a certificate of public convenience and necessity. At this time, an eligible business that constructs a new facility or expands an existing facility located in one of these GAP Areas can apply to MDA to be exempted from state and local taxes for a period of ten (10) years or until December 31, 2029, whichever occurs first. A business that relocates from a county in Mississippi to a GAP Area is not eligible for the exemption.

State taxes are defined as 1) sales and use tax on component materials, equipment and machinery for the initial construction of a business or an additional expansion of an existing business; 2) income tax on income generated by the business in the GAP Area; 3) franchise tax on the value of the capital used, invested or employed by the business in that GAP Area and 4) sales and use tax imposed on the lease of machinery and equipment acquired in the initial construction of a business or an additional expansion of an existing business. Local taxes mean any county or municipal ad valorem taxes except for the school, fire, and police portions of the tax.

If the 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 cannot utilize the exemption, MDA may extend the exemption from state taxes for no more than two (2) years or until December 31, 2033, whichever occurs first. Any property or equipment purchased utilizing a sales tax exemption that is damaged or destroyed as a result of the disaster may be replaced exempt from tax.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. Such exemption is not transferable and cannot be applied, used, or assigned to any other entity. The approved business must also enter into an agreement with MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information, necessary to verify the correctness of any exemptions claimed. For more information on the GAP areas, contact:

Mississippi Development Authority
Financial Resources Division - GAP Program
Post Office Box 849
Jackson, MS 39205
financial@mississippi.org
601-359-3552

The exemption granted to a business is based on the Mississippi net income and/or loss attributable to its new or expanded operation within a GAP Area. A business may have, in addition to the business operation in the GAP Area, other business operations which are located outside of the GAP Area. These operations do not qualify as a MDA approved business operation and, therefore, are not allowed the exemption. Because of this, the income attributable to the GAP Area must be identified separately from its total Mississippi income. Any losses assigned to the GAP Area business operation from

the use of a formula or direct accounting shall not be carried backward or forward in computing Mississippi taxable income during the exemption period. A business cannot qualify for certain income tax credits from its operation within a GAP Area when the credit is determined by an expense incurred, such as the Ad Valorem Tax Credit, the RED Tax Credit, the Child/Dependent Care Tax Credit, and the Export Charges Tax Credit.

Generally, an apportionment formula would be used to determine the amount of Mississippi net income and/or loss attributable to a GAP Area. In very limited circumstances, direct accounting would be used in making the determination. When a business or individual is a partner or shareholder in a flow-through entity and has income and/or loss being reported to them generated in a GAP Area, then such GAP Area income and/or loss will not be used in any calculation of income tax due by such partner or shareholder of the flow-through entity. The exemption is not transferable and cannot be applied, used, or assigned to any other person or business or tax account, other than the one approved by MDA.

To calculate the amount of exemption for the business, an apportionment formula comprised of a property and a payroll ratio is used in A), B), and C). The numerator of both the property and the payroll ratio in A), B), and C) is based on the respective property and payroll of the MDA approved business operation in the GAP Area. The denominator of the property and payroll ratios in A) and B) includes the respective total business property and payroll. The denominator of the property and payroll ratios in C) includes the respective property and payroll within Mississippi. The ratios in A), B), and C) are computed on the same type of property, including annualized rentals, and payroll as would be employed in the calculation of the property and payroll ratios of a manufacturer in Mississippi as required by regulation, except no reductions shall be made for general and administrative property or payroll. The numerators of both the property and payroll ratios include only that property purchased or rented and payroll in the GAP Area that is necessary to the operation of the approved business operation in the GAP Area.

- A) Those businesses whose total business income is assigned to Mississippi by reason of not being taxable in another state should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total business income or loss. The result is the income and/or loss attributed to the GAP Area. The GAP Area income will reduce the total business income. A GAP Area loss will reduce the total business loss.

Example: Corporation ABC is a domestic corporation not taxable in another state and, therefore, assigns both its business and non-business income to this state. ABC is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, ABC received approval from the MDA for an expansion project inside a GAP Area. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, ABC had GAP Area property and total company property of \$3 million and \$10 million respectively. ABC's total company business receipts were \$50 million, and payroll in the GAP Area was zero since the plant was still under construction. ABC's business income was \$2 million, and its non-business income was \$100,000 (one hundred thousand).

For tax year one, ABC computed the following GAP Area exclusion ratio:

$$\begin{array}{lclclcl} \text{Property Factor} & = & \frac{\text{GAP Area Property}}{\text{Total Company Property}} & = & \frac{\$0 \text{ million}}{\$10 \text{ million}} & = & 0\% \\ \text{Payroll Factor} & = & \frac{\text{GAP Area Payroll}}{\text{Total Company Payroll}} & = & \frac{\$0.00}{\text{Total Company Payroll}} & = & 0\% \end{array}$$

In year one, the property in the GAP Area was under construction, therefore, none of the property qualified for inclusion in the factor. Payroll expended for construction was capitalized as part of work-in-progress. ABC does not receive a GAP Area income exclusion for year one.

- B) Those businesses that employ a single ratio formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three as well. This ratio should then be applied to the total business income and/or loss subject to Mississippi apportionment. The result is the income and/or loss attributed to the GAP Area. GAP Area income will reduce the Mississippi apportioned income as calculated by

regulation, however, in no case should it reduce the Mississippi apportioned income below zero nor should a loss attributed to GAP Area reduce a Mississippi apportioned loss to an amount above zero.

Example: Corporation ABC is a domestic corporation, which is taxable in several other states and apportions its business income to this state using a single factor formula. In year one, ABC received approval from the MDA for an expansion project inside a GAP Area. Construction of the new facility was completed in year two. For year two, ABC's Mississippi and total company receipts are \$50 million and \$70 million respectively. ABC has GAP Area, Mississippi, and total company property of \$4 million, \$10 million, and \$12 million respectively. ABC's GAP Area, Mississippi, and total company payroll are \$2 million, \$4 million, and \$8 million respectively. ABC's business income is \$2 million and its non-business income is \$100,000 (one hundred thousand).

For tax year two, ABC computed the following GAP Area exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{GAP Area Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$12 \text{ million}} = 33.33\% \\ \text{Payroll Factor} &= \frac{\text{GAP Area Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\begin{aligned} \text{GAP Area Exclusion Ratio} &= (\text{GAP Area Property Factor} + \text{GAP Area Payroll Factor} + \text{GAP Area Payroll Factor})/3 \\ &= (33.33\% + 25\% + 25\%)/3 = 27.78\% \end{aligned}$$

$$\text{Income Apportionment Ratio} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\%$$

The exclusion from business income is equal to \$555,554 (\$2,000,000 * 27.78%). MS business taxable income prior to the exclusion is \$1,428,572. MS taxable income is \$973,018 (\$1,428,572 - \$555,554 + \$100,000)

- C) Those businesses that employ a three-factor formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the Mississippi apportioned income and/or loss as determined by regulation. The result should be that income and/or loss attributed to the GAP Area. The GAP Area income will reduce the Mississippi apportioned income as calculated by regulation. A GAP Area loss will reduce any Mississippi apportioned loss as calculated by regulation.

Example: Assume the same facts as example B except that ABC is a wholesale manufacturer who employs a three-factor formula for apportioning income to this state.

For tax year three, ABC computed the following GAP Area exclusion ratio:

$$\begin{aligned} \text{Exclusion Property Factor} &= \frac{\text{GAP Area Property}}{\text{Total MS Property}} = \frac{\$4 \text{ million}}{\$10 \text{ million}} = 40\% \\ \text{Exclusion Payroll Factor} &= \frac{\text{GAP Area Payroll}}{\text{Total MS Payroll}} = \frac{\$2 \text{ million}}{\$4 \text{ million}} = 50\% \\ \text{Income Apport. Receipts Factor} &= \frac{\text{MS Business Receipts}}{\text{Total Business Receipts}} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\% \\ \text{Income Apport. Payroll Factor} &= \frac{\text{MS Payroll}}{\text{Total Company Payroll}} = \frac{\$4 \text{ million}}{\$8 \text{ million}} = 50\% \\ \text{Income Apport. Property Factor} &= \frac{\text{Total MS Business Property}}{\text{Total Bus Prop. Everywhere}} = \frac{\$10 \text{ million}}{\$12 \text{ million}} = 83.33\% \end{aligned}$$

$$\text{GAP Area Exclusion Ratio} = (\text{GAP Area Property Factor} + \text{GAP Area Payroll Factor} + \text{GAP Area Payroll Factor})/3$$

$$= (40\% + 50\% + 50\%)/3 = 46.67\%$$

$$\text{Income Apportionment Ratio} = (71.43\% + 50\% + 83.33\%)/3 = 68.25\%$$

MS business income prior to the GAP Area exclusion = \$1,365,080. The GAP Area exclusion is equal to \$637,038 (\$1,365,080 * 46.67%). Mississippi taxable income is equal to \$828,042 (\$1,365,080 - \$637,038 + \$100,000)

- D) Those multi-state businesses employing direct accounting for income tax reporting should calculate a ratio in the same manner as described in C). This ratio should be applied to the direct accounting income and/or loss to determine the amount of income and/or loss attributable to the GAP Area. The GAP Area income will reduce the total business income. A GAP Area loss will reduce the total business loss.
- E) The Commissioner may require another method if it is determined that the apportionment of the income and/or loss as required under A), B), C), or D) inaccurately reflects the income and/or loss generated by an approved business operation within a GAP Area.

HOW TO APPLY FOR THE INCENTIVE

Before the exemption can be calculated and taken on the return, application must be made to MDA for designation as a GAP Area business. To be eligible for the GAP exemption, the business should submit a copy of the certification from the MDA and a completed Application for Certification for Economic Incentives application. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of how the exemption was calculated;
- a copy of the MDA certification letter; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The GAP Area Exemption is authorized under Miss. Code Ann. Sections 27-7-21, 57-80-1 through 57-80-11.

Revised February 1, 2022

A.12. Broadband Technology Tax Credit

An income tax credit is available for telecommunications businesses based on a percentage of the cost of equipment used in the deployment of broadband technology.

EXCEPTIONS: Radio stations, television stations and news organizations are not considered telecommunications businesses and are not eligible to receive this credit.

This incentive was created to encourage telecommunications businesses to invest in the infrastructure needed to develop high speed access to the Internet for all counties in the State. Telecommunications businesses that deploy such equipment are eligible for an income tax credit based on a percentage of the cost paid to a vendor for any equipment used for the transmission of information at a high speed. To be eligible for the credit, the item(s) must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO AND PAID FOR DIRECTLY BY** the business receiving the credit.

Telecommunications businesses are defined as companies engaged in the creation, display, management, storage, processing, transmission, or distribution for compensation of images, text, voice, video, or data by wire or by wireless means. They also include companies engaged in the construction, design, development, manufacture, maintenance, or distribution for compensation of devices, products, software, or structures used in the above-mentioned activities.

Qualifying equipment used in the deployment of broadband technologies includes, but is not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

The amount of the annual credit depends on where the equipment is being deployed or placed in service. In Mississippi, counties are ranked as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year by the MDOR based on the unemployment rate and per capita income of each county for the most recent thirty-six (36) month period. They are then divided into the three (3) previously mentioned groups with one-third (1/3) of the counties in each group. This ranking determines the percentage used to calculate the credit. The ranking for a specific county can change from year to year based on this evaluation. The tier in which broadband technology is deployed shall be determined in the year in which such technology is deployed in a county and such tier shall not change if the county is later designated in another tier. The credit percentage amount for each county ranking is as follows:

<u>County Ranking</u>	<u>Credit Percentage Amount</u>
Tier One (developed)	5%
Tier Two (moderately developed)	10%
Tier Three (less developed)	15%

This credit is available from July 1, 2003, through June 30, 2025. The annual credit is available beginning in the year the equipment is placed in service and may be taken for that equipment each year for the following nine (9) years. The total amount of credit taken in any one (1) year is only allowed against fifty percent (50%) of the aggregate income and franchise tax liability for that year. Any excess credit amount can be carried forward for up to ten (10) consecutive years from the close of the original year in which the excess credit could not be used. The total amount of credits taken over the ten (10) consecutive year period cannot exceed one hundred percent (100%) of the original investment in the equipment. This credit is not refundable. The expense may not be used as both a credit and a deduction. If the expense is taken both as a credit and as a deduction, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.

No credit will be allowed if the equipment used in the deployment of broadband technologies was paid for, or its cost was reimbursed by funds made available under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

HOW TO APPLY FOR THE INCENTIVE

An Application for Certification for Economic Incentives should be completed and a letter explaining the reason the

business is eligible to claim the credit and the types of purchases that qualify for the credit must be attached. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the letter.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a schedule showing the cost and description of the equipment being deployed and the county or counties in which the equipment was deployed that gave rise to the credit for the current period; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Broadband Technology Tax Credit Code is 19.

The Broadband Technology Tax Credit is authorized under Miss. Code Ann. Sections 57-87-5 & 57-73-21.

Revised February 1, 2022

A.13. Manufacturing Investment Tax Credit

An income tax credit is available equal to five percent (5%) of the eligible investment made by manufacturers that have been in business in Mississippi for more than two (2) years. An eligible investment means an investment of at least one million dollars (\$1,000,000) in buildings and/or equipment used in the manufacturing enterprise.

EXCEPTION: No manufacturing enterprise for the transportation, handling, storage, processing, or disposal of hazardous waste is eligible to receive this tax credit.

A manufacturer that has operated in Mississippi for two (2) or more years is allowed a manufacturing investment tax credit against its income tax liability equal to five percent (5%) of the eligible investments made by the manufacturer.

An eligible investment means an investment of at least one million dollars (\$1,000,000) in buildings and/or equipment used in the manufacturing enterprise. Although the one million dollars (\$1,000,000) may be spent over more than one (1) years' time, the investment must be for one project. The maximum credit that may be claimed by a taxpayer on any project shall be limited to one million dollars (\$1,000,000) or a twenty million dollar (\$20,000,000) eligible investment per project. A project is defined as a set of activities undertaken to reach a specifically intended outcome that is a new or one-time effort outside the normal business operations of the company. A project may include, but is not limited to, the construction of a new manufacturing facility or modernizing existing manufacturing facilities. The project must have a defined begin date and end date. A project must be able to be completed without being dependent upon any other set of activities or it would be considered part of a larger project. Other factors may be reviewed as well in determining what is included in the project, such as physical location, the bid process, the workflow, etc. Activities at multiple locations will usually not be grouped as a project; however, the MDOR may allow it after reviewing the specific circumstances. Normal maintenance or repair does not qualify as a project. When applying for approval of the investment tax credit, detailed information concerning the project must be presented in order for an appropriate decision to be made.

Only the cost of equipment and buildings that are capitalized as such and are used in the manufacturing enterprise will qualify for the credit. Any items expensed or capitalized under another category will not be included in the credit calculations. Leased equipment and buildings are eligible for the credit unless the lease is considered an operating lease under FASB ASC Section 840-10-25. Tagged vehicles are not eligible for the credit. Land on which a qualified building is constructed does not qualify. If the taxpayer has other nonmanufacturing activity, such as a distribution center, the cost of the building and equipment for the distribution operations would not be included in the eligible investment.

The credit is not refundable and can only be used to offset fifty percent (50%) of the income tax liability after all other credits, except for estimated tax payments, have been used. If the credit cannot be used in the year it is initially generated, the credit can be carried forward for five (5) years.

To include an item in the credit calculation for any taxable year, that item must have actually been paid for in that same taxable year. However, the credit may not be claimed on a tax return prior to the one million dollars (\$1,000,000) actually being spent on the project by the time the return is filed. The taxpayer may amend its return to claim a credit for eligible investments spent during a previous tax year that did not qualify because the one million dollars (\$1,000,000) threshold had not been met by the time the return was filed.

If a manufacturer closes an out of state location and moves the manufacturing equipment to Mississippi, the use tax value of the equipment may be included in the eligible investment and calculation of the manufacturing investment tax credit. The use tax value is cost less straight-line depreciation with a minimum of twenty percent (20%) of the cost. A manufacturer cannot buy new equipment for an out of state location, move the older equipment to Mississippi and include the value of the older equipment in the eligible investment and calculation of the credit.

If the property for which the credit was received is disposed of or is converted to some other use than the manufacturing process in Mississippi, the tax credit must be recaptured. The amount of the credit to be recaptured is one hundred percent (100%) if the disposition or conversion is made in the first (1) year and fifty percent (50%) if the disposition or conversion is made in the second year. If the entire facility is sold, the recapture rules do not apply.

Only the business that actually made the investment qualifying for the credit can receive the credit. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset only 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.

The sale, merger, acquisition, reorganization, bankruptcy, or relocation from one county to another county within Mississippi of any business 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. A letter detailing the facts surrounding such an occurrence and requesting a ruling on the eligibility of any credits must be presented to the MDOR to determine whether the proper transfers of credit have been made.

HOW TO APPLY FOR THE CREDIT

If you wish to have the credit reviewed and approved prior to taking it on the return, submit the items detailed below. A review of the information will be made and a response will be returned. To make application for the credit, the business must submit an Application for Certification of Economic Incentives and the following information on company letterhead:

- the date the company began manufacturing operations in Mississippi, including the location of all operations in this state;
- a detailed description of the project giving rise to the eligible investment, including the total cost of the project, the begin and end dates, the objectives of the project and an explanation as to how the investment qualifies as a project under the MDOR definition of a project; and,
- a listing of the equipment, a description of the equipment and the capitalized cost of the eligible investment.

The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the letter.

HOW TO CLAIM THE CREDIT

To claim the Investment Tax Credit, the business must attach a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward to their MS Income/Franchise Tax Return.

The Manufacturing Investment Tax Credit Code is 23.

The Manufacturing Investment Tax Credit is authorized under Miss. Code Ann. Section 27-7-22.30.

Revised February 1, 2022

A.14. Mississippi Equity Investment (New Markets) Tax Credit

An income tax, insurance premium tax, and/or a premium retaliatory tax credit is available for taxpayers paying a Qualified Community Development Entity for Qualified Equity Investments equal to a percentage of the adjusted purchase price paid to the Qualified Community Development Entity for the Qualified Equity Investment.

The New Markets Credit allows a credit for income, insurance premium, or premium retaliatory taxes to investors in eligible equity securities issued by a Qualified Community Development Entity that has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department (CDFI) with respect to federal income tax credits authorized by the Federal NMTC Law, which includes the State of Mississippi in the service area outlined in such agreement. This Qualified Community Development Entity is commonly referred to as a "CDE".

The CDE must use eighty-five percent (85%) or more of the proceeds of the issuance of the equity security to make investments that are Mississippi Qualified Low-Income Community Investments (MQLICs), and those investments must be maintained for a minimum of seven (7) years. A MQLIC is an investment in Mississippi in a business that meets the requirements of a Qualified Active Low-Income Community Business (QALICB) or an investment in Mississippi approved as a Qualified Low Income Community Investment under the Federal New Markets Tax Credit law. A security meeting these requirements is commonly referred to as a "QEI".

MDA will review the QEI to determine if it qualifies for the Mississippi New Markets Credit. If the QEI does qualify, MDA will issue a certification of credits allowed.

CALCULATING THE CREDIT

The amount of the credit shall be equal to the applicable percentage of the investment in the CDE for the QEI. The amount of the credit that may be utilized in any one tax year is limited to the total tax liability of the taxpayer for the applicable (income, insurance premium or premium retaliatory) tax. The New Markets Credit is not transferable or refundable. Any unused portion of the credit may be carried forward for seven (7) years beyond the last Credit Allowance Date. The Credit Allowance Date is the date that the QEI is made. In the case of an investment made prior to the allocation of credits, the date on which MDA issues a certificate allocating credits is the Credit Allowance Date. The Credit Allowance Date includes each of the next two anniversary dates of the investment, assuming that the investment requirements are maintained as required by statute.

If the CDE requests credits toward Mississippi income, insurance premium or premium retaliatory tax, the credit amount will be calculated at eight percent (8%) of the cash paid at issuance for the QEI per year for three (3) years. The total credit is awarded at the date of the issuance of the QEI, but only the annual allotment may be taken during the tax year in which the Credit Allowance Dates occurs.

The MDOR may recapture all or a portion of the credit claimed if:

- 1) Any amount of federal tax credits available with respect to a QEI that is eligible for the Mississippi New Markets credit is recaptured under Section 45D of the IRC,
- 2) The CDE redeems or makes any principal repayment with respect to a QEI prior to the seventh anniversary of the issuance of the QEI, or
- 3) The CDE fails to maintain at least eighty-five percent (85%) of the proceeds of the QEI in MQLICs throughout the seven (7) year period from the date of issuance of the QEI.

Upon final documentation of the qualified low-income community investments, if the actual dollar amount of the investments is lower than the amount estimated, the Mississippi Development Authority shall adjust the tax credit allowed under this section. Any credits that are subject to recapture shall be recaptured from the taxpayer who actually claimed the credit.

The total Mississippi New Markets Credit for all Mississippi taxpayers is capped at fifteen million dollars (\$15,000,000) per year.

HOW TO APPLY FOR THE INCENTIVE

A CDE must apply to MDA certifying the dollar amount of QEIs that it anticipates it will make in Mississippi from the credit allowance date through the following twelve months. The application must be accompanied by payment of a one-thousand-dollar (\$1,000) fee. Upon approval, MDA will issue to the CDE a Tax Credit Incentive Certificate allocating credits based on the anticipated investment amount certified in its application, and the CDE will have one hundred and twenty (120) days from the allocation date to issue the QEIs. Failure to timely issue the QEIs will result in cancellation of the allocation, which must be returned to MDA.

The taxpayer claiming the credit against its income, insurance premium or premium retaliatory tax must submit to the MDOR a request for certification that includes verification that QEIs were timely issued within one hundred and twenty (120) days from the date of the Tax Credit Incentive Certificate issued by MDA, and that the MQLICs have been made and maintained. A copy of the Tax Credit Incentive Certificate must be included in the request for certification.

If the credit is acquired by a flow-through entity or partnership, the taxpayer filing the income, insurance premium, or premium retaliatory tax return must submit with the return a signed statement from the flow-through entity or partnership setting forth the taxpayer's interest in the community development entity, as well as the amount of credit allocated to the taxpayer.

HOW TO CLAIM THE CREDIT

When filing a state income/franchise tax return claiming the new markets credit, attach:

- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward;
- a copy of the MDA certification letter; and
- a copy of the member's or owner's distribution/allocation agreement.

The credit code for the Mississippi Equity Investment (New Markets) Tax Credit is 28.

The New Markets Tax Credit is authorized under Miss. Code Ann. Section 57-105-1.

Revised February 1, 2022

A.15. Income Tax Exemption for Clean Energy Business Enterprises

An income tax exemption is available for a ten (10) year period to certain clean energy business enterprises that locate or expand in this state with a minimum capital investment of fifty million dollars (\$50,000,000) and the creation of two hundred fifty (250) new, full-time jobs. The clean energy business enterprise must own or operate a facility that manufactures or assembles systems or components used in the generation of clean energy.

The Clean Energy Business Enterprises Exemption is an incentive created to induce companies developing the field of clean energy to locate or expand their facilities in Mississippi. Clean energy business enterprises that locate or expand in this state with a minimum capital investment of fifty million dollars (\$50,000,000) and also create two hundred fifty (250) new, full-time jobs may be eligible for the exemption. Clean energy includes energy generated from either a renewable energy source such as wind, water, biomass or solar or an alternative energy source such as nuclear. Biomass includes the following:

- Forest-related mill residues, pulping by-product and other by-products of wood processing, thinnings, slash, limbs, bark, brush and other cellulosic plant material or non-merchantable forest-related products;
- Solid wood waste materials, including dunnage, manufacturing and construction wood wastes, demolition and storm debris and landscape or right-of-way trimmings;
- Agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar and other crop by-products or residues and livestock waste nutrients;
- All plant and grass material that is grown exclusively as a fuel for the production of electricity;
- Refuse derived fuels consisting of organic components and fibers of waste water treatment solids; or
- Whole trees.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities certified by the Mississippi Development Authority (MDA); 2) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; 3) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA; and 4) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the MDA.

The incentive is not available to businesses that move from one location within this state to another location within this state. The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied, used, or assigned to any other entity. The approved business must also enter into an agreement with the MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of the exemptions claimed. For more information on the application process for the Income Tax Exemption for Clean Energy Business Enterprises, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

If the 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 utilize the exemption from state taxes, the MDA may extend the period of time by which the minimum requirements must be met and duration of the exemption from state taxes for not more than two (2) years.

The exemption granted to a business is based on the Mississippi net income and/or loss attributable to its new or expanded clean energy business enterprise. A business may have, in addition to the clean energy business enterprise, other business operations which are not clean energy business enterprises. These operations do not qualify as an MDA approved business operation and, therefore, are not allowed the exemption. Because of this, the income attributable to the clean energy business enterprise must be identified separately from its total Mississippi income. Any losses assigned to the clean energy business enterprise from the use of a formula or direct accounting shall not be carried backward or forward in computing Mississippi taxable income during the exemption period. The clean energy business enterprise cannot qualify for certain income tax credits when the credit is determined by an expense incurred, such as the Ad Valorem Tax Credit, the RED Tax Credit, the Child/Dependent Care Tax Credit, and the Export Charges Tax Credit.

Generally, an apportionment formula would be used to determine the amount of Mississippi net income and/or loss attributable to a clean energy business. In very limited circumstances, direct accounting would be used in making the determination. When a business or individual is a partner or shareholder in a flow-through entity and has income and/or loss being reported to them generated by a clean energy business, then the business income and/or loss will not be used in any calculation of income tax due by such partner or shareholder of the flow-through entity. The exemption is not transferable and cannot be applied, used, or assigned to any other person or business or tax account, other than the one approved by MDA.

To calculate the amount of exemption for the business, an apportionment formula comprised of a property and a payroll ratio is used in A), B), and C). The numerator of both the property and the payroll ratio in A), B), and C) is based on the respective property and payroll of the MDA approved clean energy business. The denominator of the property and payroll ratios in A) and B) includes the respective total business property and payroll. The denominator of the property and payroll ratios in C) includes the respective property and payroll within Mississippi. The ratios in A), B), and C) are computed on the same type of property, including annualized rentals, and payroll as would be employed in the calculation of the property and payroll ratios of a manufacturer in Mississippi as required by regulation, except no reductions shall be made for general and administrative property or payroll. The numerators of both the property and payroll ratios include only that property purchased or rented and payroll in the clean energy business.

- A) Those businesses whose total business income is assigned to Mississippi by reason of not being taxable in another state should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total business income or loss. The result is the income and/or loss attributed to the clean energy business. The clean energy business income will reduce the total business income. A clean energy business loss will reduce the total business loss.

Example: Corporation ABC is a domestic corporation not taxable in another state and, therefore, assigns both its business and non-business income to this state. ABC is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, ABC received approval from the MDA for an expansion project as a clean energy business enterprise. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, ABC was a clean energy business (CEB) and had property and total company property of \$3 million and \$10 million respectively. ABC's total company business receipts were \$50 million and payroll in the CEB was zero since the plant was still under construction. ABC's business income was \$2 million, and its non-business income was \$100,000 (one hundred thousand).

For tax year one, ABC computed the following CEB exclusion ratio:

$$\begin{array}{l} \text{Property Factor} = \frac{\text{CEB Property}}{\text{Total Company Property}} = \frac{\$0 \text{ million}}{\$10 \text{ million}} = 0\% \\ \text{Payroll Factor} = \frac{\text{CEB Payroll}}{\text{Total Company Payroll}} = \frac{\$0.00}{\text{Total Company Payroll}} = 0\% \end{array}$$

In year one, ABC's property was under construction, therefore none of the property qualified for inclusion in the factor.

Payroll expended for construction was capitalized as part of work-in-progress. ABC does not receive a CEB exclusion for year one.

- B) Those businesses that employ a single ratio formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three as well. This ratio should then be applied to the total business income and/or loss subject to Mississippi apportionment. The result is the income and/or loss attributed to the CEB. CEB income will reduce the Mississippi apportioned income as calculated by regulation, however, in no case should it reduce the Mississippi apportioned income below zero nor should a loss attributed to a CEB reduce a Mississippi apportioned loss to an amount above zero.

Example: Corporation ABC is a domestic corporation, which is taxable in several other states and apportions its business income to this state using a single factor formula. In year one, ABC received approval from the MDA for an expansion project as a clean energy business enterprise. Construction of the new facility was completed in year two. For year two, ABC's Mississippi and total company receipts are \$50 million and \$70 million respectively. ABC has CEB, Mississippi, and total company property of \$4 million, \$10 million, and \$12 million respectively. ABC's CEB, Mississippi, and total company payroll are \$2 million, \$4 million, and \$8 million respectively. ABC's business income is \$2 million and its non-business income is \$100,000 (one hundred thousand).

For tax year two, ABC computed the following CEB exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{CEB Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$12 \text{ million}} = 33.33\% \\ \text{Payroll Factor} &= \frac{\text{CEB Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\begin{aligned} \text{CEB Exclusion Ratio} &= (\text{CEB Property Factor} + \text{CEB Payroll Factor} + \text{CEB Payroll Factor})/3 \\ &= (33.33\% + 25\% + 25\%)/3 = 27.78\% \end{aligned}$$

$$\text{Income Apportionment Ratio} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\%$$

The exclusion from business income is equal to \$555,554 (\$2,000,000 * 27.78%). MS business taxable income prior to the exclusion is \$1,428,572. MS taxable income is \$973,018 (\$1,428,572 - \$555,554 + \$100,000)

- C) Those businesses that employ a three-factor formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the Mississippi apportioned income and/or loss as determined by regulation. The result should be that income and/or loss attributed to the CEB. The CEB income will reduce the Mississippi apportioned income as calculated by regulation. A CEB loss will reduce any Mississippi apportioned loss as calculated by regulation.

Example: Assume the same facts as example B except that ABC is a wholesale manufacturer who employs a three-factor formula for apportioning income to this state.

For tax year three, ABC computed the following CEB exclusion ratio:

$$\begin{aligned} \text{Exclusion Property Factor} &= \frac{\text{CEB Property}}{\text{Total MS Property}} = \frac{\$4 \text{ million}}{\$10 \text{ million}} = 40\% \\ \text{Exclusion Payroll Factor} &= \frac{\text{CEB Payroll}}{\text{Total MS Payroll}} = \frac{\$2 \text{ million}}{\$4 \text{ million}} = 50\% \\ \text{Income Apport. Receipts Factor} &= \frac{\text{MS Business Receipts}}{\text{Total Business Receipts}} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\% \end{aligned}$$

$$\text{Income Apport. Payroll Factor} = \frac{\text{MS Payroll}}{\text{Total Company Payroll}} = \frac{\$4 \text{ million}}{\$8 \text{ million}} = 50\%$$

$$\text{Income Apport. Property Factor} = \frac{\text{Total MS Business Property}}{\text{Total Bus. Prop. Everywhere}} = \frac{\$10 \text{ million}}{\$12 \text{ million}} = 83.33\%$$

$$\text{CEB Exclusion Ratio} = (\text{CEB Property Factor} + \text{CEB Payroll Factor} + \text{CEB Payroll Factor})/3 \\ = (40\% + 50\% + 50\%)/3 = 46.67\%$$

$$\text{Income Apportionment Ratio} = (71.43\% + 50\% + 83.33\%)/3 = 68.25\%$$

MS business income prior to the CEB exclusion = \$1,365,080. The CEB exclusion is equal to \$637,038 (\$1,365,080 * 46.67%). Mississippi taxable income is equal to \$828,042 (\$1,365,080 - \$637,038 + \$100,000)

- D) Those multi-state businesses employing direct accounting for income tax reporting should calculate a ratio in the same manner as described in C). This ratio should be applied to the direct accounting income and/or loss to determine the amount of income and/or loss attributable to the CEB. The CEB income will reduce the total business income. A CEB loss will reduce the total business loss.
- E) The Commissioner may require another method if it is determined that the apportionment of the income and/or loss as required under A), B), C), or D) inaccurately reflects the income and/or loss generated by the clean energy business enterprise.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Clean Energy Business Enterprise Exemption. Once you have received certification of eligibility from the MDA, you must submit the MDA certification along with a completed Application for Certification of Economic Incentives to the MDOR. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of the exemption;
- a copy of the MDA certification letter; and
- a copy of the MDOR exemption acceptance letter.

The Income Tax Exemption for Clean Energy Business Enterprises is authorized under Miss. Code Ann. Sections 27-7-22.35 & 57-113-1 et seq.

Revised February 1, 2022

A.16. Income Tax Exemption for Aerospace Industry Enterprises

An income tax exemption is available for a period of ten (10) years for businesses that manufacture, assemble or process products, components, or systems for use in the aerospace industry, or that provide research and development or training services to the aerospace industry, that locate or expand in Mississippi. The business must invest a minimum of twenty-five million dollars (\$25,000,000) and create at least twenty-five (25) new, full-time jobs in Mississippi.

The Aerospace Industry Enterprises (AIE) Exemption is an incentive created to induce companies to locate or expand their manufacturing facilities in Mississippi. The incentive is also available to businesses that offer research and development or training services in the aerospace industry that locate or expand in the state. The business must make a minimum capital investment in Mississippi of twenty-five million dollars (\$25,000,000), and must also create a minimum of twenty-five (25) new, full-time jobs in Mississippi which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is less. The aerospace industry is the industry that researches, designs, manufactures, repairs, operates and/or maintains products, components and systems which enable vehicles to move through the air and space.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities certified by the Mississippi Development Authority (MDA); 2) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; 3) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA; and 4) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the MDA.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied to, used by, or assigned to any other entity or tax account without prior approval from the MDA. The approved business must also enter into an agreement with the MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of the exemptions claimed. For more information on the application process for the Income Tax Exemption for Aerospace Industry Enterprises, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

If the 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 is unable to use the exemption from state taxes, the MDA may extend the period of time during which the minimum requirements must be met and the exemption may be taken for a period of time not to exceed two (2) years.

The exemption granted to a business is based on the Mississippi net income and/or loss attributable to its new or expanded AIE in this state. A business may have, in addition to the MDA-approved AIE, other business operations that are not MDA-approved AIEs. These operations do not qualify as MDA-approved business operations, and, therefore, are not allowed the exemption. Therefore, the income attributable to the AIE must be identified separately from its total Mississippi income. Any losses assigned to the AIE from the use of a formula or direct accounting shall not be carried backward or forward in computing Mississippi taxable income during the exemption period. An AIE business cannot qualify for income tax credits

that are determined by an expense incurred, such as the Ad Valorem Tax Credit, the RED Tax Credit, the Child/Dependent Care Tax Credit, and the Export Charges Tax Credit.

Generally, an apportionment formula would be used to determine the amount of Mississippi net income and/or loss attributable to an AIE. In very limited circumstances, direct accounting would be used in making the determination. When a business or individual is a partner or shareholder in a flow-through entity and has income and/or loss being reported to them generated from an AIE, then such AIE income and/or loss will not be used in any calculation of income tax due by such partner or shareholder of the flow-through entity. The exemption is not transferable and cannot be applied, used, or assigned to any other person or business or tax account, other than the one approved by MDA.

To calculate the amount of exemption for the business, an apportionment formula comprised of a property and a payroll ratio is used in A), B), and C). The numerator of both the property and the payroll ratio in A), B), and C) is based on the respective property and payroll of the MDA-approved AIE. The denominator of the property and payroll ratios in A) and B) includes the respective total business property and payroll. The denominator of the property and payroll ratios in C) includes the respective property and payroll within Mississippi. The ratios in A), B), and C) are computed on the same type of property, including annualized rentals, and payroll as would be employed in the calculation of the property and payroll ratios of a manufacturer in Mississippi as required by regulation, except no reductions shall be made for general and administrative property or payroll. The numerators of both the property and payroll ratios include only that property purchased or rented and payroll that are necessary to the operation of the AIE.

- A) Those businesses whose total business income is assigned to Mississippi for Mississippi income tax purposes by reason of not being taxable in another state should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total business income or loss. The result is the income and/or loss attributable to the AIE. The AIE income will reduce the total business income. An AIE loss will reduce the total business loss.

Example: Corporation ABC is a domestic corporation not taxable in another state and, therefore, assigns both its business and non-business income to this state. ABC is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, ABC received approval from the MDA for an AIE expansion project. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, ABC had AIE property and total company property of \$3 million and \$10 million, respectively. ABC's total business receipts were \$50 million, and payroll for the AIE was zero since the plant was still under construction. ABC's business income was \$2 million, and its non-business income was \$100,000 (one hundred thousand dollars).

For tax year one, ABC computed the following AIE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{AIE Property}}{\text{Total Company Property}} = \frac{\$0 \text{ million}}{\$10 \text{ million}} = 0\% \\ \text{Payroll Factor} &= \frac{\text{AIE Payroll}}{\text{Total Company Payroll}} = \frac{\$0.00}{\text{Total Company Payroll}} = 0\% \end{aligned}$$

In year one, the AIE property was under construction, therefore, none of the property qualified for inclusion in the factor. Payroll expended for construction was capitalized as part of work in progress. ABC does not receive an AIE income exclusion for year one.

- B) Those businesses that employ a single ratio formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three as well. This ratio should then be applied to the total business income and/or loss subject to Mississippi apportionment. The result is the income and/or loss attributed to the AIE. The AIE income will reduce the Mississippi apportioned income as calculated by regulation, however, in no case should it reduce the Mississippi apportioned income below zero nor should a loss attributed to an AIE reduce a Mississippi apportioned loss to an amount above zero.

Example: Corporation ABC is a domestic corporation, which is taxable in several other states and apportions its business income to this state using a single factor formula. In year one, ABC received approval from the MDA for an AIE expansion project. Construction of the new facility was completed in year two. For year two, ABC's Mississippi and total company receipts are \$50 million and \$70 million, respectively. ABC has AIE, Mississippi, and total company property of \$4 million, \$10 million, and \$12 million, respectively. ABC's AIE, Mississippi, and total company payroll are \$2 million, \$4 million, and \$8 million respectively. ABC's business income is \$2 million, and its non-business income is \$100,000 (one hundred thousand dollars).

For tax year two, ABC computed the following AIE exclusion ratio:

$$\text{Property Factor} = \frac{\text{AIE Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$12 \text{ million}} = 33.33\%$$

$$\text{Payroll Factor} = \frac{\text{AIE Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\%$$

$$\begin{aligned} \text{AIE exclusion ratio} &= (\text{AIE Property Factor} + \text{AIE Payroll Factor} + \text{AIE Payroll Factor})/3 \\ &= (33.33\% + 25\% + 25\%)/3 = 27.78\% \end{aligned}$$

$$\text{Income Apportionment Ratio} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\%$$

The exclusion from business income is equal to \$555,554 (\$2,000,000 × 27.78%). Mississippi business taxable income prior to the exclusion is \$1,428,572. Mississippi taxable income is \$973,018 (\$1,428,572 - \$555,554 + \$100,000).

- C) Those businesses that employ a three-factor formula to apportion their business income to Mississippi should calculate a property factor and double-weighted payroll factor and then divide by three. This ratio should then be applied to the Mississippi apportioned income and/or loss as determined by regulation. The result should be that income and/or loss attributed to the AIE. The AIE income will reduce the Mississippi apportioned income as calculated by regulation. An AIE loss will reduce any Mississippi apportioned loss as calculated by regulation.

Example: Assume the same facts as example B except that ABC is a wholesale manufacturer that employs a three-factor formula for apportioning income to this state.

For tax year three, ABC computed the following AIE exclusion ratio:

$$\text{Exclusion Property Factor} = \frac{\text{AIE Property}}{\text{Total MS Property}} = \frac{\$4 \text{ million}}{\$10 \text{ million}} = 40\%$$

$$\text{Exclusion Payroll Factor} = \frac{\text{AIE Area Payroll}}{\text{Total MS Payroll}} = \frac{\$2 \text{ million}}{\$4 \text{ million}} = 50\%$$

$$\text{Income Apport. Receipts Factor} = \frac{\text{MS Business Receipts}}{\text{Total Business Receipts}} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\%$$

$$\text{Income Apport. Payroll Factor} = \frac{\text{MS Payroll}}{\text{Total Company Payroll}} = \frac{\$4 \text{ million}}{\$8 \text{ million}} = 50\%$$

$$\text{Income Apport. Property Factor} = \frac{\text{Total MS Business Property}}{\text{Total Bus. Prop. Everywhere}} = \frac{\$10 \text{ million}}{\$12 \text{ million}} = 83.33\%$$

$$\text{AIE exclusion ratio} = (\text{AIE Property Factor} + \text{AIE Area Payroll Factor} + \text{AIE Payroll Factor})/3$$

$$= (40\% + 50\% + 50\%)/3 = 46.67\%$$

$$\text{Income Apportionment Ratio} = (71.43\% + 50\% + 83.33\%)/3 = 68.25\%$$

Mississippi business income prior to the AIE exclusion = \$1,365,080. The AIE exclusion is equal to \$637,038 ($1,365,080 \times 46.67\%$). Mississippi taxable income is equal to \$828,042 ($\$1,365,080 - \$637,038 + \$100,000$).

- D) Those multi-state businesses employing direct accounting for income tax reporting should calculate a ratio in the same manner as described in C). This ratio should be applied to the direct accounting income and/or loss to determine the amount of income and/or loss attributable to the AIE. The AIE income will reduce the total business income. An AIE loss will reduce the total business loss.
- E) The Commissioner may require another method if it is determined that the apportionment of the income and/or loss as required under A), B), C), or D) inaccurately reflects the income and/or loss generated by an approved AIE.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Aerospace Industry Enterprise Exemption. Once you have received certification of eligibility from the MDA, you must submit the MDA certification along with a completed Application for Certification of Economic Incentives to the MDOR. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of the exemption;
- a copy of the MDA certification letter; and
- a copy of the MDOR exemption acceptance letter.

The Aerospace Industry Enterprise exemption is authorized under Miss. Code Ann. Sections 57-113-1, et seq.

Revised February 1, 2022

A.17. Income Tax Exemption for Data Center Enterprises

An income tax exemption is available for a ten (10) year period to any business enterprise owning or operating a data center enterprise making a minimum capital investment in this state of twenty million dollars (\$20,000,000) and creating a minimum of twenty (20) new, full-time jobs with a minimum average annual salary of not less than one hundred twenty-five percent (125%) of the average annual state wage.

The Data Center Enterprises (DCE) Exemption is an incentive created to induce companies to locate or expand data centers in Mississippi. The business must make a minimum capital investment in Mississippi of twenty million dollars (\$20,000,000) and must create a minimum of twenty (20) new full-time jobs with salaries not less than one hundred twenty-five percent (125%) of the average annual wage in Mississippi. A data center is a business enterprise that utilizes hardware, software, technology, infrastructure and/or workforce, to store, manage or manipulate digital data.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase or lease of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority (MDA); 2) any sales and use tax imposed by law on the business enterprise pursuant to law related to the purchase of replacement hardware, software or other necessary technology to operate a data center; 3) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; and 4) franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied to, used by, or assigned to any other entity or tax account without prior approval from the MDA. The approved business must also enter into an agreement with the MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of the exemptions claimed. For more information on the application process for the Income Tax Exemption for Data Center Enterprises, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

If the 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 is unable to use the exemption from state taxes, the MDA may extend the period of time during which the minimum requirements must be met and the exemption may be taken for a period of time not to exceed two (2) years.

The exemption granted to a business is based on the Mississippi net income and/or loss attributable to its new or expanded DCE in this state. A business may have, in addition to the MDA-approved DCE, other business operations that are not MDA-approved DCEs. These operations do not qualify as MDA-approved business operations, and, therefore, are not allowed the exemption. Therefore, the income attributable to the DCE must be identified separately from its total Mississippi income. Any losses assigned to the DCE from the use of a formula or direct accounting shall not be carried backward or forward in computing Mississippi taxable income during the exemption period. A DCE business cannot qualify for income tax credits that are determined by an expense incurred, such as the Ad Valorem Tax Credit, the RED Tax Credit, the Child/Dependent Care Tax Credit, and the Export Charges Tax Credit.

Generally, an apportionment formula would be used to determine the amount of Mississippi net income and/or loss

attributable to a DCE. In very limited circumstances, direct accounting would be used in making the determination. When a business or individual is a partner or shareholder in a flow-through entity and has income and/or loss being reported to them generated from a DCE, then such DCE income and/or loss will not be used in any calculation of income tax due by such partner or shareholder of the flow-through entity. The exemption is not transferable and cannot be applied, used, or assigned to any other person or business or tax account, other than the one approved by MDA.

To calculate the amount of exemption for the business, an apportionment formula comprised of a property and a payroll ratio is used in A), B), and C). The numerator of both the property and the payroll ratio in A), B), and C) is based on the respective property and payroll of the MDA-approved DCE. The denominator of the property and payroll ratios in A) and B) includes the respective total business property and payroll. The denominator of the property and payroll ratios in C) includes the respective property and payroll within Mississippi. The ratios in A), B), and C) are computed on the same type of property, including annualized rentals, and payroll as would be employed in the calculation of the property and payroll ratios of a manufacturer in Mississippi as required by regulation, except no reductions shall be made for general and administrative property or payroll. The numerators of both the property and payroll ratios include only that property purchased or rented and payroll that are necessary to the operation of the DCE.

- A) Those businesses whose total business income is assigned to Mississippi for Mississippi income tax purposes by reason of not being taxable in another state should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total business income or loss. The result is the income and/or loss attributable to the DCE. The DCE income will reduce the total business income. A DCE loss will reduce the total business loss.

Example: Corporation ABC is a domestic corporation not taxable in another state and, therefore, assigns both its business and non-business income to this state. ABC is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, ABC received approval from the MDA for a DCE expansion project. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, ABC had DCE property and total company property of \$3 million and \$10 million, respectively. ABC's total business receipts were \$50 million and payroll for the DCE was zero since the plant was still under construction. ABC's business income was \$2 million, and its non-business income was \$100,000 (one hundred thousand dollars).

For tax year one, ABC computed the following DCE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{DCE Property}}{\text{Total Company Property}} = \frac{\$0 \text{ million}}{\$10 \text{ million}} = 0\% \\ \text{Payroll Factor} &= \frac{\text{DCE Payroll}}{\text{Total Company Payroll}} = \frac{\$0.00}{\text{Total Company Payroll}} = 0\% \end{aligned}$$

In year one, the DCE property was under construction, therefore, none of the property qualified for inclusion in the factor. Payroll expended for construction was capitalized as part of work in progress. ABC does not receive a DCE income exclusion for year one.

- B) Those businesses that employ a single ratio formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three as well. This ratio should then be applied to the total business income and/or loss subject to Mississippi apportionment. The result is the income and/or loss attributed to the DCE. The DCE income will reduce the Mississippi apportioned income as calculated by regulation, however, in no case should it reduce the Mississippi apportioned income below zero nor should a loss attributed to a DCE reduce a Mississippi apportioned loss to an amount above zero.

Example: Corporation ABC is a domestic corporation, which is taxable in several other states and apportions its business income to this state using a single factor formula. In year one, ABC received approval from the MDA for a DCE expansion project. Construction of the new facility was completed in year two. For year two, ABC's Mississippi and total company receipts are \$50 million and \$70 million, respectively. ABC has DCE, Mississippi, and total company

property of \$4 million, \$10 million, and \$12 million, respectively. ABC's DCE, Mississippi, and total company payroll are \$2 million, \$4 million, and \$8 million respectively. ABC's business income is \$2 million, and its non-business income is \$100,000 (one hundred thousand dollars).

For tax year two, ABC computed the following DCE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{DCE Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$12 \text{ million}} = 33.33\% \\ \text{Payroll Factor} &= \frac{\text{DCE Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\begin{aligned} \text{DCE exclusion ratio} &= (\text{DCE Property Factor} + \text{DCE Payroll Factor} + \text{DCE Payroll Factor})/3 \\ &= (33.33\% + 25\% + 25\%)/3 = 27.78\% \end{aligned}$$

$$\text{Income Apportionment Ratio} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\%$$

The exclusion from business income is equal to \$555,554 ($\$2,000,000 \times 27.78\%$). Mississippi business taxable income prior to the exclusion is \$1,428,572. Mississippi taxable income is \$973,018 ($\$1,428,572 - \$555,554 + \$100,000$).

- C) Those businesses that employ a three-factor formula to apportion their business income to Mississippi should calculate a property factor and double-weighted payroll factor and then divide by three. This ratio should then be applied to the Mississippi apportioned income and/or loss as determined by regulation. The result should be that income and/or loss attributed to the DCE. The DCE income will reduce the Mississippi apportioned income as calculated by regulation. An DCE loss will reduce any Mississippi apportioned loss as calculated by regulation.

Example: Assume the same facts as example B except that ABC is a wholesale manufacturer that employs a three-factor formula for apportioning income to this state.

For tax year three, ABC computed the following DCE exclusion ratio:

$$\begin{aligned} \text{Exclusion Property Factor} &= \frac{\text{DCE Property}}{\text{Total MS Property}} = \frac{\$4 \text{ million}}{\$10 \text{ million}} = 40\% \\ \text{Exclusion Payroll Factor} &= \frac{\text{DCE Area Payroll}}{\text{Total MS Payroll}} = \frac{\$2 \text{ million}}{\$4 \text{ million}} = 50\% \\ \text{Income Apport. Receipts Factor} &= \frac{\text{MS Business Receipts}}{\text{Total Business Receipts}} = \frac{\$50 \text{ million}}{\$70 \text{ million}} = 71.43\% \\ \text{Income Apport. Payroll Factor} &= \frac{\text{MS Payroll}}{\text{Total Company Payroll}} = \frac{\$4 \text{ million}}{\$8 \text{ million}} = 50\% \\ \text{Income Apport. Property Factor} &= \frac{\text{Total MS Business Property}}{\text{Total Bus. Prop. Everywhere}} = \frac{\$10 \text{ million}}{\$12 \text{ million}} = 83.33\% \end{aligned}$$

$$\begin{aligned} \text{DCE exclusion ratio} &= (\text{DCE Property Factor} + \text{DCE Area Payroll Factor} + \text{DCE Payroll Factor})/3 \\ &= (40\% + 50\% + 50\%)/3 = 46.67\% \end{aligned}$$

$$\text{Income Apportionment Ratio} = (71.43\% + 50\% + 83.33\%)/3 = 68.25\%$$

Mississippi business income prior to the DCE exclusion = \$1,365,080. The DCE exclusion is equal to \$637,038 ($1,365,080 \times 46.67\%$). Mississippi taxable income is equal to \$828,042 ($\$1,365,080 - \$637,038 + \$100,000$).

- D) Those multi-state businesses employing direct accounting for income tax reporting should calculate a ratio in the same manner as described in C). This ratio should be applied to the direct accounting income and/or loss to determine the amount of income and/or loss attributable to the DCE. The DCE income will reduce the total business income. A DCE loss will reduce the total business loss.
- E) The Commissioner may require another method if it is determined that the apportionment of the income and/or loss as required under A), B), C), or D) inaccurately reflects the income and/or loss generated by an approved DCE.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Data Center Enterprise Exemption. Once you have received certification of eligibility from the MDA, you must submit the MDA certification along with a completed Application for Certification of Economic Incentives to the MDOR. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of the exemption;
- a copy of the MDA certification letter; and
- a copy of the MDOR exemption acceptance letter.

The Data Center Enterprises exemption is authorized under Miss. Code Ann. Sections 57-113-21 and 57-113-25.

Revised February 1, 2022

A.18. Entertainment District Incentive

An income tax incentive in the form of a five (5) year accelerated depreciation period is provided for construction and renovation projects of an entertainment facility in a Mississippi entertainment district. A Mississippi Entertainment District is an area designated by a local government in which entertainment services are centered. "Entertainment facility" means any structure that provides entertainment services and shall include a:

- theater
- amphitheater
- golf course
- automobile racetrack
- museum
- zoo
- arena
- stadium
- or similar venue

For receiving the benefit of a five (5) year accelerated depreciation period on construction or renovation projects, the qualifying business must collect two dollars (\$2.00) per ticket, pass or admission. This is in addition to the regular sales tax on amusement services provided for in Miss. Code Ann. Section 27-65-22.

EXCEPTION: Gaming establishments licensed under the gaming control act are not eligible for this incentive

ESTABLISHMENT OF AN ENTERTAINMENT DISTRICT

The governing authorities of a local government may establish an entertainment district within its boundaries and shall designate the geographical areas in which it is established. Once established the local government shall submit to the Mississippi Department of Revenue (MDOR) an application for approval of the entertainment district.

An application to designate an area as a Mississippi Entertainment District should contain all of the following:

- A copy of the resolution issued by the governing authorities of the local government including the name of the district and the date it is established;
- A map or survey of the entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the residents;
- A general statement of the nature and types of businesses that are or will be located within the entertainment district;
- Identification of existing entertainment facilities within the entertainment district as well as any proposed establishments along with a time frame for their completion. At least one entertainment facility must be located in the proposed entertainment district or plans for a specific entertainment facility must be included for an application to be approved;
 - Plans include the address, blueprints, the name of the facility, copies of applicable contracts with builders;

If a local government determines that an Entertainment District which it established no longer qualifies, it may submit a request to the MDOR to have the designation terminated. Upon termination of the entertainment district designation, businesses may no longer apply for the accelerated depreciation benefit. However, previously qualified businesses will continue to receive the accelerated depreciation benefit and continue to collect the two-dollar (\$2.00) ticket fee for the remainder of the five (5) years.

QUALIFYING BUSINESS

Once a local government receives approval from the MDOR for an entertainment district, businesses may apply to participate in the MS entertainment district program and receive the accelerated depreciation benefit. In order to qualify the entertainment facility must be 1) located in a Mississippi entertainment district as confirmed by the local government, 2) have construction or renovation of the entertainment facility starting on or after the entertainment district was established, 3) submit an Application for Certification of Economic Incentives to the MDOR, and 4) be approved by the MDOR.

HOW A BUSINESS APPLIES FOR THE ENTERTAINMENT DISTRICT INCENTIVE CERTIFICATION

The entertainment facility must submit to the Department of Revenue an Application for Certification of Economic Development Incentives, a statement of election to participate in the program, a detailed description of the construction or renovation project including the project's name, a listing of the entertainment services to be provided, and the date they start. Listing of entertainment services should include a description of the types of events, methods by which tickets are sold, and how admission information is tracked. Description of the project should be sufficient to provide for identification of the qualifying assets. A separate application is required for each construction or renovation project with approval of a

new project restarting the five (5) year period for collection of the two-dollar (\$2.00) ticket fee.

Once a facility is approved, the qualifying assets are fully depreciated over a period of five (5) years. Sale of the entity owning the assets will not affect the depreciation expense deduction, but sale of a qualifying asset is subject to tax on any gain recognized in the same manner as other assets. Even though a business sells a qualifying asset(s), collection of the two-dollar (\$2.00) ticket fee continues for the full five (5) years.

COLLECTION OF THE TICKET FEE

When a qualifying business elects to utilize the accelerated depreciation, it must impose a two-dollar (\$2.00) fee per each ticket, pass, or admission to entertainment events (i.e., service) held at its facility. This fee is in addition to the sales tax on the admission. The fee applies on a per person per admission basis to events and other amusements subject to sales tax under Miss. Code Ann. Section 27-65-22. This includes free events and admissions if sales tax would have applied had a price for admission been charged. However, if it is customary not to charge admission to children under a certain age, then the admission fee will not be applied either.

Collection of the fee is applied on a per admission basis regardless of whether a ticket provides for one time admission or multiple admissions over a period of time, such as a season pass. Similarly, the fee is applied per person regardless of whether admission is sold on an individual or group basis. When a one-day event allows for participants once admitted to leave and return without charge, only the initial admission is subject to a fee.

Collection of the fee begins at the later of acceptance by MDOR into the program or the date in which business (i.e., admissions) begins. The accelerated depreciation expense deduction may begin when the taxpayer starts collecting the ticket fee or when the construction/renovation property is placed into service, whichever is later.

DEPRECIATION

A qualifying business may use a five-year depreciation system for construction or renovation property. It is the taxpayer's responsibility to determine whether it is most advantageous to utilize the normal depreciation method (i.e., the method normally elected for both federal and state tax purposes) including any immediate expensing under IRC Section 179 or to elect the five-year depreciation method described below.

Income tax filings where accelerated depreciation is claimed must include separate schedules for the qualifying assets. Asset schedules need to provide a description of all construction or renovation property placed into service, the cost, date placed into service, a schedule of state and federal depreciation deductions taken, along with a reconciliation of such, and any other information used in making such calculations.

The following depreciation schedule should be used for any property in which the five (5) year accelerated depreciation deduction is made:

Depreciation Method: Straight Line
 Recovery Period: 5 Year
 Assumption: Property placed in service in middle of the month

Month the Property is Placed in Service:

Recovery Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	19%	18%	16%	14%	13%	11%	9%	8%	6%	4%	3%	1%
2	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%
3	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%
4	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%
5	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%
6	1%	2%	4%	6%	7%	9%	11%	12%	14%	16%	17%	19%

The depreciation for a short tax year is the annual rate of 20% prorated for the number of months the property is deemed in service for the tax year.

The Entertainment District Incentive is authorized under Miss Code Ann. Section 17-29-1 et seq.

Revised February 1, 2022

A.19. Health Care Industry Zone Incentive

An income tax incentive in the form of a ten (10) year accelerated depreciation period is provided for construction and renovation of a health care industry facility within a Mississippi Health Care Industry Zone. A Mississippi Health Care Industry Zone is an area certified by the Mississippi Development Authority in which health care industry facilities are centered. "Health care industry facility" includes any business that creates a minimum of twenty-five (25) new full-time jobs and/or Ten Million Dollars (\$10,000,000.00) of capital investment after July 1, 2012, and is:

- Engaged in the research and development of pharmaceuticals, biotechnology, medical supplies, biologics, diagnostic imaging, medical equipment or medicine and related manufacturing or processing;
- A medical service provider;
- Engaged in medical product distribution; or
- Engaged in laboratory testing.

"Health care industry facility" may also include a business that is located on land owned by or leased from an academic health science center with a medical school accredited by the Liaison Committee on Medical Education and a hospital accredited by the Joint Committee on Accreditation of Healthcare Organizations and creates a minimum of twenty-five (25) new full-time jobs and/or Twenty Millions Dollars (\$20,000,000.00) of capital investment after July 1, 2012.

HEALTH CARE INDUSTRY ZONE INCENTIVE

The Health Care Industry Zone Incentive was created to encourage health care related businesses to locate or expand within a qualified Health Care Zone in the state. It aims to expand access to high quality medical care for Mississippi residents and increase the number of health care jobs in the state.

ESTABLISHMENT OF A HEALTH CARE INDUSTRY ZONE

Mississippi Development Authority (MDA) may certify an area as a health care industry zone if the following requirements are met:

- The area is located within three (3) contiguous counties which have certificates of need of more than three hundred seventy-five (375) acute care hospital beds and/or a county which has a hospital with a minimum capital investment of two hundred fifty million dollars (\$250,000,000.00) and for which construction is completed before July 1, 2017;
- The health care industry facility is located within a five-mile radius of a facility with a certificate of need for hospital beds and/or a University or College that is a) accredited by the Southern Association of Colleges and Schools and awards degrees and/or trains workers for jobs in health care or pharmaceutical fields of study and/or work, and b) located along or near Mississippi Highway 67 within a master planned community as defined in Section 19-5-10; and
- The zoning of the local government unit, if applicable, allows the construction or operation in the proposed health care industry zone of the health care industry facility.

QUALIFYING BUSINESS

Once an area is approved by the MDA as a Health Care Industry Zone, businesses may apply to participate in the Health Care Industry Zone Incentive and receive the accelerated depreciated benefit. In order to qualify, the health care industry facility must 1) apply to the MDA and be approved as a qualified business, and 2) have construction or renovation of a health care industry facility within a health care industry zone.

A health care industry facility that engages in an activity for which a certificate of need is required must comply with the provisions of Section 41-7-191 in order to be certified as a qualified business.

DEPRECIATION

A qualifying business may use a ten (10) year depreciation system for construction or renovation property. It is the taxpayer's responsibility to determine whether it is most advantageous to utilize the normal depreciation method (i.e., the method normally elected for both federal and state tax purposes) including any immediate expensing under IRC Section 179 or to elect the ten (10) year depreciation method.

HOW TO APPLY FOR THE INCENTIVE

Once you have received certification of eligibility from the MDA, you must submit the MDA certification along with a completed Application for Certification of Economic Incentives to the MDOR. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

Income tax filings where accelerated depreciation is claimed must include a copy of the certification from the MDA and separate schedules for the qualifying assets. Asset schedules need to provide a description of all construction or renovation property placed into service, the cost, date placed into service, a schedule of state and federal depreciation deductions taken, along with a reconciliation of such, and any other information used in making such calculations.

The Health Care Industry Incentive is authorized under Miss Code Ann. Sections 57-117-3, 57-117-5, and 57-117-7 et seq.

Revised February 1, 2022

A.20. Historic Rehabilitation Income Tax Credit

An income tax credit or rebate is available in an amount equal to twenty five percent (25%) of the total costs and expenses for the rehabilitation of either residential or business property located in Mississippi and qualifying as a certified historic structure or a structure in a certified historic district. Costs and expenditures include but are not limited to qualified rehabilitation expenditures as defined under IRC Section 47(c)(2)(a). The tax credit may be carried forward for up to ten years. Not for profit entities are not eligible for the rebate or credit.

HISTORIC REHABILITATION INCOME TAX CREDIT

A rebate or income tax credit of twenty five percent (25%) of the total costs and expenses for the rehabilitation is available if the costs and expenses exceed five thousand dollars (\$5,000) in the case of an owner-occupied dwelling or exceed fifty percent (50%) of the adjusted basis in the property in the case of all other properties and the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior as determined by the Mississippi Department of Archives and History (MDAH).

In lieu of claiming a tax credit, the taxpayer may elect to claim a rebate in the amount of seventy-five percent (75%) of the amount that would be eligible to claim as a credit. The election must be made in the year in which the rebate is certified.

The aggregate amount of rebates and credits that may be awarded is one hundred eighty million dollars (\$180,000,000). No more than twelve million dollars (\$12,000,000) for projects with total qualified rehabilitation costs and expenses of one million seven hundred and fifty dollars (\$1,750,000) or more may be certified in any one calendar year. No more than twelve million dollars (\$12,000,000) for projects with total qualified rehabilitation costs and expenses of less than one million seven hundred and fifty thousand dollars (\$1,750,000) may be certified in any one calendar year.

Eligible property is defined as property located in Mississippi and offered or used for residential or business purposes.

A certified historic structure is defined as a property located in Mississippi that has been:

1. Listed individually on the National Register of Historic Places; or
2. Determined to be eligible and will be listed by the United States Department of the Interior within thirty (30) months of claiming the credit; or
3. Designated a Mississippi Landmark by the MDAH.

A structure in a certified historic district is defined as a structure located in Mississippi and is:

1. Listed on the National Register of Historic Places; or
2. Determined to be eligible and will be listed by the United States Department of the Interior within thirty (30) months of claiming the credit; or
3. Located in a registered historic district listed on the National Register of Historic Places or located in a potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the rebate or credit authorized by this section, and is certified by the Secretary of the United States Department of the Interior as being of historic significance to the district; or
4. Certified by the MDAH as contributing to the historic significance of:
 - a. A certified historic district listed on the National Register of Historic Places; or
 - b. A potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the rebate or credit; or
 - c. A local district that has been certified by the United States Department of the Interior.

Rehab Credits cannot be discounted and sold in the open market. Only a taxpayer who has incurred costs and expenses for the rehabilitation of an eligible property is entitled to the income tax credit. Credits granted to a partnership or limited liability company (LLC) taxed as a partnership must be passed through to the partners or members on a pro rata basis or in accordance with an executed agreement. If a partnership or LLC does elect to claim a rebate of seventy-five percent (75%) of the amount that would be eligible to claim as a credit, the rebate must be taken at the partnership level. A partner

or member of a partnership or LLC that has elected to pass through the credit to its partners or members may sell his interest to another person or entity, in which case the new owner would receive any available credits that are available to be passed through. The new owner must purchase the interest in the partnership or LLC prior to the original or extended due date of the partner's or member's tax return for the tax year in which the credit is utilized. There is no mechanism in the law whereby any person other than a taxpayer incurring costs and expenses for the rehabilitation of an eligible property, or, in the case of a taxpayer that is a pass-through entity such as a partnership or LLC, the partners or members, can utilize the available credit.

Any taxpayer may claim the credit in phases if:

1. There exists a written set of architectural plans and specifications for all phases of the rehabilitation;
2. The written set of architectural plans and specifications are completed before physical work on the rehabilitation begins; and
3. The project receives final certification by the department within sixty (60) months of the project start date certified in the first phase.

The rebate or credit is subject to recapture if the property or the potential district in which the property is located is not listed on the National Register of Historic Places within thirty (30) months of claiming the credit, or the project has not received final certification by the MDAH within sixty (60) months of the project start date certified in the first phase. The taxpayer must notify the MDAH and the MDOR if any of the situations occur that subject the rebate or credit to recapture.

HOW TO APPLY FOR THE CREDIT

The MDAH is responsible for certifying the amount of the eligible rehabilitation costs and expenses and whether the rehabilitation is consistent with the Standards of the Secretary of the United States Department of the Interior. Contact the MDAH at 601-576-6950 for questions concerning certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a copy of the certification of eligibility from MDAH;
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward; and
- a copy of the member's or owner's distribution/allocation agreement.

The Historic Rehabilitation Tax Credit Code is 26.

A rebate claim may be submitted to the MDOR within twelve (12) months of the issuance of the certification by MDAH. The taxpayer must submit the certification to MDOR to receive payment.

The Historic Rehabilitation Income Tax Credit is authorized under Miss Code Ann. Section 27-7-22.31.

Revised February 1, 2022

A.21. Qualifying Charitable Organizations Tax Credit

Qualifying Foster Care Charitable Organizations Tax Credit

An income tax credit is available for voluntary cash contributions to a “qualifying charitable organization” (QCO) or a “qualifying foster care charitable organization” (QFCCO). The tax credit may be carried forward for five (5) years. The aggregate amount of the credits that may be awarded shall not exceed one million dollars (\$1,000,000). The credit allowed by this section is in lieu of a deduction pursuant to Section 170 of the Internal Revenue Code and taken for state tax purposes.

An income tax credit is available for voluntary cash contributions from individuals made to a QCO. The amount of the credit is limited to the lesser of four hundred dollars (\$400) or the amount of the contribution in any taxable year for a single individual or a head of household, and the lesser of eight hundred dollars (\$800) or the amount of the contribution in any taxable year for a married couple filing a joint return.

A separate credit is available for voluntary cash contributions during the taxable year made to a QFCCO. The amount of the credit is limited to the lesser of five hundred dollars (\$500) or the amount of the contribution in any taxable year for a single individual or a head of household, and the lesser of one thousand dollars (\$1,000) or the amount of the contribution in any taxable year for a married couple filing a joint return.

A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

If the allowable tax credit exceeds the taxes due on the taxpayer's income, or if there are no taxes due, the taxpayer may carry forward the amount of the credit not used for five (5) years. The credit allowed by this section is in lieu of a deduction pursuant to Section 170 of the Internal Revenue Code and taken for state tax purposes.

QUALIFYING CHARITABLE ORGANIZATIONS

A QCO means a charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or is a designated community action agency that receives community services block grant program monies pursuant to 42 USC 9901. The organization must spend at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low-income residents of this state and their households or to children who have a chronic illness or physical, intellectual, developmental, or emotional disability who are residents of this state. “Low-income residents” are persons whose household income is less than one hundred fifty percent (150%) of the federal poverty level. “Services” means (1) cash assistance, medical care, child care, food, clothing, shelter, and job-placement services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state; (2) job-training or education services or funding for parents, foster parents or guardians; or (3) job-training or education services or funding provided as part of a foster care independent living program.

A charitable organization that meets all other requirements but does not spend at least fifty percent (50%) of its overall budget in Mississippi may still qualify as a QCO. The charitable organization may still qualify if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the MDOR that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to qualified individuals in Mississippi.

Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities must designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. A QCO does not include any entity that provides, pays for, or provides coverage of abortions or that financially supports any other entity that provides, pays for, or provides coverage of abortions.

HOW TO QUALIFY AS A QCO

To be considered a QCO, the organization must submit a letter ruling request including the following:

1. Contact information including phone number, email address, mailing address, and physical location if different.

2. A statement that the organization meets all criteria to be considered a QCO signed by an officer of the organization under penalties of perjury.
3. A copy of the exemption letter from the IRS verifying the organization qualifies under Section 501(c)(3) of the Internal Revenue Code or verification that the organization is a designated community action agency under 42 USC 9901.
4. An operating budget for the prior year.
5. A list of services provided by the organization.
6. A detailed schedule of total expenses for the prior year with a breakout of amounts expended on services to residents of this state who:
 - a. Receive temporary assistance for needy families benefits,
 - b. Are low-income residents of this state, and/or
 - c. Are children who have a chronic illness or physical, intellectual, developmental, or emotional disability.
7. The total number of individuals who received services from the organization in the prior year.
8. The total number of Mississippi residents who received services in the prior year and meet the criteria in number 6 above.
9. Copy of prior years' federal income tax return.
10. Copy of prior years' financial statements.
11. A statement that the organization plans to continue spending at least fifty percent (50%) of its budget on services to individuals who meet the criteria in number 6 above.
12. Charitable organizations that do not spend at least fifty percent (50%) of their overall budget in Mississippi may still qualify if they meet all other requirements for a QCO. These organizations must submit a statement that they spend at least fifty percent (50%) of their Mississippi budget on services to qualified individuals in Mississippi and that one hundred percent (100%) of the voluntary cash contributions they receive from Mississippi taxpayers will be spent on services to qualified individuals in Mississippi.
13. A statement that the organization does not provide, pay for, or provide coverage of abortions and does not financially support any other entity that provides, pays for, or provides coverage of abortions.

QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION

A QFCCO means a qualifying charitable organization that each year provides services to at least one hundred (100) qualified individuals in this state and spends at least fifty percent (50%) of its budget on services to qualified individuals in this state. A "qualified individual" means a child in a foster care placement program established by the Department of Child Protection Services, a child placed under the Safe Families for Children model, or a child at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

A charitable organization that meets all other requirements but does not spend at least fifty percent (50%) of its overall budget in Mississippi may still be a QFCCO. The charitable organization may still qualify if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the MDOR that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to qualified individuals in Mississippi.

HOW TO QUALIFY AS A QFCCO

To be considered as a QFCCO, the organization must submit a letter ruling request including the following:

1. Contact information including phone number, email address, mailing address, and physical location if different.
2. A statement that the organization meets all criteria to be considered a QFCCO signed by an officer of the organization under penalties of perjury.
3. A copy of the exemption letter from the IRS verifying the organization qualifies under Section 501(c)(3) of the Internal Revenue Code or verification that the organization is a designated community action agency under 42 USC 9901.
4. An operating budget for the prior year.
5. A list of services provided by the organization.
6. A detailed schedule of total expenses for the prior year with a breakout of amounts expended on services to qualified individuals in Mississippi who:
 - a. Are children in a foster care placement program established by the Department of Child Protection Services,
 - b. Are children placed under the Safe Families for Children model, and/or

- c. Are children at significant risk of entering a foster care placement program established by the Department of Child Protection Services.
7. The total number of individuals who received services from the organization in the prior year.
8. The total number of qualified individuals who received services in the prior year and meet the criteria in number 6 above.
9. Copy of prior years' federal income tax return.
10. Copy of prior years' financial statements.
11. A statement that the organization plans to continue spending at least fifty percent (50%) of its budget on services to individuals who meet the criteria in number 6 above.
12. Charitable organizations that do not spend at least fifty percent (50%) of their overall budget in Mississippi may still qualify if they meet all other requirements for a QFCCO. These organizations must submit a statement that they spend at least fifty percent (50%) of their Mississippi budget on services to qualified individuals in Mississippi and that one hundred percent (100%) of the voluntary cash contributions they receive from Mississippi taxpayers will be spent on services to qualified individuals in Mississippi.
13. A statement that each operating year it provides services to at least one hundred (100) qualified individuals in this state.
14. A statement that the organization does not provide, pay for, or provide coverage of abortions and does not financially support any other entity that provides, pays for, or provides coverage of abortions.

A letter acknowledging the approval or denial of the organization as a QCO or a QFCCO will be issued. Please see our webpage concerning letter rulings for more information at: <https://www.dor.ms.gov/lawsregulations/tax-guidance#four>.

The MDOR maintains a webpage that lists all of the approved QCOs and QFCCOs located at: <https://www.dor.ms.gov/individual/qualifying-charitable-organizations>.

The organization must notify the MDOR of any changes that may affect any of the qualifications above.

HOW TO APPLY FOR THE CREDIT

A taxpayer must apply to be pre-approved for allocation credits with the MDOR using the appropriate application located at <https://www.dor.ms.gov/individual/qualifying-charitable-organizations>. A letter response to the application will be sent within 30 days after receipt.

If the contribution has not been made at the time of the application, the MDOR will issue an allocation letter requesting that the applicant provide documentation that confirms the contribution has been made (i.e., a letter or receipt that includes the name of the organization, date of contribution, amount of contribution, and a statement of whether any goods and/or services were provided in exchange). The applicant has 60 days from the date of the allocation approval letter or by December 31 of the current year, whichever occurs first, to make the contribution. If the contribution is not made or if the MDOR has not been notified within a specified timeframe, the credit amount allocated will be cancelled and made available for allocation to other taxpayers.

If the contribution has been made, please attach the documentation from the QCO or QFCCO verifying the details of the contribution with the application.

Once both the application and documentation have been received, the Department will issue an allocation approval or denial letter.

Pass-through entities awarded credits must provide the MDOR with a schedule of amounts allocated to its members by the end of the taxable year.

All contributions must be completed during the calendar year in order to be claimed on the return.

HOW TO CLAIM THE CREDIT

When filing the state income tax return claiming the credit, the individual should attach the Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward and indicate the name of the qualified organization. The

QCO tax code is 34 and the QFCCO tax code is 35.

The Charitable Contribution Tax Credit and the Foster Care Charitable Tax Credit are authorized under Miss Code Ann. Section 27-7-22.39.

Revised February 1, 2022

A.22. Eligible Charitable Business Contribution Tax Credit

A tax credit is available for voluntary cash contributions to an eligible charitable organization ("ECO"). ECOs include educational services charitable organizations ("ESCO"). The amount of the credit is limited to fifty percent (50%) of the taxpayer's total income tax liability, fifty percent (50%) of the taxpayer's total insurance premium tax liability and, in the case of taxpayers not operating as a corporation, fifty percent (50%) of the total real property ad valorem tax liability. The tax credit may be carried forward for five (5) years.

The tax credit is only available to a taxpayer who is a business enterprise engaged in commercial, industrial, or professional activities and operating as a corporation, limited liability company, partnership, or sole proprietorship. Taxpayers may utilize the credit against income tax, insurance premium tax, and insurance premium retaliatory tax. Taxpayers, not operating as a corporation, may also utilize the credit against ad valorem taxes on real property. A contribution to an ECO used for the Eligible Charitable Business Contribution Tax Credit cannot be used for the Charitable Business Contribution Tax Credit or Foster Care Charitable Tax Credit. A contribution, for which an Eligible Charitable Business Contribution Tax Credit is claimed, may not be used as a deduction by the taxpayer for state income tax purposes.

HOW TO QUALIFY AS AN ELIGIBLE CHARITABLE ORGANIZATION

To qualify as an ECO, the organization must submit a letter ruling request to the MDOR including the following:

1. Contact information including phone number, email address, mailing address, and physical location if different from mailing address.
2. A statement, signed by an officer of the organization under penalties of perjury, that the organization meets all criteria to be considered an ECO.
3. A copy of the exemption letter from the IRS verifying the organization qualifies under Section 501(c)(3) of the Internal Revenue Code.
4. A statement that the organization does not provide, pay for, or provide coverage of abortions and does not financially support any other entity that provides, pays for, or provides coverage of abortions.
5. Documentation that the organization is:
 - (i) Licensed by or under contract or agreement with the Department of Child Protection Services and provides services for the following:
 - a. The prevention and diversion of children from custody with the Department of Child Protection Services;
 - b. The safety, care, and well-being of children in custody with the Department of Child Protection Services; or
 - c. The express purpose of creating permanency for children through adoption.

OR

- (ii) An educational services organization that provides services to:
 - a. Children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model, or children at significant risk of entering a foster care placement program established by the Department of Child Protections Services;
 - b. Children who have a chronic illness or physical, intellectual, developmental, or emotional disability; or
 - c. Children eligible for free or reduced-price meals programs under Miss. Code Ann. Section 37-11-7 or selected for participation in the Promise Neighborhoods Program sponsored by the U.S. Department of Education.

HOW TO QUALIFY AS AN EDUCATIONAL SERVICES CHARITABLE ORGANIZATION

Educating children must be the primary goal of an ESCO.

An ESCO provides instruction, tutoring or training delivered by teachers or instructors that explain, tell, demonstrate, supervise, and direct to help students learn. They may provide opportunities for academic enrichment activities during non-school hours or periods when school is not in session, such as before and after school or during summer recess. Services can be provided through diverse means including internet or other electronic and distance learning methods as well as sign language.

Providing scholarships, day-care, therapy, or treatment does not qualify as educational services.

To qualify as an ESCO please submit the following:

1. The information requested in numbers 1 through 4 under "How to Qualify as an Eligible Charitable Organization."
2. The number of students served in Mississippi in each category in 5(ii) a-c, above.
3. The total number of students served in Mississippi.
4. The total number of individuals served in Mississippi.
5. A list of services provided by the organization.

A letter acknowledging the approval or denial of the organization as an ECO will be issued. Please see our webpage concerning letter rulings for more information at <https://www.dor.ms.gov/office-of-tax-policy>.

The MDOR maintains a webpage that lists all approved ECOs at:

<https://www.dor.ms.gov/business/eligible-charitable-organizations-childrens-promise-act>.

The organization must notify the MDOR of any changes that may affect any of the qualifications above.

HOW TO APPLY FOR THE CREDIT

A taxpayer can apply to be pre-approved for allocation credits with the MDOR using either the Application for Contributions to Eligible Charitable Organizations or the Application for Contributions to Educational Services Charitable Organizations located at <https://www.dor.ms.gov/business/eligible-charitable-organizations-childrens-promise-act>. A letter response to the application will be sent within 30 days after receipt.

If the contribution has not been made at the time of the application, the MDOR will issue an allocation letter requesting that the applicant provide documentation that confirms the contribution has been made (i.e. a letter or receipt that includes the name of the organization, date of contribution, amount of contribution, and a statement of whether any goods and/or services were provided in exchange). The applicant has 60 days from the date of the allocation approval letter or by December 31 of the current year, whichever occurs first, to make the contribution. If the contribution is not made or if the MDOR has not been notified within a specified timeframe, the credit amount allocated will be cancelled and made available for allocation to other taxpayers.

If the contribution has been made, please attach the documentation from the ECO verifying the details of the contribution with the application.

Once both the application and documentation have been received, the Department will issue an allocation approval or denial letter.

Due to the per ECO caps in place, the time it will take to receive an approval or denial letter could be prolonged if payment or documentation of payment to an ECO is delayed.

Pass-through entities awarded credits must provide the MDOR with a schedule of amounts allocated to its members by the end of the taxable year.

All contributions must be completed during the calendar year to be claimed on the return.

HOW TO CLAIM THE CREDIT

The credit can be applied against up to fifty percent (50%) of the taxpayer's total income tax liability, fifty percent (50%) of the taxpayer's total insurance premium tax liability, and, in the case of taxpayers not operating as a corporation, fifty percent (50%) of the taxpayer's total real property ad valorem tax liability, not to exceed the total amount of the credit.

When filing the state income tax return claiming the income tax credit, the taxpayer must attach the Mississippi Tax Credit Summary Schedule showing all credits taken, any credit carryforward, and the name of the qualified ECO. The Eligible Charitable Business Contribution Tax Credit code is 36.

The ad valorem tax credit must be claimed by presenting the allocation approval letter to the tax collector's office in the county in which the ad valorem tax is due. The credit may be claimed upon receipt of the allocation approval letter and may be used in more than one county.

Credits claimed on the Insurance Premium Tax Return are to be reported on the appropriate line.

Documentation must be maintained by the taxpayer and provided upon request.

The Eligible Charitable Organizations Tax Credit is authorized under Miss Code Ann. Section 27-7-22.41.

Revised February 1, 2022

B. Franchise Tax Incentives

B.1. Franchise Tax Exemption for Growth and Prosperity (GAP) Areas

A franchise tax exemption is available for a period of ten (10) years for certain businesses locating in a GAP area. The eligible businesses include:

- manufacturers
- processors
- distributors
- wholesalers
- services
- warehouses
- research and development
- sellers of products or goods, including products of agriculture
- others as determined by MDA which will create at least ten (10) jobs

EXCEPTIONS: These businesses cannot claim the exemption.

- retail establishments
- gaming businesses or casinos
- electrical generation facilities

The Growth and Prosperity (GAP) Areas Tax Exemption was created to encourage businesses to locate facilities and hire individuals in areas that have thirty percent (30%) or more of the population at or below the federal poverty level according to the most recent official data compiled by the United States Census Bureau or have an unemployment rate that is two hundred percent (200%) of the state's average unemployment rate. A county or supervisor's district applies to MDA to be designated as a GAP Area. After the application has been approved, the GAP Area is issued a certificate of public convenience and necessity. At this time, an eligible business that constructs a new facility or expands an existing facility located in one of these GAP Areas can apply to MDA to be exempted from state and local taxes for a period of ten (10) years or until December 31, 2029, whichever occurs first.

If the business is located in an area that the Governor has declared a disaster area and as a result of that disaster the business is unable to utilize the exemption from state taxes, MDA may extend the exemption for up to two (2) years or until December 31, 2033, whichever occurs first.

State taxes are defined as any sales and use tax on the purchase of component materials, equipment and machinery for the initial construction of a business or an additional expansion of an existing business in the GAP Area, any sales and use tax on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion in a GAP Area, income tax on income generated by the business in the GAP Area and the franchise tax on the value of the capital used, invested or employed by the business in that GAP Area. Local taxes mean any county or municipal ad valorem taxes except for the school, fire, and police portions of the tax.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. Such exemption is not transferable and cannot be applied, used, or assigned to any other entity. The approved business must also enter into an agreement with MDA which sets out performance requirements for the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information, necessary to verify the correctness of any exemptions claimed. For more information on the GAP areas, contact:

Mississippi Development Authority
Financial Resources Division - GAP Program
Post Office Box 849
Jackson, MS 39205

The exemption granted to an entity is based on the value of capital used, invested, or employed in its new operation within a GAP Area after it has been designated as an approved business enterprise within the GAP Area by MDA. An entity may have, in addition to an MDA approved business enterprise operating in the GAP Area, other business operations which are located within and/or outside the GAP Area that do not qualify as MDA approved business enterprises. If so, the capital attributable to the GAP Area must be determined separately from its total capital employed in Mississippi.

An apportionment formula comprised of a property and a payroll factor is used to determine the amount of capital attributable to a GAP Area. The numerator of both the property and the payroll factor in A), B), and C) shall be based on

the respective property and payroll of the MDA approved business enterprise(s) operating in the GAP Area. The denominator of the property and payroll factors in A) and B) shall include the respective total company property and payroll. The denominator of the property and payroll factors in C) shall include the respective property and payroll within Mississippi. The factors in A), B), and C) shall be computed on the same type of property, as would be employed for the property included in the factor under the Franchise Tax Laws in Miss. Code Ann. Section 27-13-1 et seq., and payroll as would be employed in the calculation of the payroll factor of a manufacturer in Mississippi as required by Income Tax Regulation, except that no reductions shall be made for general and administrative payroll. The numerators of both the property and payroll factors shall only include that property purchased and payroll in the GAP Area that is necessary to the operation of the approved business enterprise in the GAP Area.

- A) Those businesses whose total business income is assigned to Mississippi by reason of not being taxable in another state shall calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio shall then be applied to the total company capital base. The result shall be that capital attributed to the GAP Area and will be applied as a reduction to the total company base to determine the taxable capital base.

Example: Corporation XYZ is a domestic corporation not taxable in another state and, therefore, allocates all of its taxable capital to this state. XYZ is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, XYZ received approval from the MDA for an expansion project inside a GAP Area. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, XYZ had GAP Area real and tangible personal property, reported on its books as construction-in-progress, of \$4 million and total company real and tangible personal property of \$20 million. XYZ's total company receipts were \$50 million and payroll in the GAP Area was zero since the plant was still under construction. XYZ's capital base was \$ 5 million.

For tax year one, XYZ computed the following GAP Area exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{GAP Area Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$20 \text{ million}} = 20\% \\ \text{Payroll Factor} &= \frac{\text{GAP Area Payroll}}{\text{Total Company Payroll}} = \frac{\$0.00}{\text{Total Company Payroll}} = 0.00\% \end{aligned}$$

$$\begin{aligned} \text{GAP Area Exclusion Ratio} &= (\text{GAP Area Property Factor} + \text{GAP Area Payroll Factor} + \text{GAP Area Payroll Factor})/3 \\ &= (20\% + 0\% + 0\%)/3 = 6.67\% \end{aligned}$$

Therefore, the exclusion from the capital base was \$ 5,000,000 * 6.67% = \$333,333.

XYZ's taxable capital base was \$ 4,667,000 (rounded up) resulting in a tax liability of \$11,667.50.

Example: For tax year three, XYZ has real and tangible personal property in the GAP Area of \$9 million and total company real and tangible personal property of \$25 million. XYZ's total company receipts are \$70 million. Payroll in the GAP Area is \$2 million and total company payroll is \$ 8 million. XYZ's capital base is \$ 5.5 million.

For tax year three, XYZ computed the following GAP Area exclusion ratio.

$$\begin{aligned} \text{Property Factor} &= \frac{\text{GAP Area Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\% \\ \text{Payroll Factor} &= \frac{\text{GAP Area Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\begin{aligned} \text{GAP Area Exclusion Ratio} &= (\text{GAP Area Property Factor} + \text{GAP Area Payroll Factor} + \text{GAP Area Payroll Factor})/3 \\ &= (36\% + 25\% + 25\%)/3 = 28.66\% \end{aligned}$$

Therefore, the exclusion from the capital base is \$ 5,500,000 * 28.67% = \$1,576,668.50

XYZ's taxable capital base is \$ 3,924,000 (rounded up) resulting in a tax liability of \$9,810.

- B) Those businesses that employ a single factor formula to apportion their business income to this State shall calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio shall then be applied to the total company capital base. The result shall be that capital attributed to the GAP Area. The GAP Area capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this State to determine the taxable capital base.

Example: Corporation XYZ is a domestic retail sales corporation which is taxable in other states and apportions its taxable capital to this state. In year one, XYZ received approval from the MDA for an expansion project, a wholesale distribution center, inside a GAP Area. The GAP Area property was completed in year two. For year three, the real and tangible personal property in the GAP Area, Mississippi, and total everywhere is \$9 million, \$21 million, and \$25 million respectively. Gross receipts assigned to Mississippi and everywhere are \$50 million and \$70 million respectively. GAP Area, Mississippi, and total company payroll is \$2 million, \$6 million, and \$8 million respectively. XYZ's capital base is \$5.5 million.

For tax year three, XYZ computed the following GAP Area exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{GAP Area Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\% \\ \text{Payroll Factor} &= \frac{\text{GAP Area Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\begin{aligned} \text{GAP Area Exclusion Ratio} &= (\text{GAP Area Property Factor} + \text{GAP Area Payroll Factor} + \text{GAP Area Payroll Factor})/3 \\ &= (36\% + 25\% + 25\%)/3 = 28.6667\% \end{aligned}$$

Therefore, the exclusion from the capital base is \$ 5,500,000 * 28.67% = \$1,576,668.50

XYZ's taxable capital base is computed as follows:

$$\begin{aligned} \text{Franchise Apportionment Ratio} &= \frac{\text{MS receipts} + \text{MS real and tangible personal property}}{\text{Rec. everywhere} + \text{real and tangible personal prop. everywhere}} \\ &= \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\% \end{aligned}$$

$$\begin{aligned} (\text{Capital Base} * \text{Franchise Tax Appt. Ratio}) - \text{GAP Area Exclusion} &= \text{MS Taxable Capital} = (\$5,500,000 * 74.74\%) - \\ \$1,576,668.50 &= \$2,534,000 \text{ (rounded up to nearest thousand) resulting in a tax liability of } \$6,335.00. \end{aligned}$$

- C) Those businesses that employ a three-factor formula to apportion their business income to this state shall calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio shall then be applied to the Mississippi apportioned capital as regularly calculated. The GAP Area capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this state to determine the taxable capital base.

Example: Assume the same facts as example three except that XYZ corporation is a manufacturer which apportions its income using a three-factor formula.

For tax year three, XYZ computed the following GAP Area exclusion ratio.

$$\text{Property Factor} = \frac{\text{GAP Area Property}}{\text{Total MS Property}} = \frac{\$9 \text{ million}}{\$21 \text{ million}} = 42.86\%$$

$$\text{Payroll Factor} = \frac{\text{GAP Area Payroll}}{\text{Total MS Payroll}} = \frac{\$2 \text{ million}}{\$6 \text{ million}} = 33.33\%$$

$$\text{GAP Area Exclusion Ratio} = (\text{GAP Area Property Factor} + \text{GAP Area Payroll Factor} + \text{GAP Area Payroll Factor})/3 \\ = (42.86\% + 33.33\% + 33.33\%)/3 = 36.52\%$$

XYZ's taxable capital base is computed as follows:

$$\text{Franchise Apportionment Ratio} = \frac{\text{MS Rec} + \text{MS Real \& Tangible Pers Prop}}{\text{Total Rec.} + \text{Total Real \& Tangible Pers Prop}} = \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\%$$

$$(\text{Capital Base} * \text{Franchise Tax Appt. Ratio}) * (1 - \text{GAP Area Exclusion Ratio}) = \text{MS Taxable Capital} = (\$5,500,000 * 74.74\%) * (1 - .37) = \$2,610,000 \text{ (rounded up to nearest thousand) resulting in a tax liability of } \$6,525.00.$$

- D) Those multi-state businesses employing direct accounting for income tax reporting shall employ the method described in paragraph C).
- E) The Commissioner may require another method if he believes that the apportionment of the capital as required under A), B), C), or D) inaccurately reflects the capital employed by an approved business enterprise within a GAP Area.

Each taxpayer will compute its franchise tax liability based on the greater of a) the assessed value of Mississippi real and tangible personal property not located in a GAP area, or b) the taxable capital base as determined above.

The taxpayer shall make available at the Commissioner's request all books, records, or other information, necessary to verify the correctness of any exemptions claimed.

In addition to the property and payroll of the entity, the property and payroll of flow-through entities are included when their assets and receipts are included in the regular Mississippi franchise tax apportionment factors. If an entity that is subject to franchise tax has an interest in a flow-through entity that is entitled to a GAP Area exemption, such GAP Area exemption does extend to a portion of the franchise tax due from its partners or shareholders. It will be necessary to include the property and payroll from flow-through entities in the formulas used in this regulation.

An entity that has an investment in another entity which has qualified, in whole or in part, as an approved business enterprise shall not receive the additional benefit of a holding company exclusion as authorized in Miss. Code Ann. Section 27-13-9(2) as amended.

HOW TO APPLY FOR THE INCENTIVE

Before the exemption can be calculated and taken on the return, application must be made to MDA for designation as a GAP Area business. To be eligible for the GAP exemption, the business should submit a copy of the certification from the MDA and a completed Application for Certification for Economic Incentives application. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of how the exemption was calculated;
- a copy of the MDA certification letter; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The GAP Area Exemption is authorized under Miss. Code Ann. Sections 27-13-5 & 7, 57-80-1 through 57-80-11.

Revised February 1, 2022

B.2. Franchise Tax Exemption for Broadband Technology Tax Credit

A franchise tax credit is available for telecommunications businesses based on a percentage of the cost of equipment used in the deployment of broadband technology.

EXCEPTION: Radio stations, television stations and news organizations are not considered telecommunications businesses and are not eligible to receive this credit.

This incentive was created to encourage telecommunications businesses to invest in the infrastructure needed to develop high speed access to the Internet for all counties in the state. Telecommunications businesses that deploy such equipment are eligible for a franchise tax credit based on a percentage of the cost paid to a vendor for any equipment used for the transmission of information at a high speed. To be eligible for the credit, the item(s) must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO and PAID FOR DIRECTLY BY** the business receiving the credit.

Telecommunications businesses are defined as companies engaged in the creation, display, management, storage, processing, transmission, or distribution for compensation of images, text, voice, video, or data by wire or by wireless means. They also include companies engaged in the construction, design, development, manufacture, maintenance, or distribution for compensation of devices, products, software, or structures used in the above-mentioned activities.

Qualifying equipment used in the deployment of broadband technologies includes, but is not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

The amount of the annual credit depends on where the equipment is being deployed or placed in service. In Mississippi, counties are ranked as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year by the MDOR based on the unemployment rate and per capita income of each county for the most recent thirty-six (36) month period. They are then divided into the three (3) previously mentioned groups with one-third (1/3) of the counties in each group. This ranking determines the percentage used to calculate the credit. The ranking for a specific county can change from year to year based on this evaluation. The tier in which broadband technology is deployed shall be determined in the year in which such technology is deployed in a county and such tier shall not change if the county is later designated in another tier. The credit percentage amount for each county ranking is as follows:

<u>County Ranking</u>	<u>Credit Percentage Amount</u>
Tier One (developed)	5%
Tier Two (moderately developed)	10%
Tier Three (less developed)	15%

This credit is available from July 1, 2003, through June 30, 2025. The annual credit is available beginning in the year the equipment is placed in service and may be taken for that equipment each year for the following nine (9) years. The total amount of credit taken in any one (1) year is only allowed against fifty percent (50%) of the aggregate income and franchise tax liability for that year. Any excess credit amount can be carried forward for up to ten (10) consecutive years from the close of the original year in which the excess credit could not be used. The total amount of credits taken over the ten (10) consecutive year period cannot exceed one hundred percent (100%) of the original investment in the equipment. This credit is not refundable. The expense may not be used as both a credit and a deduction. If the expense is taken both as a credit and as a deduction, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.

No credit will be allowed if the equipment used in the deployment of broadband technologies was paid for, or its cost was reimbursed by funds made available under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

HOW TO APPLY FOR THE INCENTIVE

An Application for Certification for Economic Incentives must be completed and a letter explaining the reason the business

is eligible to claim the credit and the types of purchases that qualify for the credit must be attached. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the letter.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the credit, attach:

- a schedule showing the cost and description of the equipment being deployed and the county or counties in which the equipment was deployed that gave rise to the credit for the current period; and
- a Mississippi Tax Credit Summary Schedule showing all credits taken and any credit carryforward.

The Broadband Technology Tax Credit Code is 19.

The Broadband Technology Tax Credit is authorized under Miss. Code Ann. Sections 57-87-5 & 57-73-21.

Revised February 1, 2022

B.3. Franchise Tax Exemption for Clean Energy Business Enterprises

A franchise tax exemption is available for a ten (10) year period to certain clean energy business enterprises that locate or expand in this state with a minimum capital investment of fifty million dollars (\$50,000,000) and the creation of two hundred fifty (250) new, full-time jobs. The clean energy business enterprise must own or operate a facility that manufactures or assembles systems or components used in the generation of clean energy.

The Clean Energy Business Enterprises Exemption is an incentive created to induce companies developing the field of clean energy to locate or expand their facilities in Mississippi. Clean energy business enterprises that locate or expand in this state with a minimum capital investment of fifty million dollars (\$50,000,000) and also create two hundred fifty (250) new, full-time jobs may be eligible for the exemption. Clean energy includes energy generated from either a renewable energy source such as wind, water, biomass or solar or an alternative energy source such as nuclear. Biomass includes the following:

- Forest-related mill residues, pulping by-product and other by-products of wood processing, thinnings, slash, limbs, bark, brush and other cellulosic plant material or non-merchantable forest-related products;
- Solid wood waste materials, including dunnage, manufacturing and construction wood wastes, demolition and storm debris and landscape or right-of-way trimmings; and
- Agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar and other crop by-products or residues and livestock waste nutrients
- All plant and grass material that is grown exclusively as a fuel for the production of electricity
- Refuse derived fuels consisting of organic components and fibers of wastewater treatment solids; or
- Whole trees.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities certified by the Mississippi Development Authority (MDA); 2) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; 3) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA; and 4) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the MDA.

The incentive is not available to businesses that move from one location within this state to another location within this state. The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied, used or assigned to any other entity. The approved business must also enter into an agreement with the MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of the exemptions claimed. For more information on the application process for the Franchise Tax Exemption for Clean Energy Business Enterprises, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

If the 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 utilize the exemption from state taxes, the MDA may extend the period of time by which the minimum requirements must be met and duration of the exemption from state taxes for not more than two (2) years.

The exemption granted to an entity is based on the value of capital used, invested or employed in its new operation as a clean energy business (CEB) after it has been designated and approved by MDA. An entity may have, in addition to an MDA approved CEB, other business operations that do not qualify as MDA approved business enterprises. If so, the capital attributable to the CEB must be determined separately from its total capital employed in Mississippi.

An apportionment formula comprised of a property and a payroll factor is used to determine the amount of capital attributable to the CEB. The numerator of both the property and the payroll factor in A), B), and C) shall be based on the respective property and payroll of the MDA approved CEB. The denominator of the property and payroll factors in A) and B) shall include the respective total company property and payroll. The denominator of the property and payroll factors in C) shall include the respective property and payroll within Mississippi. The factors in A), B), and C) shall be computed on the same type of property, as would be employed for the property included in the factor under the Franchise Tax Laws in Miss. Code Ann. Section 27-13-1 et seq., and payroll as would be employed in the calculation of the payroll factor of a manufacturer in Mississippi as required by Income Tax Regulation, except that no reductions shall be made for general and administrative payroll. The numerators of both the property and payroll factors shall only include that property purchased and payroll that is necessary to the operation of the approved CEB.

- A) Those businesses whose total business income is assigned to Mississippi by reason of not being taxable for income tax in another state shall calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio shall then be applied to the total company capital base. The result shall be that capital attributed to the CEB will be applied as a reduction to the total company base to determine the taxable capital base.

Example: Corporation XYZ is a domestic corporation not taxable in another state and, therefore, allocates all of its taxable capital to this state. XYZ is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, XYZ received approval from the MDA for an expansion project as a CEB. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, XYZ had CEB real and tangible personal property, reported on its books as construction-in-progress, of \$4 million and total company real and tangible personal property of \$20 million. XYZ's total company receipts were \$50 million and payroll in the CEB was zero since the plant was still under construction. XYZ's capital base was \$ 5 million.

For tax year one, XYZ computed the following CEB exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{CEB Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$20 \text{ million}} = 20\% \\ \text{Payroll Factor} &= \frac{\text{CEB Payroll}}{\text{Total Company Payroll}} = \frac{\$0.00}{\text{Total Company Payroll}} = 0.00\% \end{aligned}$$

$$\text{CEB Exclusion Ratio} = (\text{CEB Property Factor} + \text{CEB Payroll Factor} + \text{CEB Payroll Factor})/3 = 6.67\%$$

Therefore, the exclusion from the capital base was \$ 5,000,000 * 6.67% = \$333,333.

XYZ's taxable capital base was \$ 4, 667,000 (rounded up) resulting in a tax liability of \$11,667.50.

Example: For tax year three, XYZ has real and tangible personal property in the CEB of \$9 million and total company real and tangible personal property of \$25 million. XYZ's total company receipts are \$70 million. Payroll in the CEB is \$2 million and total company payroll is \$ 8 million. XYZ's capital base is \$ 5.5 million.

For tax year three, XYZ computed the following CEB exclusion ratio.

$$\text{Property Factor} = \frac{\text{CEB Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\%$$

$$\text{Payroll Factor} = \frac{\text{CEB Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\%$$

$$\text{CEB Exclusion Ratio} = (\text{CEB Property Factor} + \text{CEB Payroll Factor} + \text{CEB Payroll Factor})/3 \\ = (36\% + 25\% + 25\%)/3 = 28.66\%$$

Therefore, the exclusion from the capital base is \$ 5,500,000 * 28.67% = \$1,576,668.50

XYZ's taxable capital base is \$ 3,924,000 (rounded up) resulting in a tax liability of \$9,810.

- B) Those businesses that employ a single factor formula to apportion their business income to this State shall calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio shall then be applied to the total company capital base. The result shall be that capital attributed to the CEB. The CEB capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this State to determine the taxable capital base.

Example: Corporation XYZ is a domestic retail sales corporation which is taxable in other states and apportions its taxable capital to this state. In year one, XYZ received approval from the MDA for an expansion project as a CEB. The CEB property was completed in year two. For year three, the real and tangible personal property of the CEB, Mississippi, and total everywhere is \$9 million, \$21 million, and \$25 million respectively. Gross receipts assigned to Mississippi and everywhere are \$50 million and \$70 million respectively. CEB, Mississippi, and total company payroll is \$2 million, \$6 million, and \$8 million respectively. XYZ's capital base is \$5.5 million.

For tax year three, XYZ computed the following CEB exclusion ratio:

$$\text{Property Factor} = \frac{\text{CEB Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\%$$

$$\text{Payroll Factor} = \frac{\text{CEB Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\%$$

$$\text{CEB Exclusion Ratio} = (\text{CEB Property Factor} + \text{CEB Payroll Factor} + \text{CEB Payroll Factor})/3 \\ = (36\% + 25\% + 25\%)/3 = 28.6667\%$$

Therefore, the exclusion from the capital base is \$ 5,500,000 * 28.67% = \$1,576,668.50

XYZ's taxable capital base is computed as follows:

$$\text{Franchise Apportionment Ratio} = \frac{\text{MS receipts} + \text{MS real and tangible personal property}}{\text{Rec. everywhere} + \text{real and tangible personal prop. everywhere}} \\ = \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\%$$

(Capital Base * Franchise Tax Appt. Ratio) – CEB Exclusion = MS Taxable Capital = (\$5,500,000* 74.74%) - \$1,576,668.50 = \$2,534,000 (rounded up to nearest thousand) resulting in a tax liability of \$ 6,335.00

- C) Those businesses that employ a three-factor formula to apportion their business income to this state shall calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio shall then be applied to the Mississippi apportioned capital as regularly calculated. The CEB capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this state to determine the taxable capital base.

Example: Assume the same facts as example three except that XYZ corporation is a manufacturer which apportions its income using a three-factor formula.

For tax year three, XYZ computed the following CEB exclusion ratio:

$$\text{Property Factor} = \frac{\text{CEB Property}}{\text{Total MS Property}} = \frac{\$9 \text{ million}}{\$21 \text{ million}} = 42.86\%$$

$$\text{Payroll Factor} = \frac{\text{CEB Payroll}}{\text{Total MS Payroll}} = \frac{\$2 \text{ million}}{\$6 \text{ million}} = 33.33\%$$

$$\begin{aligned} \text{CEB Exclusion Ratio} &= (\text{CEB Property Factor} + \text{CEB Payroll Factor} + \text{CEB Payroll Factor})/3 \\ &= (42.86\% + 33.33\% + 33.33\%)/3 = 36.52\% \end{aligned}$$

XYZ's taxable capital base is computed as follows:

$$\text{Franchise Apportion Ratio} = \frac{\text{MS Rec} + \text{MS Real \& Tangible Pers Prop}}{\text{Total Rec.} + \text{Total Real \& Tangible Pers Prop}} = \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\%$$

$$\begin{aligned} (\text{Capital Base} * \text{Franchise Tax Appt. Ratio}) * (1 - \text{CEB Exclusion Ratio}) &= \text{MS Taxable Capital} \\ (\$5,500,000 * 74.74\%) * (1 - .37) &= \$2,610,000 \text{ (rounded up to nearest thousand) resulting in a tax liability of } \$6,525.00. \end{aligned}$$

- D) Those multi-state businesses employing direct accounting for income tax reporting shall employ the method described in paragraph C).
- E) The Commissioner may require another method if he believes that the apportionment of the capital as required under A), B), C), or D) inaccurately reflects the capital employed by an approved CEB.

Each taxpayer will compute its franchise tax liability based on the greater of a) the assessed value of Mississippi real and tangible personal property not owned by the CEB, or b) the taxable capital base as determined above.

The taxpayer shall make available at the Commissioner's request all books, records, or other information, necessary to verify the correctness of any exemptions claimed.

In addition to the property and payroll of the entity, the property and payroll of flow-through entities are included when their assets and receipts are included in the regular Mississippi franchise tax apportionment factors. If an entity that is subject to franchise tax has an interest in a flow-through entity that is entitled to the CEB exemption, such CEB exemption does extend to a portion of the franchise tax due from its partners or shareholders. It will be necessary to include the property and payroll from flow-through entities in the formulas used in this regulation.

An entity that has an investment in another entity which has qualified, in whole or in part, as an approved business enterprise shall not receive the additional benefit of a holding company exclusion as authorized in Miss. Code Ann. Section 27-13-9(2) as amended.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;

- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Clean Energy Business Enterprise Exemption. Once you have received certification of eligibility from the MDA, you must submit the MDA certification along with a completed Application for Certification of Economic Incentives to the MDOR. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of the exemption;
- a copy of the MDA certification letter; and
- a copy of the MDOR exemption acceptance letter.

The Franchise Tax Exemption for Clean Energy Business Enterprises is authorized under Miss. Code Ann. Section 57-113-1 et seq.

Revised February 1, 2022

B.4. Franchise Tax Exemption for Aerospace Industry Enterprises

A franchise tax exemption is available for a period of ten (10) years for businesses that manufacture, assemble or process products, components, or systems for use in the aerospace industry, or that provide research and development or training services to the aerospace industry, that locate or expand in Mississippi. The business must invest a minimum of twenty-five million dollars (\$25,000,000) and create at least twenty-five (25) new, full-time jobs in Mississippi.

The Aerospace Industry Enterprises (AIE) Exemption is an incentive created to induce companies to locate or expand their manufacturing facilities in Mississippi. The incentive is also available to businesses that offer research and development or training services in the aerospace industry that locate or expand in the state. The business must make a minimum capital investment in Mississippi of twenty-five million dollars (\$25,000,000), and must also create a minimum of twenty-five (25) new, full-time jobs in Mississippi which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is less. The aerospace industry is the industry that researches, designs, manufactures, repairs, operates and/or maintains products, components and systems which enable vehicles to move through the air and space.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities certified by the Mississippi Development Authority (MDA); 2) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; 3) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA; and 4) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the MDA.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied, used or assigned to any other entity. The approved business must also enter into an agreement with the MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of the exemptions claimed. For more information on the application process for the Franchise Tax Exemption for Aerospace Industry Enterprises, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

If the 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 is unable to use the exemption from state taxes, the MDA may extend the period of time during which the minimum requirements must be met and the exemption may be taken for a period of time not to exceed two (2) years.

The exemption granted to a business is based on the value of capital used, invested, or employed in its new AIE after it has been designated as an approved AIE by the MDA. A business may have, in addition to the MDA-approved AIE, other business operations that are not MDA-approved AIEs. These operations do not qualify as MDA-approved business operations, and, therefore, are not allowed the exemption. Therefore, the capital attributable to the AIE must be identified separately from its total capital employed in Mississippi.

An apportionment formula comprised of a property and a payroll ratio is used to determine the amount of capital attributable

to the AIE. The numerator of both the property and the payroll ratio in A), B), and C) is based on the respective property and payroll of the MDA-approved AIE. The denominator of the property and payroll ratios in A) and B) includes the respective total business property and payroll. The denominator of the property and payroll ratios in C) includes the respective property and payroll within Mississippi. The ratios in A), B), and C) are computed on the same type of property as would be employed for the property included in the ratio under the Franchise Tax Laws, Miss. Code Ann. Sections 27-13-1, *et seq.*, and payroll as would be employed in the calculation of the payroll ratio of a manufacturer in Mississippi as required by Income Tax regulation, except that no reductions shall be made for general and administrative payroll. The numerators of both the property and payroll ratios include only that property purchased and payroll that are necessary to the operation of the AIE.

- A) Those businesses whose total business income is assigned to Mississippi for Mississippi income tax purposes by reason of not being taxable in another state should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total business capital base. The result is the capital attributable to the AIE and will be applied as a reduction to the total company base to determine the taxable capital base.

Example: Corporation XYZ is a domestic corporation not taxable in another state and, therefore, allocates all of its taxable capital to this state. XYZ is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, ABC received approval from the MDA for an AIE expansion project. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, ABC had real and tangible personal AIE property, reported on its books as construction-in-progress, of \$4 million, and total company real and tangible personal property of \$20 million. XYZ's total business receipts were \$50 million and payroll for the AIE was zero since the plant was still under construction. XYZ's capital base was \$5 million.

For tax year one, XYZ computed the following AIE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{AIE Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$20 \text{ million}} = 20\% \\ \text{Payroll Factor} &= \frac{\text{AIE Payroll}}{\text{Total Company Payroll}} = \frac{\$0.00}{\text{Total Company Payroll}} = 0\% \end{aligned}$$

$$\text{AIE ratio} = (\text{AIE Property Factor} + \text{AIE Payroll Factor} + \text{AIE Payroll Factor})/3 = 6.67\%.$$

Therefore, the exclusion from the capital base was $\$5,000,000 \times 6.67\% = \$333,333$.

XYZ's taxable capital base was \$4,667,000 (rounded up) resulting in a tax liability of \$11,667.50.

Example: For tax year three, XYZ has real and tangible personal AIE property of \$9 million and total company real and tangible personal property of \$25 million. XYZ's total company receipts are \$70 million. AIE payroll is \$2 million and total company payroll is \$8 million. XYZ's capital base is \$5.5 million.

For tax year three, XYZ computed the following AIE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{AIE Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\% \\ \text{Payroll Factor} &= \frac{\text{AIE Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\text{AIE exclusion ratio} = (\text{AIE Property Factor} + \text{AIE Payroll Factor} + \text{AIE Payroll Factor})/3$$

$$= (36\% + 25\% + 25\%)/3 = 28.66\%$$

Therefore, the exclusion from the capital base is $\$5,000,000 \times 28.67\% = \$1,576,668.50$

XYZ's taxable capital base is $\$3,924,000$ (rounded up) resulting in a tax liability of $\$9,810$.

- B) Those businesses that employ a single ratio formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total company capital base. The result is the capital attributable to the AIE. The AIE capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this state to determine the taxable capital base.

Example: Corporation XYZ is a domestic retail sales corporation which is taxable in other states and apportions its taxable capital to this state. In year one, XYZ received approval from the MDA for an AIE expansion project, a wholesale distribution center. The AIE property was completed in year two. For year three, the AIE real and tangible personal property, Mississippi real and tangible personal property, and total real and tangible personal property everywhere are $\$9$ million, $\$21$ million, and $\$25$ million, respectively. Gross receipts assigned to Mississippi and everywhere are $\$50$ million and $\$70$ million, respectively. AIE, Mississippi, and total company payroll are $\$2$ million, $\$6$ million, and $\$8$ million, respectively. XYZ's capital base is $\$5.5$ million.

For tax year three, XYZ computed the following AIE exclusion ratio:

$$\text{Property Factor} = \frac{\text{AIE Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\%$$

$$\text{Payroll Factor} = \frac{\text{AIE Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\%$$

$$\begin{aligned} \text{AIE exclusion ratio} &= (\text{AIE Property Factor} + \text{AIE Payroll Factor} + \text{AIE Payroll Factor})/3 \\ &= (36\% + 25\% + 25\%)/3 = 28.6667\% \end{aligned}$$

Therefore, the exclusion from the capital base is $\$5,500,000 \times 28.67\% = \$1,576,668.50$.

XYZ's taxable capital base is computed as follows:

$$\begin{aligned} \text{Franchise Apportionment Ratio} &= \frac{\text{MS receipts} + \text{MS real and tangible personal property}}{\text{Rec. everywhere} + \text{real and tangible personal prop. Everywhere}} \\ &= \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\% \end{aligned}$$

$(\text{Capital Base} \times \text{Franchise Tax Appt. Ratio}) - \text{AIE exclusion} = \text{MS Taxable Capital} = (\$5,500,000 \times 74.74\%) - \$1,576,668.50 = \$2,534,000$ (rounded up to nears thousand) resulting in a tax liability of $\$6,335$.

- C) Those businesses that employ a three-factor formula to apportion their business income to Mississippi should calculate a property factor and double-weighted payroll factor and then divide by three. This ratio should then be applied to the Mississippi apportioned capital as regularly calculated. The AIE capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this state to determine the taxable capital base.

Example: Assume the same facts as example B except that XYZ is a manufacturer that apportions its income using a three-factor formula.

For tax year three, XYZ computed the following AIE exclusion ratio:

$$\text{Property Factor} = \frac{\text{AIE Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$21 \text{ million}} = 42.86\%$$

$$\begin{aligned}
 & \text{Total MS Property} && \$21 \text{ million} \\
 \text{Payroll Factor} & = & \frac{\text{AIE Area Payroll}}{\text{Total MS Payroll}} & = & \frac{\$2 \text{ million}}{\$6 \text{ million}} & = & 33.33\% \\
 \text{AIE exclusion ratio} & = & (\text{AIE Property Factor} + \text{AIE Area Payroll Factor} + \text{AIE Payroll Factor})/3 \\
 & = & (42.86\% + 33.33\% + 33.33\%)/3 & = & 36.52\%
 \end{aligned}$$

XYZ's taxable capital base is computed as follows:

$$\begin{aligned}
 \text{Franchise Apportionment Ratio} & = \frac{\text{MS receipts} + \text{MS real and tangible personal property}}{\text{Rec. everywhere} + \text{real and tangible personal prop. Everywhere}} \\
 & = \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\%
 \end{aligned}$$

(Capital Base \times Franchise Tax Appt. Ratio) \times (1-AIE exclusion ratio) = MS Taxable Capital = (\$5,500,000 \times 74.74%) \times (1-.37) = \$2,610,000 (rounded up to nearest thousand) resulting in a tax liability of \$6,525.

- D) Those multi-state businesses employing direct accounting for income tax reporting should employ the method described in paragraph C).
- E) The Commissioner may require another method if it is determined that the apportionment of the capital as required under A), B), C), or D) inaccurately reflects the capital employed by an approved AIE.

Each taxpayer will compute its franchise tax liability based on the greater of: a) the assessed value of Mississippi real and tangible personal property that is not AIE property, or b) the taxable capital base as determined above.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Aerospace Industry Enterprise Exemption. Once you have received certification of eligibility from the MDA, you must submit the MDA certification along with a completed Application for Certification of Economic Incentives to the MDOR. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of the exemption,
- a copy of the MDA certification letter; and
- a copy of the MDOR exemption acceptance letter.

The Aerospace Industry Enterprise exemption is authorized under Miss. Code Ann. Sections 57-113-1, et seq.

Revised February 1, 2022

B.5. Franchise Tax Exemption for Data Center Enterprises

A franchise tax exemption is available for a ten (10) year period to any business enterprise owning or operating a data center enterprise making a minimum capital investment in this state of twenty million dollars (\$20,000,000) and creating a minimum of twenty (20) new, full-time jobs with a minimum average annual salary of not less than one hundred twenty-five percent (125%) of the average annual state wage.

The Data Center Enterprises (DCE) Exemption is an incentive created to induce companies to locate or expand data centers in Mississippi. The business must make a minimum capital investment in Mississippi of twenty million dollars (\$20,000,000) and must create a minimum of twenty (20) new, full-time jobs with salaries not less than one hundred twenty-five percent (125%) of the average annual wage in Mississippi. A data center is a business enterprise that utilizes hardware, software, technology, infrastructure and/or workforce, to store, manage or manipulate digital data.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase or lease of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority (MDA); 2) any sales and use tax imposed by law on the business enterprise pursuant to law related to the purchase of replacement hardware, software or other necessary technology to operate a data center; 3) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; and 4) franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied to, used by or assigned to any other entity or tax account without prior approval from the MDA. The approved business must also enter into an agreement with the MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of the exemptions claimed. For more information on the application process for the Income Tax Exemption for Data Center Enterprises, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

If the 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 is unable to use the exemption from state taxes, the MDA may extend the period of time during which the minimum requirements must be met and the exemption may be taken for a period of time not to exceed two (2) years.

The exemption granted to a business is based on the value of capital used, invested, or employed in its new DCE after it has been designated as an approved DCE by the MDA. A business may have, in addition to the MDA-approved DCE, other business operations that are not MDA-approved DCEs. These operations do not qualify as MDA-approved business operations, and, therefore, are not allowed the exemption. Therefore, the capital attributable to the DCE must be identified separately from its total capital employed in Mississippi.

An apportionment formula comprised of a property and a payroll ratio is used to determine the amount of capital attributable to the DCE. The numerator of both the property and the payroll ratio in A), B), and C) is based on the respective property and payroll of the MDA-approved DCE. The denominator of the property and payroll ratios in A) and B) includes the respective total business property and payroll. The denominator of the property and payroll ratios in C) includes the

respective property and payroll within Mississippi. The ratios in A), B), and C) are computed on the same type of property as would be employed for the property included in the ratio under the Franchise Tax Laws, Miss. Code Ann. Sections 27-13-1, *et seq.*, and payroll as would be employed in the calculation of the payroll ratio of a manufacturer in Mississippi as required by Income Tax regulation, except that no reductions shall be made for general and administrative payroll. The numerators of both the property and payroll ratios include only that property purchased and payroll that are necessary to the operation of the DCE.

- A) Those businesses whose total business income is assigned to Mississippi for Mississippi income tax purposes by reason of not being taxable in another state should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total business capital base. The result is the capital attributable to the DCE and will be applied as a reduction to the total company base to determine the taxable capital base.

Example: Corporation XYZ is a domestic corporation not taxable in another state and, therefore, allocates all of its taxable capital to this state. XYZ is subject to both state income and franchise taxes and files its returns on a calendar year basis. In year one, ABC received approval from the MDA for a DCE expansion project. Construction of the new facility began in November of that year and was completed in July of year three.

For tax year one, ABC had real and tangible personal AIE property, reported on its books as construction-in-progress, of \$4 million, and total company real and tangible personal property of \$20 million. XYZ's total business receipts were \$50 million and payroll for the DCE was zero since the plant was still under construction. XYZ's capital base was \$5 million.

For tax year one, XYZ computed the following DCE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{DCE Property}}{\text{Total Company Property}} = \frac{\$4 \text{ million}}{\$20 \text{ million}} = 20\% \\ \text{Payroll Factor} &= \frac{\text{DCE Payroll}}{\text{Total Company Payroll}} = \frac{\$0.00}{\text{Total Company Payroll}} = 0\% \end{aligned}$$

$$\text{DCE ratio} = (\text{DCE Property Factor} + \text{DCE Payroll Factor} + \text{DCE Payroll Factor})/3 = 6.67\%.$$

Therefore, the exclusion from the capital base was $\$5,000,000 \times 6.67\% = \$333,333$.

XYZ's taxable capital base was \$4,667,000 (rounded up) resulting in a tax liability of \$11,667.50.

Example: For tax year three, XYZ has real and tangible personal DCE property of \$9 million and total company real and tangible personal property of \$25 million. XYZ's total company receipts are \$70 million. DCE payroll is \$2 million and total company payroll is \$8 million. XYZ's capital base is \$5.5 million.

For tax year three, XYZ computed the following DCE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{DCE Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\% \\ \text{Payroll Factor} &= \frac{\text{DCE Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\begin{aligned} \text{AIE exclusion ratio} &= (\text{DCE Property Factor} + \text{DCE Payroll Factor} + \text{DCE Payroll Factor})/3 \\ &= (36\% + 25\% + 25\%)/3 = 28.66\% \end{aligned}$$

Therefore, the exclusion from the capital base is $\$5,000,000 \times 28.67\% = \$1,576,668.50$.

XYZ's taxable capital base is \$3,924,000 (rounded up) resulting in a tax liability of \$9,810.

- B) Those businesses that employ a single ratio formula to apportion their business income to Mississippi should calculate a property factor and a double-weighted payroll factor and then divide by three. This ratio should then be applied to the total company capital base. The result is the capital attributable to the DCE. The DCE capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this state to determine the taxable capital base.

Example: Corporation XYZ is a domestic retail sales corporation which is taxable in other states and apportions its taxable capital to this state. In year one, XYZ received approval from the MDA for a DCE expansion project, a wholesale distribution center. The DCE property was completed in year two. For year three, the DCE real and tangible personal property, Mississippi real and tangible personal property, and total real and tangible personal property everywhere are \$9 million, \$21 million, and \$25 million, respectively. Gross receipts assigned to Mississippi and everywhere are \$50 million and \$70 million, respectively. DCE, Mississippi, and total company payroll are \$2 million, \$6 million, and \$8 million, respectively. XYZ's capital base is \$5.5 million.

For tax year three, XYZ computed the following DCE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{DCE Property}}{\text{Total Company Property}} = \frac{\$9 \text{ million}}{\$25 \text{ million}} = 36\% \\ \text{Payroll Factor} &= \frac{\text{DCE Payroll}}{\text{Total Company Payroll}} = \frac{\$2 \text{ million}}{\$8 \text{ million}} = 25\% \end{aligned}$$

$$\begin{aligned} \text{DCE exclusion ratio} &= (\text{DCE Property Factor} + \text{DCE Payroll Factor} + \text{DCE Payroll Factor})/3 \\ &= (36\% + 25\% + 25\%)/3 = 28.6667\% \end{aligned}$$

Therefore, the exclusion from the capital base is $\$5,500,000 \times 28.67\% = \$1,576,668.50$.

XYZ's taxable capital base is computed as follows:

$$\begin{aligned} \text{Franchise Apportionment Ratio} &= \frac{\text{MS receipts} + \text{MS real and tangible personal property}}{\text{Rec. everywhere} + \text{real and tangible personal prop. everywhere}} \\ &= \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\% \end{aligned}$$

$(\text{Capital Base} \times \text{Franchise Tax Appt. Ratio}) - \text{DCE exclusion} = \text{MS Taxable Capital} = (\$5,500,000 \times 74.74\%) - \$1,576,668.50 = \$2,534,000$ (rounded up to nears thousand) resulting in a tax liability of \$6,335.

- C) Those businesses that employ a three-factor formula to apportion their business income to Mississippi should calculate a property factor and double-weighted payroll factor and then divide by three. This ratio should then be applied to the Mississippi apportioned capital as regularly calculated. The DCE capital will be applied as a reduction to the Mississippi capital as otherwise apportioned to this state to determine the taxable capital base.

Example: Assume the same facts as example B except that XYZ is a manufacturer that apportions its income using a three-factor formula.

For tax year three, XYZ computed the following DCE exclusion ratio:

$$\begin{aligned} \text{Property Factor} &= \frac{\text{DCE Property}}{\text{Total MS Property}} = \frac{\$9 \text{ million}}{\$21 \text{ million}} = 42.86\% \\ \text{Payroll Factor} &= \frac{\text{DCE Area Payroll}}{\text{Total MS Payroll}} = \frac{\$2 \text{ million}}{\$6 \text{ million}} = 33.33\% \end{aligned}$$

$$\begin{aligned} \text{DCE exclusion ratio} &= \frac{\text{Total MS Payroll}}{(\text{DCE Property Factor} + \text{DCE Area Payroll Factor} + \text{DCE Payroll Factor})/3} \\ &= \frac{\$6 \text{ million}}{(42.86\% + 33.33\% + 33.33\%)/3} = 36.52\% \end{aligned}$$

XYZ's taxable capital base is computed as follows:

$$\begin{aligned} \text{Franchise Apportionment Ratio} &= \frac{\text{MS receipts} + \text{MS real and tangible personal property}}{\text{Rec. everywhere} + \text{real and tangible personal prop. everywhere}} \\ &= \frac{(\$50 \text{ million} + \$21 \text{ million})}{(\$70 \text{ million} + \$25 \text{ million})} = 74.74\% \end{aligned}$$

(Capital Base × Franchise Tax Appt. Ratio) × (1-DCE exclusion ratio) = MS Taxable Capital = (\$5,500,000 × 74.74%) × (1-.37) = \$2,610,000 (rounded up to nearest thousand) resulting in a tax liability of \$6,525.

- D) Those multi-state businesses employing direct accounting for income tax reporting should employ the method described in paragraph C).
- E) The Commissioner may require another method if it is determined that the apportionment of the capital as required under A), B), C), or D) inaccurately reflects the capital employed by an approved DCE.

Each taxpayer will compute its franchise tax liability based on the greater of: a) the assessed value of Mississippi real and tangible personal property that is not DCE property, or b) the taxable capital base as determined above.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Data Center Enterprise Exemption. Once you have received certification of eligibility from the MDA, you must submit the MDA certification along with a completed Application for Certification of Economic Incentives to the MDOR. The application can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the MDA certification.

HOW TO CLAIM THE CREDIT

When filing the state income/franchise tax return claiming the exemption, attach:

- a schedule showing the calculation of the exemption,
- a copy of the MDA certification letter; and
- a copy of the MDOR exemption acceptance letter.

The Data Center Enterprises exemption is authorized under Miss. Code Ann. Sections 57-113-21 and 57-113-25.

Revised February 1, 2022

C. Sales and Use Tax Incentives

C.1. Sales / Use Tax Exemption for Construction or Expansion

A sales and/or use tax exemption is available for the construction or expansion of certain businesses. Eligible businesses include:

- manufacturers
- custom processors
- data/information enterprises
- technology intensive enterprises

A sales and use tax exemption is available for the construction of a new facility or the expansion of an existing facility for manufacturers, custom processors, data/information enterprises and technology intensive enterprises that construct a new facility or expand an existing facility in this state. Data/information and technology intensive enterprises must be designated as such by the Mississippi Development Authority (MDA) and a copy of the certification notice must be attached to any application for exemption.

The incentive is intended to encourage certain businesses to construct new facilities or expand existing facilities. It is not available to businesses that modernize a facility or keep open (or re-open) an existing facility. It is also not available to businesses that move from one location within this state to another location within this state. The construction of a new facility includes the actual "bricks and mortar" construction of a new building or the expansion of an existing facility that has been purchased by a business establishing a new presence in the area.

The expansion of an existing facility may include such projects as the addition of another line of manufacturing, actual "bricks and mortar" construction of additional space and/or additional equipment to greatly increase current business operations. The exemption is not available for construction or expansion of office space. An expansion does not include the normal hiring of additional personnel, replacing old equipment or upgrading current equipment for a more efficient operation.

Normally, planned construction or addition to the building structure is required before the exemption is granted. If an existing facility is not physically expanded, but production lines are added that will increase employment, then the exemption may be granted. These applications will be considered on a case by case basis.

The exemption is for the retail rate of machinery and equipment, either seven percent (7%) or one and one-half percent (1½%). The amount of the exemption, one-half (50%) or full (100%), depends on where the facility is located. In Mississippi, counties are ranked as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year by the MDOR based on the unemployment rate and per capita income of each county for the most recent thirty-six (36) month period. They are then divided into the three (3) previously mentioned groups with one-third (1/3) of the counties in each group. This ranking is used to determine whether the exemption will be a full exemption or a one-half (½) exemption. The ranking for a specific county can change from year to year based on this evaluation. The exemption amount for each county ranking is as follows:

<u>County Ranking</u>	<u>Exemption Amount</u>
Tier One (developed)	one-half (50%)
Tier Two (moderately developed)	one-half (50%)
Tier Three (less developed)	full (100%)

When a construction contractor builds a facility, the construction contractor may also sell and install manufacturing machinery related to the construction or expansion of the facility. In this specific situation, the contractor may be treated as both a construction contractor and a retailer of the manufacturing machinery. The exemption, whether full or half, will apply only for the sale and installation of the manufacturing machinery.

Contractor's tax on the gross proceeds of commercial construction activities is imposed directly on the contractor and is not passed on to the customer except as a part of overhead costs. This tax amount may be built into the contract amount computed by the contractor and cannot be broken out as a separate line item. If component materials or machinery and equipment (purchases covered under the exemption) are purchased through a construction contractor and included in the construction contract amount rather than purchased directly by the business receiving the exemption, then the exemption

is lost on those items except for manufacturing machinery and its installation as described above. The exempt items must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

The exemption is for the period beginning with the date purchases are made for the expansion or construction through three (3) months after the initial startup date. Only component materials used in the construction, addition or improvement to a building and the machinery and equipment to be used therein are exempt from sales or use tax. Leases of machinery and equipment are included in the exemption for a data/information enterprise only. The exemption does not apply to tagged vehicles, ongoing expenses, or supply items. The exemption does not apply to the contractor's tax at three and one-half percent (3½%) or at one and one-half percent (1½%).

Any business that was eligible for either a full or partial sales tax exemption on initial construction or expansion that is destroyed or extensively damaged as the result of a disaster declared by the Governor may be eligible for the same exemption on replacement, reconstruction or repair of a building and replacement of machinery or equipment damaged or destroyed in the disaster.

HOW TO APPLY FOR THE INCENTIVE

Before construction is begun, the business must be certified as eligible for the exemption by the MDOR. To be certified as eligible for the exemption, the business must submit the following:

- for companies requiring MDA approval, a copy of the approval letter from MDA;
- a completed Application for Certification for Economic Incentives;
- a detailed letter with a description of the type of business and the type of construction or expansion or addition to the facility to justify the request for the exemption;
 - include the purpose of the construction or expansion and the expected result;
- a completed Registration Application for a use tax account (if one has not been issued);
- a completed Application for Direct Pay Permit (if one has not been issued).

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation. After all the required information has been submitted and the exemption approved, the business will receive a letter acknowledging the county designation, the amount of the exemption and the time period for the exemption. The construction or expansion must begin within one (1) year of the approval of certification. A letter of denial will be sent if the exemption is not approved.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR. Qualified purchases during the construction or expansion period would be either fully exempted or granted the one-half (50%) exemption. If the one-half (50%) exemption is granted, use either tax code 68 or 78 to report the purchases. For businesses that receive a Direct Pay Permit for the incentive only, the permit will no longer be effective and will stand rescinded when the project is complete. After this date, tax will be remitted to all vendors in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Sales / Use Tax Exemption for Construction or Expansion is authorized under Miss. Code Ann. Sections 27-65-101 (1) (q), (ff), (gg), (hh); 27-65-101 (2), (3), (4), (6) & 57-73-21.

Revised February 1, 2022

C.2. Sales / Use Tax Exemption for Transfer of National or Regional Headquarters

A sales and/or use tax exemption is available for an eligible business that creates, transfers, or expands its national or regional headquarters for component materials used in the construction, addition or improvement of a building and machinery and equipment for use in the facility. A minimum number of twenty (20) new headquarters jobs must be created or assigned to receive the exemption.

The exemption is available to all types of businesses **except for:**

- a business that transports, handles, stores, processes, or disposes of hazardous waste; or
- any national or regional sales office.

The exemption related to the Transfer of National or Regional Headquarters is an incentive created to induce companies to establish, transfer, or as of January 1, 2013, expand their headquarters in Mississippi. The transfer, establishment, or expansion of a national or regional headquarters must create a minimum of twenty (20) jobs within one (1) year. These jobs must include officers and other high-level employees, along with the support staff normally associated with a headquarters. 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 operation of the headquarters. 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. 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.

A full-time employee is an employee who works at least thirty-five (35) hours a week.

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.

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.

The full exemption is on component materials used in the construction, addition or improvement to a building and the machinery and equipment to be used therein. To be eligible for the exemption, the item(s) must be purchased by the business receiving the exemption. Component materials cannot be purchased through the construction contractor.

Contractor's tax on the gross proceeds of commercial construction activities is imposed directly on the contractor and is not passed on to the customer except as a part of overhead costs. This tax amount must be built into the contract amount computed by the contractor and cannot be broken out as a separate line item. If component materials or machinery and equipment (purchases covered under the exemption) are purchased through a construction contractor and included in the construction contract amount rather than purchased directly by the business receiving the exemption, then the exemption is lost on those items included in the contract. The exempt items must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

The exemption is for the period beginning with the initial date purchases are made for the expansion or construction through three (3) months after the completion of the building, addition, or improvement. Only component materials used in

the construction, addition or improvement to a building and the machinery and equipment to be used therein are exempt from sales or use tax. The exemption is for the retail rate of machinery and equipment, either seven percent (7%) or one and one-half percent (1½%) for manufacturing machinery. The exemption does not apply to tagged vehicles, ongoing expenses, or supply items. The exemption does not apply to contractor's tax at three and one-half percent (3½%).

Any business that was eligible for the exemption on initial construction, addition or improvement that is destroyed or extensively damaged as the result of a disaster declared by the Governor may be eligible for the same exemption on replacement, reconstruction or repair of a building and replacement of machinery or equipment damaged or destroyed in the disaster.

HOW TO APPLY FOR THE INCENTIVE

Before construction is begun, the business must be certified as eligible for the exemption by the MDOR. To be certified as eligible for the exemption, the business must submit the following:

- a completed Application for Certification for Economic Incentives;
- a completed Registration Application for a use tax account (if one has not been issued);
- a completed Application for Direct Pay Permit; (if one has not been issued);
- a list of all facilities (in MS and outside MS) operating under the company's name;
- a description of the activity that would justify the headquarters status; and
- a list of the twenty (20) jobs created as a result of the establishment, transfer or expansion of the headquarters, including such information as:
 - title of each job;
 - purpose or description of each job;
 - education requirements for each job;
 - experience requirements for each job; and
 - salary or compensation amount.

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation. After all the required information has been submitted and the exemption approved, the business will receive a letter certifying the designation of a headquarters and the time period for the exemption. A letter of denial will be sent if the application is not approved.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR. For qualified purchases during the construction or expansion period, the correct tax would be exempt or 0%. For businesses that receive a Direct Pay Permit for the incentive only, the permit will no longer be effective and will stand rescinded when the project is complete. After the completion date, tax will be remitted to all vendors in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Sales / Use Tax Exemption for Transfer of National / Regional Headquarters is authorized under Miss. Code Ann. Sections 27-65-101(1)(r) and (hh).

Revised February 1, 2022

C.3. Sales / Use Tax Exemption for Bond Financing

A sales and/or use tax exemption is available for an eligible business that has obtained bond financing through the MBFC. The type of eligible businesses depends upon what type of bond is being issued.

The Mississippi Development Authority (MDA) and the Mississippi Business Finance Corporation (MBFC), administer a variety of finance programs that are intended to promote economic growth and increase employment in Mississippi. Through these finance programs, certain qualified businesses may obtain bond financing for construction or expansion in Mississippi. Purchases using bond proceeds for items such as machinery and equipment, and component building materials may be exempt from sales and use tax. To be eligible for the exemption, the item(s) must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption. Component materials cannot be purchased through the construction contractor.

MDA or MBFC determines whether a business qualifies for financing under these programs and the MDOR determines how the exemption is applied. The bonds must be issued within eighteen (18) months of the inducement date, or an extension must be requested by the business addressed to the MDOR. If bonds do not remain outstanding for at least one (1) year the purchase is not considered to be made with bond proceeds and would not be exempt from sales or use tax. A full accounting of the draws and expenditures associated with bond proceeds is required.

The exemption applies to all purchases of component building materials and other items of tangible personal property and services paid for with bond proceeds when such purchases are made to establish the project. The purchases must be made directly by the entity that has been induced by MBFC. The exemption does not apply to tagged vehicles or ongoing expenses and supply items that are not purchases required to establish the facility.

The exemption does not apply to the contractor's tax at three and one-half percent (3½%) or at one and one-half percent (1½%). Purchases of component materials for a construction project made by the contractor and reimbursed by the eligible business are considered part of the contractor's gross receipts subject to the three and one-half percent (3½%) contractor's tax. Amounts included in commercial construction contracts with manufacturers representing the sale of manufacturing machinery are taxed at the 1½% reduced rate of tax in lieu of the 3½% contractors' sales tax. However, the owner's exemption will apply on the sale by the construction contractor to the eligible business of manufacturing machinery that retains its identity as tangible personal property.

The bonds that qualify for the exemptions are authorized by:

1. Sections 57-10-1 et seq., Miss. Code Ann., and is known by the short title of "Small Business Assistance".
2. Sections 57-61-1 et seq., Miss. Code Ann., and is known by the short title of the "Mississippi Business Investment Act".
3. Sections 57-71-1 et seq., Miss. Code Ann., and is known by the short title of the "Mississippi Small Enterprise Development Finance Act".

SMALL BUSINESS ASSISTANCE

Bonds issued under this program are administered by the Mississippi Business Finance Corporation. Industrial Revenue Development Bonds are authorized under Miss. Code Ann. Sections 57-10-201 through 57-10-261, and the Rural Economic Development Bonds (RED Bonds) are authorized under Miss Code Ann. Sections 57-10-401 through 57-10-445.

For Industrial Revenue Bonds, the recipient must be a "for profit" company. Only in very limited circumstance will a non-profit company qualify. Both income tax-exempt and taxable bonds are issued. Only businesses engaged in manufacturing or processing may qualify for the tax-exempt bonds. For taxable bonds, the following businesses may qualify: companies which manufacture, process, store, warehouse assemble or distribute agricultural, mining or industrial products; research and development enterprises; offices used to manage, supervise or service a manufacturing operation; any commercial enterprise.

For RED Bonds, the recipients must be manufacturing or processing companies, certain warehouse and distribution centers, certain telecommunication and data processing companies, multi-state national or regional headquarters, certain research and development and technology intensive enterprises. The proceeds used to finance fixed assets at below market interest rates for terms of up to twenty-five (25) years.

The sales and use tax exemption is for all purchases, including leases, necessary to establish the enterprise that are made with bond funds.

MISSISSIPPI BUSINESS INVESTMENT ACT

This program is administered by the MDA. It is a program designed for making low interest loans to counties and incorporated cities or towns ("Local Sponsors") to finance improvements necessary to complement investments by private companies which create and maintain new full-time jobs. The bonds issued are general obligations bonds of the State of Mississippi.

There is also a provision to make temporary borrowings that are in anticipation of the issuance of the bonds authorized by this chapter. It appears that this exemption for the temporary borrowings was intended to mirror the exemption for the bonds and will be treated the same way.

Agricultural, industrial, manufacturing, aquacultural or maricultural, tourism, service, regional shopping malls and research and development projects may be eligible for the assistance. To be eligible, the project must be located in Mississippi, a private match of at least three dollars (\$3.00) for every one dollar (\$1.00) of state assistance is required, the project must create and maintain new jobs as required by statute and MDA, and the project must be necessary for the operation of the company at a specific job generating site.

Loans are evidenced by a promissory note from the Local Sponsor to the State, and a general obligation bond of the Local Sponsor issued to the State in accordance with state laws and the Mississippi Business Investment Act. A project agreement will also require the private company to operate the facility for a minimum period of time, grant a lien on the financed facility, and create and maintain a minimum number of jobs. If the agreement is not fulfilled, the State may require the Local Sponsor and/or the private company to repay the unpaid loan principal with interest and penalties. If necessary, a portion of the Local Sponsor's sales tax and/or homestead exemption reimbursement may be withheld in an amount that is sufficient to repay the obligation.

The sales and use tax exemption is for all purchases of tangible personal property and services to establish the facility that are made with bond funds.

MISSISSIPPI SMALL ENTERPRISE DEVELOPMENT FINANCE ACT

The MBFC makes loans to qualified private companies that will increase employment and investment in the state. If the project is located in the GO Zone area, most commercial businesses are eligible. Only manufacturers and processors are eligible if the project is located outside of the GO Zone.

Loan proceeds may be used for fixed asset financing, including land, buildings, and machinery and equipment with a long life span. Used equipment may not be financed with loan proceeds. Additionally, the loan may not be in excess of ninety percent (90%) of the market value of the financed assets and the loan may not be used to refinance existing debt. The aggregate amount loaned to one borrower may not exceed four million dollars (\$4,000,000) and the term shall not exceed twenty (20) years. The project must create a minimum of ten (10) new jobs. Loans made under this program are eligible for incentives available under the Mississippi Rural Economic Development Assistance Program.

The sales and use tax exemption is for all purchases of tangible personal property and services to establish the facility that are made with bond funds.

HOW TO APPLY FOR THE INCENTIVE

To be certified as eligible for the exemption, the business must submit the following to the MDOR:

- a copy of the bond certificate issued by MBFC;
- a completed Application for Certification for Economic Incentives;

- a completed Registration Application for a use tax account (if one has not been issued); and
- a completed Application for Direct Pay Permit (if one has not been issued).

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases during the construction or expansion period. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR.

For businesses that receive a Direct Pay Permit for the incentive only, the permit will no longer be effective and will stand rescinded when the project is complete. After this date, tax will be remitted to all vendors in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Sales / Use Tax Exemption for Bond Financing is authorized by Miss. Code Ann. Sections 27-65-111(w), 57-10-1 et seq., 57-61-1 et seq., and 57-71-1 et seq.

Revised February 1, 2022

C.4. Sales / Use Tax Exemption for Businesses in Growth and Prosperity (GAP) Areas

A sales and/or use tax exemption is available for a qualified business within a Growth and Prosperity (GAP) Area for a ten (10) year period ONLY on component materials, machinery and equipment used in the initial construction or expansion of the business in the GAP Area.

The Growth and Prosperity (GAP) Areas Tax Exemption was created to encourage businesses to locate facilities and hire individuals in areas that have thirty percent (30%) or more of the population at or below the federal poverty level according to the most recent official data compiled by the United States Census Bureau or have an unemployment rate that is two hundred percent (200%) of the state's average unemployment rate. A county or supervisor's district applies to MDA to be designated as a GAP Area. After the application has been approved, the GAP Area is issued a certificate of public convenience and necessity. An eligible business that constructs a new facility or expands an existing facility located in one of these GAP Areas can apply to MDA to be exempted from state and local taxes for a period of ten (10) years or until December 31, 2029, whichever occurs first. A business that relocates from a county in Mississippi to a GAP Area is not eligible for the exemption.

State taxes from which the business may be exempt are any sales and use tax on the purchase of component materials, equipment and machinery for the initial construction of a business or an expansion of an existing business in the GAP Area, any sales and use tax on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion in a GAP Area, income tax on income generated by the business in the GAP Area and the franchise tax on the value of the capital used, invested or employed by the business in that GAP Area. Local taxes from which the business may be exempt include any county or municipal ad valorem taxes except for those benefitting schools, fire, and police.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. Such exemption is not transferable and cannot be applied to, used by, or assigned to any other entity. The approved business must also enter into an agreement with MDA that sets out mandatory performance requirements of the business and provisions to recapture any or all of the taxes exempted if these requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of any exemptions claimed. For more information on the GAP areas, contact:

Mississippi Development Authority
Financial Resources Division - GAP Program
Post Office Box 849
Jackson, MS 39205

The sales tax exemption is ONLY on component materials used in the initial construction, addition or improvement to a building and the machinery and equipment used therein. The exemption is for the retail rate on machinery and equipment, either seven percent (7%) or one-and-one-half percent (1½%). To be eligible for the exemption, the item(s) must be **SOLD OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption. The exemption does not apply to contractor's tax at three and one-half percent (3½%) or at one and one-half percent (1½%).

When a construction contractor builds a facility, the construction contractor may also sell and install manufacturing machinery related to the construction or expansion of the facility. In this specific situation, the contractor may be treated as both a construction contractor and a retailer of the manufacturing machinery. The exemption will apply only for the sale and installation of the manufacturing machinery. The manufacturing machinery is taxable at the regular manufacturer's rate of one and one-half percent (1½%).

Contractor's tax on the gross proceeds of commercial construction activities is imposed directly on the contractor regardless of who is the owner of the project. If component materials, or machinery and equipment (purchases covered

under the exemption) are purchased through a construction contractor and included in the construction contract amount rather than purchased directly by the business receiving the exemption, then the exemption is lost on those items included in the contract. The exempt items must be **SOLD OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

If the business is located in an area that the Governor has declared a disaster area and as a result of that disaster the business is unable to utilize the exemption from state taxes, MDA may extend the exemption for up to two (2) years or until December 31, 2033, whichever occurs first. Any business that has property or equipment originally purchased utilizing this sales tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

HOW TO APPLY FOR THE INCENTIVE

Before applying to the MDOR for the exemption, application must be made to the MDA to be designated as a GAP Area business. A copy of the certification should be forwarded to the MDOR. To be certified as eligible for the exemption, the business must submit the following:

- a completed Application for Certification for Economic Incentives;
- a completed Registration Application for a use tax account (if one has not been assigned); and
- a completed Application for Direct Pay Permit (if one has not been assigned).

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases during the construction or expansion period. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR.

For businesses other than manufacturers or other industries that normally do not receive a Direct Pay Permit, an expiration date may be required for the Direct Pay Permit issued for the exemption. After this date, the Direct Pay Permit would no longer be effective, and the tax would be remitted to the vendor in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Sales / Use Tax Exemption for Businesses in GAP Areas is authorized under Miss. Code Ann. Sections 27-65-101(1)(v) and 57-80-1 et seq.

Revised February 1, 2022

C.5. Sales / Use Tax Exemptions for Broadband Technology

A sales and/or use tax exemption is available for telecommunication businesses on the purchase of equipment used in the deployment of broadband technology.

EXCEPTION: Radio stations, television stations and news organizations are not considered telecommunication businesses and are not eligible for this exemption.

This incentive was created to encourage telecommunication businesses to invest in the infrastructure needed to develop the high-speed access to the Internet for all counties in the state. Telecommunication businesses that deploy such equipment are eligible for an exemption of sales and use taxes on any equipment used for the transmission of information at a high speed. To be eligible for the exemption, the item(s) must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO and PAID FOR DIRECTLY BY** the business receiving the exemption.

Telecommunication businesses are defined as companies engaged in the creation, display, management, storage, processing, transmission, or distribution for compensation of images, text, voice, video, or data by wire or by wireless means. It also includes companies engaged in the construction, design, development, manufacture, maintenance, or distribution for compensation of devices, products, software, or structures used in the above-mentioned activities.

Qualifying equipment used in the deployment of broadband technologies includes, but is not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics, and related equipment.

The amount of the exemption, one-half (50%) or full (100%) depends on where the facility is located. In Mississippi, counties are ranked as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year by the MDOR based on the unemployment rate and per capita income of each county for the most recent thirty-six (36) month period. They are then divided into the three (3) previously mentioned groups with one-third (1/3) of the counties in each group. This ranking is used to determine whether the exemption will be a full exemption or a one-half (1/2) exemption. The ranking for a specific county can change from year to year based on this evaluation. The exemption amount for each county ranking is as follows:

<u>County Ranking</u>	<u>Exemption Amount</u>
Tier One (developed)	one-half (50%)
Tier Two (moderately developed)	full (100%)
Tier Three (less developed)	full (100%)

In order to retain the county designation for the county where the equipment shall be deployed, the business must complete the Application for Certification of Economic Incentives. Normally, planned deployment of the equipment is required before the exemption will be granted.

The exemption is effective beginning July 1, 2003 through June 30, 2025. The exemption is for the retail sales or use tax ONLY on the purchase of equipment used in the deployment of broadband technology. The exemption does not apply to contractor’s tax at three and one-half percent (3½%) or at one and one-half percent (1½%).

Contractor’s tax on the gross proceeds of commercial construction activities is imposed directly on the contractor regardless of the owner of the project. If component materials, or machinery and equipment (purchases covered under the exemption) are purchased *through* a construction contractor and included in the construction contract amount rather than purchased directly by the business receiving the exemption, then the exemption is lost on those items included in the contract. The exempt items must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

HOW TO APPLY FOR THE INCENTIVE

To be certified as eligible for the exemption, the business must submit the following:

- a completed Application for Certification for Economic Incentives;

- a detailed letter with a description of the type of deployment being considered and the equipment planning to be purchased, as well as the county or counties in which the equipment will be sent to justify the request for the exemption;
- a completed Registration Application for a use tax account (if one has not been issued); and
- a completed Application for Direct Pay Permit (if one has not been issued).

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation.

If the exemption is granted, then the Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR. If the one-half (50%) exemption is granted, use either tax code 68 or 78 to report the purchases.

For businesses other than manufacturers or other industries that normally do not receive a Direct Pay Permit, an expiration date may be required for the Direct Pay Permit issued for the exemption. After this date, the Direct Pay Permit would no longer be effective and the tax would be remitted to the vendor in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Sales / Use Tax Exemption for Broadband Technology is authorized under Miss. Code Ann. Sections 27-65-101 (5), 57-73-21, & 57-87-5.

Revised February 1, 2022

C.6. Sales / Use Tax Exemption for Clean Energy Business Enterprises

A sales or use tax exemption is available for certain clean energy business enterprises that locate or expand in this state with a minimum capital investment of fifty million dollars (\$50,000,000) and the creation of two hundred fifty (250) new, full-time jobs. The clean energy business enterprise must own or operate a facility that manufactures or assembles systems or components used in the generation of clean energy.

The Clean Energy Business Enterprises Exemption is an incentive created to induce companies developing the field of clean energy to locate or expand their facilities in Mississippi. Clean energy business enterprises that locate or expand in this state with a minimum capital investment of fifty million dollars (\$50,000,000) and also create two hundred fifty (250) new, full-time jobs may be eligible for the exemption. Clean energy includes energy generated from either a renewable energy source such as wind, water, biomass or solar or an alternative energy source such as nuclear. Biomass includes the following:

- Forest-related mill residues, pulping by-product and other by-products of wood processing, thinnings, slash, limbs, bark, brush and other cellulosic plant material or non-merchantable forest-related products;
- Solid wood waste materials, including dunnage, manufacturing and construction wood wastes, demolition and storm debris and landscape or right-of-way trimmings; and
- Agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar and other crop by-products or residues and livestock waste nutrients
- All plant and grass material that is grown exclusively as a fuel for the production of electricity
- Refuse derived fuels consisting of organic components and fibers of wastewater treatment solids;
or
- Whole trees.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities certified by the Mississippi Development Authority (MDA); 2) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; 3) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA; and 4) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the MDA.

The incentive is not available to businesses that move from one location within this state to another location within this state. The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied, used, or assigned to any other entity. The approved business must also enter into an agreement with the MDA which sets out performance requirements of the business that must be met and provisions to recapture any or all of the taxes exempted if the requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of the exemptions claimed. For more information on the application process for the Sales Tax Exemption for Clean Energy Business Enterprises, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

The sales tax exemption is **ONLY** on component materials used in the initial construction, addition or improvement to a building and the machinery and equipment used therein. The exemption is for the retail rate on machinery and equipment, either seven percent (7%) or one-and-one-half percent (1½%). To be eligible for the exemption, the item(s) must be **SOLD**

OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY the business receiving the exemption. The exemption does not apply to contractor's tax at three and one-half percent (3½%) or at one and one-half percent (1½%).

When a construction contractor builds a facility, the construction contractor may also sell and install manufacturing machinery related to the construction or expansion of the facility. In this specific situation, the contractor may be treated as both a construction contractor and a retailer of the manufacturing machinery. The exemption will apply only for the sale and installation of the manufacturing machinery.

Contractor's tax on the gross proceeds of commercial construction activities is imposed directly on the contractor regardless of who is the owner of the project. If component materials, or machinery and equipment (purchases covered under the exemption) are purchased *through* a construction contractor and included in the construction contract amount rather than purchased directly by the business receiving the exemption, then the exemption is lost on those items included in the contract. The exempt items must be **SOLD OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

If the 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 utilize the exemption from state taxes, the MDA may extend the period of time by which the minimum requirements must be met and duration of the exemption from state taxes for not more than two (2) years. Any business enterprise that has property or equipment purchased utilizing the state tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Clean Energy Business Enterprise Exemption. Once you have received certification of eligibility from the MDA, you submit a completed Application for Certification of Economic Incentives to the MDOR.

To be certified as eligible for the exemption, the business must submit the following:

- a completed Application for Certification for Economic Incentives;
- a completed Registration Application for a use tax account (if one has not been assigned); and
- a completed Application for Direct Pay Permit (if one has not been assigned).

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases during the construction or expansion period. The correct tax on all purchases, if any is due, would then

be remitted directly to the MDOR.

For businesses other than manufacturers or other industries that normally do not receive a Direct Pay Permit, an expiration date may be required for the Direct Pay Permit issued for the exemption. After this date, the Direct Pay Permit would no longer be effective, and the tax would be remitted to the vendor in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Sales / Use Tax Exemption for Clean Energy Business Enterprises is authorized under Miss. Code Ann. Sections 27-65-101(1) (kk), (ll), and (nn) and 57-113-1 through 57-113-7.

Revised February 1, 2022

C.7. Sales / Use Tax Exemption for Aerospace Industry Enterprises

A sales and/or use tax exemption is available for a business enterprise certified by the MDA as aerospace industry enterprises ONLY on the purchase of component building materials and equipment, or the lease of machinery and equipment, used in the initial construction or expansion of the enterprise.

The Aerospace Industry Enterprises (AIE) Exemption is an incentive created to induce companies to locate or expand their manufacturing facilities in Mississippi. The incentive is also available to businesses that offer research and development or training services in the aerospace industry that locate or expand in the state. The business must make a minimum capital investment in Mississippi of twenty-five million dollars (\$25,000,000), and must also create a minimum of twenty-five (25) new, full-time jobs in Mississippi which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is less. The aerospace industry is the industry that researches, designs, manufactures, repairs, operates and/or maintains products, components and systems which enable vehicles to move through the air and space.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities certified by the Mississippi Development Authority (MDA); 2) all income tax imposed pursuant to law on income earned by the business enterprise certified by the MDA; 3) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA; and 4) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the MDA.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied to, used by or assigned to any other entity or tax account without prior approval from the MDA. The approved business must also enter into an agreement with MDA that sets out minimum performance requirements of the business and provisions to recapture any or all of the taxes exempted if these requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of any exemptions claimed. For more information on obtaining approval from the MDA and the minimum performance requirements for the Aerospace Industry Enterprise Exemption, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

The sales tax exemption is ONLY on component materials used in the initial construction, addition or improvement to a building and the machinery and equipment used therein. The exemption is for the retail rate on machinery and equipment, either seven percent (7%) or one-and-one-half percent (1½%). To be eligible for the exemption, the item(s) must be **SOLD OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption. The exemption does not apply to contractor's tax at three and one-half percent (3½%) or at one and one-half percent (1½%).

When a construction contractor builds a facility, the construction contractor may also sell and install manufacturing machinery related to the construction or expansion of the facility. In this specific situation, the contractor may be treated as both a construction contractor and a retailer of the manufacturing machinery. The exemption will apply only for the sale and installation of the manufacturing machinery.

Contractor's tax on the gross proceeds of commercial construction activities is imposed directly on the contractor regardless of who is the owner of the project. If component materials, or machinery and equipment (purchases covered under the exemption) are purchased through a construction contractor and included in construction contract amount rather than purchased directly by the business receiving the exemption, then the exemption is lost on those items included in the contract. The exempt items must be **SOLD OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

If the 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 is unable to use the exemption from state taxes, the MDA may extend the period of time during which the minimum requirements must be met and the exemption may be taken for a period of time not to exceed two (2) years. Any business that has property or equipment purchased utilizing this sales tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Aerospace Industry Enterprise Exemption. Once you have received certification of eligibility from the MDA, you submit a completed Application for Certification of Economic Incentives to the MDOR. If you do not already have a Use Tax Account and Direct Pay Permit, you must also submit a completed Registration Application for a Use Tax Account and a completed Registration Application for a Direct Pay Permit in order to be certified as eligible by the MDOR.

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases during the construction or expansion period. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR.

For businesses other than manufacturers or other industries that normally do not receive a Direct Pay Permit, an expiration date may be required for the Direct Pay Permit issued for the exemption. After this date, the Direct Pay Permit will no longer be effective, and the tax should be remitted to the vendor in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Aerospace Industry Enterprise exemption is authorized under Miss. Code Ann. Sections 27-65-101(1)(kk) and (ll) and 57-113-1 through 57-113-7.

Revised February 1, 2022

C.8. Sales / Use Tax Exemption for Data Center Enterprises

A sales and/or use tax exemption is available for any business enterprise owning or operating a data center with a minimum capital investment in Mississippi of twenty million dollars (\$20,000,000) and creates at least twenty (20) new, full-time jobs with an annual salary of at least one hundred twenty-five percent (125%) of the average annual wage in this state.

The Data Center Enterprises Exemption is an incentive created to induce companies to locate or expand data centers in Mississippi. The business must make a minimum capital investment in Mississippi of twenty million dollars (\$20,000,000) and must also create a minimum of twenty (20) new, full-time jobs with salaries not less than one hundred twenty-five percent (125%) of the average annual wage in Mississippi. A data center is a business enterprise that utilizes hardware, software, technology, infrastructure and/or workforce to store, manage or manipulate digital data.

A qualifying business enterprise will be exempt from state taxes for a period of ten (10) years from the date of certification. State taxes are: 1) any sales or use tax imposed on the business enterprise pursuant to law related to the purchase or lease of component building materials and equipment for initial construction of facilities or expansion of facilities certified by the Mississippi Development Authority (MDA); 2) any sales and/or use tax imposed on the business enterprise pursuant to law related to the purchase of replacement hardware, software or other necessary technology to operate a data center; 3) all income tax imposed pursuant to law on income earned by the business enterprise certified by the Mississippi Development Authority; and 4) franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the MDA.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. The exemption is not transferable and cannot be applied to, used by or assigned to any other entity or tax account without prior approval from the MDA. The approved business must also enter into an agreement with MDA that sets out minimum performance requirements of the business and provisions to recapture any or all of the taxes exempted if these requirements are not met. The business must make available, at the Commissioner's request, all books, records, or other information necessary to verify the correctness of any exemptions claimed. For more information on obtaining approval from the MDA and the minimum performance requirements for the Data Center Enterprise Exemption, contact:

Mississippi Development Authority
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
financial@mississippi.org
601-359-3552

The sales tax exemption is **ONLY** on component materials used in the initial construction, addition or improvement to a building and the machinery and equipment used therein; or on replacement hardware, software or other necessary technology for the operation of the data center. The exemption is for the retail rate on machinery and equipment, either seven percent (7%) or one-and-one-half percent (1½%). To be eligible for the exemption, the item(s) must be **SOLD OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption. The exemption does not apply to contractor's tax at three and one-half percent (3½%) or at one and one-half percent (1½%).

When a construction contractor builds a facility, the construction contractor may also sell and install manufacturing machinery related to the construction or expansion of the facility. In this specific situation, the contractor may be treated as both a construction contractor and a retailer of the manufacturing machinery. The exemption will apply only for the sale and installation of the manufacturing machinery.

Contractor's tax on the gross proceeds of commercial construction activities is imposed directly on the contractor regardless of who is the owner of the project. If component materials, or machinery and equipment (purchases covered under the exemption) are purchased through a construction contractor and included in the construction contract amount

rather than purchased directly by the business receiving the exemption, then the exemption is lost on those items included in the contract. The exempt items must be **SOLD OR LEASED DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

If the 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 is unable to use the exemption from state taxes, the MDA may extend the period of time during which the minimum requirements must be met and the exemption may be taken for a period of time not to exceed two (2) years. Any business that has property or equipment purchased utilizing this sales tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

HOW TO APPLY FOR THE INCENTIVE

Before construction or acquisition of the buildings for the location or expansion of the business enterprise begins, you must apply to the MDA for certification of eligibility for the incentive. The application to MDA must contain the following information:

- An overview of the project, including:
 - the selected site,
 - the number of jobs proposed, and
 - the length of time necessary for the company to meet its investment and employment requirements;
- A two (2) year business plan, which shall include pro forma financial statements for the project;
- Data supporting the expertise of the project's principals;
- An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and
- Such other information as may be requested by the MDA.

Upon approval, MDA will issue certification designating the business enterprise as eligible for the Data Center Enterprise Exemption. Once you have received certification of eligibility from the MDA, you submit a completed Application for Certification of Economic Incentives to the MDOR. If you do not already have a Use Tax Account and Direct Pay Permit, you must also submit a completed Registration Application for a Use Tax Account and a completed Registration Application for a Direct Pay Permit in order to be certified as eligible by the MDOR.

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases during the construction or expansion period. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR.

For businesses other than manufacturers or other industries that normally do not receive a Direct Pay Permit, an expiration date may be required for the Direct Pay Permit issued for the exemption. After this date, the Direct Pay Permit will no longer be effective, and the tax should be remitted to the vendor in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Data Center Enterprise exemption is authorized under Miss. Code Ann. Sections 27-65-101(1)(kk) and (mm) and 57-113-21, et seq.

Revised February 1, 2022

C.9. Sales / Use Tax Exemption for Businesses in Health Care Industry Zones

A sales and/or use tax exemption is available for a qualified business located within a Health Care Industry Zone ONLY on component materials used in the initial construction, addition or improvement of a health care facility, and machinery and equipment for use in such facility. A Mississippi Health Care Industry Zone is an area certified by the Mississippi Development Authority (MDA) in which health care industry facilities are centered. "Health care industry facility" includes any business that creates a minimum of twenty-five (25) new full-time jobs and/or ten million dollars (\$10,000,000) of capital investment after July 1, 2012, and is:

- Engaged in the research and development of pharmaceuticals, biotechnology, medical supplies, biologics, diagnostic imaging, medical equipment or medicine and related manufacturing or processing;
- A Medical service provider;
- Engaged in medical product distribution; or
- Engaged in laboratory testing.

"Health care industry facility" may also include a business that is located on land owned by or leased from an academic health science center with a medical school accredited by the Liaison Committee on Medical Education and a hospital accredited by the Joint Committee on Accreditation of Healthcare Organizations and creates a minimum of twenty-five (25) new full-time jobs and/or twenty million dollars (\$20,000,000) of capital investment after July 1, 2012.

HEALTH CARE INDUSTRY ZONE INCENTIVE

The Health Care Industry Zone Tax Exemption was created to encourage health care related businesses to locate or expand within a qualified Health Care Industry Zone in the state. It aims to expand access to high quality medical care for Mississippi residents and increase the number of health care jobs in the state.

ESTABLISHMENT OF A HEALTH CARE INDUSTRY ZONE

Mississippi Development Authority (MDA) may certify an area as a Health Care Industry Zone if the following requirements are met:

- The area is located within three (3) contiguous counties which have certificates of need of more than three hundred seventy-five (375) acute care hospital beds and/or a county which has a hospital with a minimum capital investment of two hundred fifty million dollars (\$250,000,000) and for which construction is completed before July 1, 2017;
- The health care industry facility is located within a five-mile radius of a facility with a certificate of need for hospital beds and/or a University or College that is a) accredited by the Southern Association of Colleges and Schools and awards degrees and/or trains workers for jobs in health care or pharmaceutical fields of study and/or work, and b) located along or near Mississippi Highway 67 within a master planned community as defined in Section 19-5-10; and
- The zoning of the local government unit, if applicable, allows the construction or operation in the proposed health care industry zone of the health care industry facility.

QUALIFYING BUSINESS

Once an area is approved by the MDA as a Health Care Industry Zone, businesses located within the zone may apply to participate in Health Care Industry Zone Incentives. In order to qualify, the health care industry facility must: 1) apply to the MDA and be approved as a qualified business, and 2) have initial construction of, or make an addition or improvement to, a health care facility within a Health Care Industry Zone. A qualified business that constructs a new facility or improves an existing facility located in one of the Health Care Industry Zones can apply to the MDOR to be exempted from sales and/or use tax on component materials, machinery and equipment used in such construction or improvement. To be eligible for the exemption, the item(s) must be purchased by the business receiving the exemption. Component materials cannot be purchased through the construction contractor.

Contractor's tax on the gross proceeds of commercial construction activities is imposed directly on the contractor and is not passed on to the customer except as a part of overhead costs. This tax amount must be built into the contract amount computed by the contractor and cannot be broken out as a separate line item. If component materials or machinery and

equipment (purchases covered under the exemption) are purchased through a construction contractor and included in the construction contract amount rather than purchased directly by the business receiving the exemption, then the exemption is lost on those items included in the contract. The exempt items must be **SOLD DIRECTLY TO, BILLED DIRECTLY TO, and PAID FOR DIRECTLY BY** the business receiving the exemption.

The exemption is for the period beginning with the initial date purchases are made for the improvement or construction through three (3) months after the completion of the facility, addition, or improvement. Only component materials used in the construction, addition or improvement to a facility and the machinery and equipment to be used therein are exempt from sales or use tax. The exemption does not apply to tagged vehicles, ongoing expenses or supply items and does not apply to contractor's tax at three and one-half percent (3½%).

If the qualified business has not created the required minimum of twenty-five (25) new full-time jobs, the certification of the business may be revoked by the MDA after five (5) years have elapsed from the effective date of certification.

HOW TO APPLY FOR THE INCENTIVE

Before applying to the MDOR for the exemption, application must be made to the MDA to be designated as a qualified Health Care Industry Zone business.

To be certified as eligible for the exemption, the business must submit the following:

- a copy of the certification from MDA qualifying the business as a Health Care Industry Zone business
- a completed Application for Certification for Economic Incentives;
- a completed Registration Application for a use tax account (if one has not been issued); and
- a completed Application for Direct Pay Permit (if one has not been issued).

Registration for a use tax account and a Direct Pay Permit can be completed online at <https://tap.dor.ms.gov>. Once registered for use tax, the Application for Certification for Economic Incentives can be completed online within the applicant's Taxpayer Access Point (TAP) account by clicking the "Apply for Economic Incentives" link. The TAP application contains a link to upload the requested documentation.

The Direct Pay Permit number should be furnished to ALL vendors so that the retail sales or use tax will not be charged on ANY purchases during the construction, addition or improvement period. The correct tax on all purchases, if any is due, would then be remitted directly to the MDOR.

An expiration date may be required for the Direct Pay Permit issued for the exemption. After this date, the Direct Pay Permit would no longer be effective, and the tax would be remitted to the vendor in the normal course of business.

The Direct Pay Permit cannot be used with, nor does the exemption apply to, the contractor's tax (Miss. Code Ann. Section 27-65-21) or the tax on vehicles tagged for highway use (Miss. Code Ann. Section 27-65-17). The exemption does not apply to the tax levied under Miss. Code Ann. Section 27-65-24(1)(b).

The Sales / Use Tax Exemption for Businesses in Health Care Industry Zone is authorized under Miss. Code Ann. Sections 27-65-101(1)(pp) and 57-117-7 et seq.

Revised February 1, 2022

D. Rebate Incentive Programs

D.1. Advantage Jobs Incentive Program

An incentive in the form of a rebate of a percentage of state withholding tax for a period of ten (10) years is available to businesses which, within 24 months, create a minimum number of jobs with salaries at least 100% to 110%, depending on the industry, of the state or county annual wage and provide a basic health benefits plan.

This incentive is available to all businesses as determined by MDA, **except for:**

- retail establishments
- gaming businesses or casinos

The Mississippi Advantage Jobs Incentive Program is designed to provide an incentive in the form of a rebate of a percentage of Mississippi withholding tax to qualified businesses that promise significant development of the economy of the State of Mississippi through the creation of new quality jobs. The MDA and the MDOR have the responsibility to administer this program jointly. The MDA shall approve the qualified businesses for Advantage Jobs and the MDOR shall implement Advantage Jobs. MDA has complete discretionary authority in determining whether to certify a business, therefore all questions relating to the eligibility requirements or the qualification procedures should be addressed to the MDA. Any inquiries into the implementation of the program should be directed to the MDOR.

Qualified taxpayers who applied for the Advantage Jobs Tax rebate before July 1, 2010, will continue to be eligible for the rebate using the method of calculation in place before the law change. Qualified taxpayers applying for the Advantage Jobs Tax rebate on or after July 1, 2010, may use the information contained in this summary to calculate the rebate.

An eligible business has three (3) major requirements to fulfill to be eligible for the Advantage Jobs. If any of these requirements are not met, the business is not eligible and will not receive the incentive payment.

- The business must create new direct jobs with salaries exceeding the average annual wage of the state or of the county in which the business is located, whichever is lower. The average annual wage is determined by the most recently published figures of the Mississippi Department of Employment Security (MDES). The wage is based on the gross annual salary reported annually to the MDES. The total amount of wages divided by the total number of new direct jobs will result in the approved business' average salary.
 - a. An approved business which is a data/information processing enterprise must provide an average salary of at least one hundred percent (100%) of the average annual salary of the State or County (whichever is lower) and create not less than two hundred (200) new direct jobs.
 - b. An approved business which is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof must provide an average salary of at least one hundred ten percent (110%) of the average annual salary of the State or County (whichever is lower) and create not less than twenty-five (25) new direct jobs.
- The creation of these new direct jobs must be completed within twenty-four (24) months of the certification date issued by MDA.
- The business must offer and provide a basic health benefits plan for all employees within one hundred and eighty (180) days of the date it receives its first incentive payment.

The business must apply to the MDA for certification into the Advantage Jobs Incentive Program. After approval has been granted by the MDA, copies of the certification and related documents shall be submitted to the MDOR identifying the business certified for the Advantage Jobs Incentive Program. The certification and related information received from MDA contains the requirements that the business must meet and the criteria which must be used to determine eligibility for the Advantage Jobs Incentive Program. This information shall remain constant throughout the ten (10) year life of the Advantage Jobs Program or until such time as the MDA deems it necessary to revise. The criteria are unique to each Advantage Jobs group and include the following facts.

- The name of the business is needed. This business should have a withholding account under which the business files its state withholding tax. Retail businesses and gaming businesses do not qualify.
- The minimum number of jobs committed to be created is required. This is an agreed upon number between the

business and the MDA. A full-time job is one employee that works at least thirty-five (35) hours a week. The job must be filled with an individual to be considered eligible for the incentive payment. If the job becomes available due to resignation, retirement, promotion, or other such act, it cannot remain open for more than one (1) quarter to continue to be eligible. There cannot be a combination of several part-time jobs to equal one full-time job. The number of new direct jobs is used to calculate the amount of the incentive payment and is also used to calculate the average salary of the approved business. The approved business has twenty-four (24) months to establish these jobs after the approval process has been completed.

- The lesser of the average annual wage of the county where the business is located, or the state average annual wage is required to measure against the business' actual salary figures to ensure the percentage requirement. These average salaries are determined by the most recently published information from the Mississippi Employment Security Commission at the time of certification by MDA.
- The location of the business may determine the minimum number of jobs required to be created and also determines the county used to determine the average annual salary comparison to the state.
- The date of the certification is the date that begins the twenty-four (24) month period in which the job and salary requirement must be met.
- The job detail of the pre-existing personnel to have a benchmark to measure against future job growth and salary numbers.

The business has twenty-four (24) months after being certified by MDA to meet those requirements. The business should notify the MDOR as soon as all requirements are met. This notification can be a simple letter stating the date that all requirements set forth in the certification from MDA have been met and listing of job details of the Advantage Jobs and of all other Statewide jobs (if applicable) on the Advantage Jobs incentive Program Jobs Worksheet. The business must maintain its eligibility by continuing to meet all the requirements set out in the certification issued by MDA for a period of four (4) consecutive quarters.

Advantage Jobs runs on a time frame built around calendar quarters. These quarters will be set as follows:

- 1st Quarter - January, February and March.
- 2nd Quarter - April, May and June.
- 3rd Quarter - July, August and September.
- 4th Quarter - October, November and December.

Any reference to quarters will always refer to one of the above named quarters. These quarters are set and will not change. There will be no prorating quarters. Any action taken by the MDOR will begin at the beginning of the next appropriate quarter. If a business meets all requirements in the middle of a quarter, the incentive payments will begin at the end of the next full quarter.

After notifying the MDOR that the requirements have been met, the business must submit the job details on the Advantage Jobs incentive Program Jobs Worksheet to the MDOR each month. This information can be submitted in an electronic spreadsheet, such as Excel. This information will be used in conjunction with the withholding revenue remitted by the business to determine the amount of withholding tax to be diverted into the Advantage jobs Payment Fund.

After the four consecutive quarter compliance period is over, the business should submit a claim for payment using the Advantage Jobs Payment Claim Form, to claim the first incentive payment within sixty (60) months of when the business was certified. For each claim form submitted, the MDOR shall verify the number of jobs and the gross payroll and compare that information to the criteria set by the MDA approval process for that particular Advantage Jobs group. The amount of incentive payments that a business may receive is limited to the following:

- Incentive payments cannot exceed ninety percent (90%) of the amount of actual income tax withheld for employees.
- The business cannot receive incentive payments for a period exceeding ten (10) years.
- Total incentive payments cannot exceed four percent (4%) of the total annual salary paid for new direct jobs excluding benefits.

If, at any time, limitation 2 or 3 is met, the Advantage Jobs payments cease for that business. Notification shall be sent to

MDA and the business that the limitation has been met and there will be no more payments for that specific Advantage Jobs group.

Diversion into the Payment Fund will be made from the withholding tax revenue remitted by the business specifically for the approved jobs or Advantage Jobs group. The amount of diverted revenue is the actual amount of withholding tax remitted by the business for the Advantage Jobs group. The amount is then transferred from the withholding tax revenue into the Advantage Jobs Payment Fund less a three percent (3%) administrative fee. The incentive payment to the business is then drawn from this Payment Fund.

GOVERNOR DECLARED DISASTER AREA

If the qualified business or industry is located in an area that has been declared by the Governor to be a disaster area and as a result of the disaster the business or industry is unable to create or maintain the jobs required:

- The Commissioner of the MDOR may extend the period of time an applicant may receive incentive payment up to two (2) years. The extension must be authorized in writing by the Commissioner.
- The Commissioner of the MDOR may waive the requirement that a certain number of jobs be maintained for a period of time not to exceed twenty-four (24) months.
- The MDA may extend the period of time within which the jobs must be created for a period of time not to exceed twenty-four (24) months.

NON-COMPLIANCE

If a business or Advantage Jobs group is found to have not complied with all of the requirements needed to be eligible at any time after the first incentive payment, the incentive payments shall stop as well as the diversion of the withholding tax revenue into the Payment Fund. The MDOR shall notify the business of the non-compliance and shall not resume the payments until the business has returned to compliance for a full quarter. Non-compliance does not stop the ten (10) year time period in which the Advantage Jobs is in effect. Once a business or Advantage Jobs group does not meet the necessary requirements, and loses that payment, it cannot be recovered.

For businesses that were certified before July 1, 2010, notification of qualification of a business to receive the incentive must be given to the MDOR within one calendar quarter of qualification to ensure the availability of funds upon the payment date. Failure to notify the MDOR will result in the loss of the maximum ten (10) year payment period. The payment period will be reduced quarterly for each quarter in which notification was delayed.

For businesses that were certified on July 1, 2010, or after, a qualified business may elect the date on which the ten (10) year period begins as long as the date is not later than sixty (60) months after the date the business was certified. Notice of qualification must be given to the MDOR when the business elects to begin the ten (10) year payment period or the period may be delayed as necessary.

HOW TO APPLY FOR THE INCENTIVE

- Apply to MDA to be certified for the Advantage Jobs Incentive Program.
- Complete all requirements set out in the MDA application.
- Notify the MDOR of the completion of all criteria set forth in the MDA certification by letter detailing the date of completion and appropriate job information.
- File monthly job information on the Advantage Jobs Incentive Program Jobs Worksheet in an Excel spreadsheet.
- Stay in compliance for four consecutive quarters.
- At the end of the compliance period, file a claim for payment with the MDOR including the required information.

The Advantage Jobs incentive is authorized under Miss. Code Ann. Sections 27-7-312, 57-62-1 through 57-62-17.

Revised February 1, 2022

Advantage Jobs Timeline

Certification Date	A business applies to MDA for eligibility into the Advantage Jobs Incentive Program. MDA approves the business for the Advantage Jobs Incentive Program and sets the requirements needed to be met before eligible to receive incentive payments. MDA issues certificate and forwards copies to MDOR.
Certification Received	MDOR receives certification documents from MDA and sends a letter to the business.
Requirements Met	The business meets its requirements and notifies the MDOR. The business provides the first filing of the Advantage Jobs Worksheet, for the approved jobs and for the statewide jobs (if applicable).
Beginning of Next Full Calendar Quarter	This is the beginning of the next calendar quarter after the requirements have been met. This also is the beginning of the first quarter of the compliance period. If the business met its requirements in the middle of a quarter, the compliance period begins the first of the next quarter. Compliance must be maintained for a period of four full consecutive quarters.
Each Month	At the end of each month for the rest of the Advantage Jobs Program, the business files the Advantage Jobs Worksheet, detailing job information for both Advantage jobs and statewide jobs. The business also remits withholding tax revenue.
Ending of Fourth Quarter of Compliance	<p>The business files the first quarterly filing of the Advantage Jobs Payment Claim Form to claim payment of the Advantage Jobs rebate. This form and the withholding tax revenue will be used to determine the diversion of withholding revenue from the approved jobs into the Advantage Jobs Incentive Payment Fund.</p> <p>MDOR authorizes the incentive payment to the business for the end of the quarter after applying all limitations and calculations.</p>
Each Quarter	The business files the Advantage Jobs Payment Claim Form, each quarter to receive the incentive payment until the end of the Advantage Jobs Program.

D.2. Sales / Use Tax Rebate for Tourism (Miss. Code Ann. Section 57-26-1 et seq)

There is available a sales tax rebate of taxes collected by a tourism project that may be diverted back to the owner of the tourism project to cover eligible project costs. The tourism project must be certified by MDA to be eligible for this rebate. No tourism project will be approved for the Mississippi Tourism Sales Tax Incentive Program after July 1, 2023.

The Mississippi Tourism Sales Tax Incentive Program provides a rebate of the sales tax collected by an eligible tourism project. Any business desiring to participate in this program must first contact MDA to determine its eligibility. Eligibility will be determined by amount of investment and type of attractions of the tourism project. MDA will issue a certificate when the enterprise is approved.

An eligible tourism project shall include any of the following as may be approved by the MDA:

- 1) Theme parks, water parks, entertainment parks or outdoor adventure parks, cultural or historical interpretive educational centers or museums, motor speedways, indoor or outdoor entertainment centers or complexes, convention centers, professional sports facilities, spas, attractions created around a natural phenomenon or scenic landscape and marinas open to the public with a minimum private investment of not less than ten million dollars (\$10,000,000); or
- 2) A hotel with a minimum private investment of forty million dollars (\$40,000,000) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities, and other related soft costs approved by the MDA. There must be a minimum private investment of one hundred and fifty thousand dollars (\$150,000) per guest room which can be included in the required minimum total investment of forty million dollars (\$40,000,000); or
- 3) A public golf course with a minimum private investment of ten million dollars (\$10,000,000); or
- 4) A full service hotel with a minimum private investment of fifteen million dollars (\$15,000,000) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the MDA; a minimum private investment of two hundred thousand dollars (\$200,000) per guest room or suite included in the fifteen million dollars (\$15,000,000); a minimum of twenty-five (25) guest rooms or suites; and guest amenities such as restaurants, spas and other amenities as determined by the MDA. In a county where the Grammy Museum Mississippi or the Mississippi Arts and Entertainment Center is located, in a county in which the Saenger Theater and the main campus of a state institution of higher learning are located, and in the downtown historic district of the city in which the NWCC Performing Arts Center is located, the minimum private investment per guest room or suite is decreased to one hundred and fifty thousand dollars (\$150,000) included in the fifteen million dollars (\$15,000,000); or
- 5) A tourism attraction located within an entertainment district, which is an area designated by a county or municipality in which entertainment services are centered, that is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week.
- 6) A cultural retail attraction. Cultural retail attractions cannot qualify for this incentive after 7/1/14; or
- 7) A tourism attraction located within a historic district where the district is listed in the National Register of Historic Places, where the tourism attraction is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week; or
- 8) A tourism attraction, located in a county bordered by the Mississippi River and including Interstate 69 and U.S. Highways 3, 4, and 61, with a minimum investment of one hundred million dollars (\$100,000,000) and subject to an urban renewal plan that redevelops two (2) hotels, a golf course and clubhouse, a shooting range and a convention center and develops and entertainment center and waterpark, together with other attraction -related amenities, on an area not less than two thousand (2,000) acres.

The "tourism project" generally does not include any licensed gaming establishment owned, leased, or controlled by a business having a gaming license. However, a "tourism project" may include a project described in numbers 1 through 8 above that is owned, leased, or controlled by such a business, or in which the business has a direct or indirect financial

interest if the project is in excess of the required non-gaming development for any applicant licensed by the Mississippi State Gaming Commission.

A tourism project would not include any facility within the project whose primary business is retail sales or any expansions of existing projects unless part of a resort development. However, pro shops, souvenir shops, gift shops, concessions and similar retail activities may be included in the tourism project.

The approved participant must notify the MDOR of the businesses that are included in the tourism project before the opening date of the project and of any changes in businesses operating within the tourism project during the year.

Various types of costs may be included in the total costs of the initial private investment requirements. These costs include the actual costs incurred by an approved participant for land acquisition, construction, engineering, design, and other costs approved by MDA relating to the tourism project. All costs must be verified by an independent third party approved by MDA; such verification being paid for by the approved participant.

After the required diversions, the remaining sales tax revenue collected during the preceding month from the operation of an approved tourism project is deposited into the Tourism Project Sales Tax Incentive Fund. The amount of the rebate to the approved participant will be for eighty percent (80%) of the amount of sales tax revenue collected from the operation of the tourism project, after making the required diversions. However, the aggregate amount of incentive payments that an approved participant may receive shall not exceed thirty percent (30%) of the approved costs incurred by the approved participant for the tourism project. Expansions, enlargements, or additional investment made by an approved participant will not increase the authorized incentive payments certified by the MDA. The MDA will cease making incentive payments the date that an aggregate amount of thirty percent (30%) of the approved project costs has been paid or fifteen (15) years after the date the tourism project opens for commercial operation, whichever occurs first.

HOW TO APPLY FOR THE INCENTIVE

Application must be made to MDA. There is a five-thousand-dollar (\$5,000) application fee. If it is approved, a Mississippi Tourism Incentive Program Certificate will be issued. After MDA receives the Completion Certificate and the amount of the initial investment is confirmed, a Mississippi Tourism Incentive Agreement shall be executed between the applicant and MDA.

Mississippi Development Authority
Mississippi Tourism Incentive Program
Financial Resources Division
P O Box 849
Jackson, MS 39205
(601) 359-3552

MDA will notify the Department of Revenue of the approved tourism project through the issuance of the Mississippi Tourism Incentive Program Certificate. Upon full execution of the Tourism Incentive Agreement, MDA will provide a copy to the MDOR.

MDA shall determine, based on the Completion Certificate, the amount of benefits the applicant may receive. MDA shall make benefit payments in January and July of each year until the full credit is reached or for fifteen (15) years after the tourism project opens for commercial operation, whichever occurs first.

The Sales / Use Tax Rebate for Tourism is authorized under Miss. Code Ann. Sections 27-65-75(16) and 57-26-1 et seq.

Revised February 1, 2022

D.3. Sales / Use Tax Rebate for Tourism (Miss. Code Ann. Section 57-28-1 et seq)

There is available a sales tax rebate of taxes collected by a tourism project that may be diverted back to the owner of the tourism project to cover eligible project costs. The tourism project must be certified by MDA to be eligible for this rebate. The total amount of incentive payments authorized for all tourism projects located on a project site cannot exceed one hundred and fifty million dollars (\$150,000,000.00) in the aggregate.

The Mississippi Tourism Sales Tax Incentive Program provides a rebate of the sales tax collected by an eligible tourism project. Any business desiring to participate in this program must first contact MDA to determine its eligibility. Eligibility will be determined by amount of investment and type of attractions of the tourism project. MDA will issue a certificate when the enterprise is approved. For a tourism project to be eligible it must be located on a project site, and construction of the tourism project must begin no later than June 1, 2017.

An eligible tourism project shall include any of the following as may be approved by the MDA:

- 1) A hotel with a minimum private investment of forty million dollars (\$40,000,000) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities, and other related soft costs approved by the MDA. There must be a minimum private investment of one hundred and fifty thousand dollars (\$150,000) per guest room which can be included in the required minimum total investment of forty million dollars (\$40,000,000); or
- 2) A public golf course with a minimum private investment of ten million dollars (\$10,000,000); or
- 3) A nationally branded, themed entertainment district consisting of restaurants, bars, amphitheaters, live theaters, other entertainment venues and commercial improvements that the MDA determines to be tourism related located within the entertainment district, with a minimum private investment of seventy-five million dollars (\$75,000,000); or
- 4) A nationally branded museum/aquarium with a minimum private investment of forty million dollars (\$40,000,000).

The approved participant must notify the MDOR of the businesses that are included in the tourism project before the opening date of the project and of any changes in businesses operating within the tourism project during the year.

Various types of costs may be included in the total costs of the initial private investment requirements. These costs include the actual costs incurred by an approved participant for land acquisition, construction, engineering, design, and other costs approved by MDA relating to the tourism project. All costs must be verified by an independent third party approved by MDA; such verification being paid for by the approved participant.

After the required diversions, the remaining sales tax revenue collected during the preceding month from the operation of an approved tourism project is deposited into the Tourism Sales Tax Incentive Fund. The amount of the rebate to the approved participant will be for eighty percent (80%) of the amount of sales tax revenue collected from the operation of the tourism project, after making the required diversions. However, the aggregate amount of incentive payments that an approved participant may receive shall not exceed thirty percent (30%) of the approved costs incurred by the approved participant for the tourism project. Expansions, enlargements, or additional investment made by an approved participant will not increase the authorized incentive payments certified by the MDA. The MDA will cease making incentive payments the date that an aggregate amount of thirty percent (30%) of the approved project costs has been paid or ten (10) years after the date the tourism project opens for commercial operation, whichever occurs first.

If an approved participant does not use or need all of the incentive payments approved by the MDA, then the approved participant may request that the MDA allow the transfer or assignment of a part of the incentive payments to another tourism project. The tourism project that the incentive payments will be transferred or assigned to must produce aggregate sales tax incentive payments over the ten (10) year period of less than thirty percent (30%) of approved project costs. The approved participant may make only one (1) request for transfer or assignment approved by the MDA for a project site.

HOW TO APPLY FOR THE INCENTIVE

Application must be made to MDA. If it is approved, a Mississippi Tourism Incentive Program Certificate will be issued. After MDA receives the Completion Certificate and the amount of the initial investment is confirmed, a Mississippi Tourism Incentive Agreement shall be executed between the applicant and MDA.

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MDA will notify the Department of Revenue of the approved tourism project through the issuance of the Mississippi Tourism Incentive Program Certificate. Upon full execution of the Tourism Incentive Agreement, MDA will provide a copy to the MDOR.

MDA shall determine, based on the Completion Certificate, the amount of benefits the applicant may receive. MDA shall make benefit payments in January and July of each year until the full credit is reached or for ten (10) years after the tourism project opens for commercial operation, whichever occurs first.

The Sales / Use Tax Rebate for Tourism is authorized under Miss. Code Ann. Sections 27-65-75(20) and 57-28-1 et seq.

Revised February 1, 2022

D.4. Motion Picture Production Incentive

A rebate is available for a certified motion picture production company that expends at least fifty thousand dollars (\$50,000) in base investment, payroll and/or fringes in this state on a production certified by the Mississippi Development Authority (MDA). 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 are eligible for a thirty percent (30%) rebate. An additional five percent (5%) rebate is available for payroll of honorably discharged veterans. For an entity certified by the MDA under Miss. Code Ann. Section 57-89-3(a), payroll and fringes for non-residents are eligible for the twenty five percent (25%) rebate as base investment. Purchases made before the MDA certification date are not included in the rebate. Only eligible expenses purchased by the motion picture production company certified for the incentive will be allowed for the rebate.

The Motion Picture Incentive is a rebate program that was created as an incentive for the motion picture industry to locate its production business in Mississippi. The rebate is based on the amount of the base investment made in Mississippi and Mississippi resident employee payroll and fringes. The total amount of the rebate authorized for a motion picture production shall not exceed ten million dollars (\$10,000,000) for each certified production with the total amount of rebates authorized for any fiscal year shall not exceed twenty million dollars (\$20,000,000).

A motion picture production company (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. Noncompliance could potentially affect the amount of the rebate due.

A MPPC is responsible for registering for a withholding tax account and reporting any withholding tax due on this account. In addition, a one and one half (1½%) reduced rate of tax on certain purchases is available to a MPPC filming a motion picture in the state. A MPPC must register for a use tax account number and then a Direct Pay Permit in order to take advantage of the reduced rate of tax. For additional information concerning equipment purchases eligible for the one- and one-half percent (1½%) reduced rate of tax see Miss. Admin. Code Title 35.IV.4.04. The withholding tax account, use tax account, and Direct Pay Permit can be registered for at <https://www.dor.ms.gov>.

DEFINITIONS

A 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 using 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.

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 registered with the Secretary of State, is known in the trade as a vendor active in the relevant line of business and advertises as a Mississippi vendor.

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.

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.

Fringes means costs paid by a MPPC 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.

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, or Mississippi homestead exemption.

BASE INVESTMENT

The base investment equals the amount of the actual investment made and expended in Mississippi and includes purchases of goods and services from Mississippi vendors, as defined under "Definitions", housing, housing allowances, food, rental of equipment, dry cleaning, per diem and anything else that the MPPC spends in Mississippi that is related to the production or post-production. Only the expenses incurred and paid for after the MDA certification date are considered for the rebate.

Expenses that do not qualify as base investment include, but are not limited to:

- Online purchases from non-Mississippi vendor or retail locations
- Postage and related supplies
- Mileage
- Bank and finance fees
- Credit card fees
- Taxes and other government fees
- Personal expenses

Purchases of services and tangible personal property must be made from a Mississippi vendor, as defined under "Definitions", 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:

- The vendor must be considered a Mississippi vendor;
- The service must be wholly performed in this state;
- The payment may not be for a personal expenditure;
- The service must be directly attributable to the production; and
- The transaction must be subject to taxation in this state.

Airline tickets purchased through a Mississippi travel agent may qualify for the rebate for flights arriving or departing from airports located in Mississippi, Memphis, TN, New Orleans, LA, Baton Rouge, LA or Mobile, AL. Flights to an out of state location for production related purposes will not qualify for the rebate. Source documentation should include a sales invoice from a Mississippi travel agent indicating the airports in which the flight departed and arrived and copy of payment.

Location rentals for housing or a set are eligible for the rebate. Source documentation should include the vendor/owner name, address of the rental property, description of use, dates used, and the amount spent. Items purchased in Mississippi and used after production in Mississippi has ended will not qualify for the rebate because the item was not solely used for the Mississippi production. Items purchased during production that are sold at the end of production must be decreased by the sales price of the item before being included in the rebate.

Payments for contract labor to a Mississippi resident are eligible for the twenty-five percent (25%) rebate as base investment. Source documentation should include the name of the individual, city of residence, social security number, amount paid, description of services rendered, copy of canceled check, and Form 1099, if applicable.

Property or services purchased through a local vendor that has acquired the property or services from out of state may qualify for the rebate if the local vendor is:

- Regularly engaged in the business of providing the type of good that is being purchased;
- A permanent business enterprise; and
- Selling to the MPPC at arm's length. This should be evidenced by a 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.

Transactions must be at arm's length. Mississippi resident owners in the MPPC receiving payment from the MPPC for the sale or rental of tangible personal property or services will be reviewed for reasonableness.

In the case of a motion picture production company or its owner, principal, member, production partner, independent contractor director or producer, or subsidiary company that (i) is designated and pre-qualified by the MDA as Mississippi based or a Mississippi resident; (ii) has filed income taxes in the State of Mississippi during each of the previous three (3) years; and (iii) has engaged in activities related to the production of at least two (2) motion pictures in Mississippi during the past ten (10) years, base investment may include payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968, if so requested by the motion picture production company. A motion picture production company must submit such a request to MDA at the time the company applies for approval as a state-certified production. If base investment includes payroll and fringes, and the payroll and fringes paid for an employee exceeds five million dollars (\$5,000,000.00), then only the first five million dollars (\$5,000,000.00) of such payroll and fringes may be included in base investment.

PAYROLL (Mississippi Residents)

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 the time worked between states.

If the payroll and fringes paid for an employee exceeds five million dollars (\$5,000,000), the rebate is only available for the first five million dollars (\$5,000,000) of the employee's payroll and fringes. The production company may receive an additional five percent (5%) of the 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 five percent (5%).

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 an independent contractor. Loan out company withholding tax should be reported by the MPPC on the Movie Rebate Spreadsheet for Withholding. 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 Mississippi Department of Revenue (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. Payments made to personal service corporations may qualify for the rebate as long as Mississippi withholding has been remitted.

Payroll fees related to the processing and handling of payroll when paid to Mississippi payroll companies do qualify for the rebate at the base investment rate of twenty-five percent (25%).

PAYROLL (Non-Mississippi Residents)

As of April 8, 2019, non-resident payroll is considered base investment and eligible for rebate at the rate of twenty five percent (25%) for an entity certified by the MDA under Miss. Code Ann. Section 57-89-3(a). Please contact the Mississippi Film Office for more information concerning certification at 601-359-3297.

In auditing non-resident payroll, the MDOR will follow the policy outlined for Mississippi residents.

HOW TO APPLY FOR THE INCENTIVE

The motion picture company must apply to the Mississippi Film Office within the MDA before production begins to have their project certified by submitting the Mississippi Motion Picture Incentive Application. The MDA will notify the motion picture company of their acceptance via letter or email. The MDOR has a movie rebate request packet that includes spreadsheet templates and instructions mentioned below. Contact the Office of Tax Policy at 601-923-7440 for questions concerning the Motion Picture Production Incentive and templates.

To Claim the Rebate: Audit by MDOR

To claim the rebate by submitting the request to the MDOR, the motion picture company must submit an Excel spreadsheet upon completion of the project containing a detailed accounting of the base investment and the employee payroll to the MDOR in the proper format. 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. Include at what stage of production the purchase was made: Preproduction, Production or Postproduction. Each location should be grouped together by date for productions that take place in more than one location.

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

All tabs of the spreadsheet must contain links to the PDF files 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 (in the form of an Excel spreadsheet) and PDF files are to be submitted to the MDOR on a USB Flash Drive (USB) and mailed to: Mississippi Department of Revenue, Office of Tax Policy, P.O. Box 22828, Jackson, MS 39225.

Maintain a copy of the submission in case a USB is lost or damaged in the mail. In addition, due to the agency's data security policies, any USB received by the MDOR cannot be returned to its original sender or the representatives of the production company. It is recommended that the USB be password protected due to the sensitive information contained within and that the password be emailed to the MDOR rather than being enclosed with the USB on a letter or written note.

When the rebate request is received the MDOR will determine if the submission is in the proper format to perform the review. If the request is not in the proper format, it will be sent back with an explanation containing the formatting requirements that were not met. The rebate request will be denied if a suitable submission is not received within three (3) months. A rebate request that is submitted in the proper format will be reviewed and the review will be sent to the MPPC. The MPPC must respond to the MDOR review or any subsequent reviews within three (3) months. If there is no response in the form of additional documentation or agreement to the rebate amount, then the qualifying rebate amount will be paid out and the remaining request will be denied. When a rebate request is denied the MPPC should review their appeal rights located at www.dor.ms.gov. The MDOR will review any additional information provided by the MPPC for a period of one year from the denial date.

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.

To Claim the Rebate: Audit by CPA

The MPPC may also claim the rebate by engaging a qualified accountant to perform a third-party audit. The qualified accountant will need to perform the audit of the MPPC's production expenditures, and verify each base investment, payroll, and fringes expenditure.

The term "qualified accountant" means a certified public accountant (CPA) who maintains an active unrestricted original CPA license, maintains a current Mississippi CPA firm permit, actively participates in a peer review program approved by the Mississippi State Board of CPAs, completes twenty (20) active hours of continuing professional education for each reporting cycle, and is capable of conducting two (2) levels of review within the firm or through a cooperative endeavor with another CPA firm.

The MPPC shall provide the CPA performing the audit with, at a minimum, the following information:

1. A copy of the Motion Picture Incentive Certificate from MDA.
2. A list of all expenditures claimed by line item in electronic format.
3. Payroll expense reports which identify, trace, and reconcile payroll costs for each employee to a final payroll register, identify on which payments and in what amounts withholdings of Mississippi income tax have been

made and document that appropriate corresponding payments and filings have been made to the State of Mississippi.

4. Copies of all paid invoices and receipts relating to each expenditure claimed as base investment.
5. A completed crew list.
6. A completed cast list.
7. MS Driver's license, voter registration, car tag or homestead exemption to confirm the residency of employees/contract labor.
8. Copies of issued W-2s and 1099s relating to all activities within the State of Mississippi on the state certified production. If the production company has not issued any W-2s or 1099s prior to completion of the submission, then it shall provide other comparable documentation to verify payment.
9. Documentation or other verification that purchases of services and tangible personal property are made from a Mississippi vendor and purchases of services satisfy the five criteria found in the "Base Investment" section to be eligible for the rebate.
10. Documentation showing that the MPPC has registered to do business with the Mississippi Secretary of State.
11. Any other documentation needed to confirm base investment, payroll, and fringes expenditures during the audit.

Requirements for a CPA engaged to perform a Motion Picture Incentive Submission Audit:

1. Contact MDOR at 601-923-7440 to obtain the third-party audit statement requirements for CPA's auditing motion picture production rebates.
2. Supply MDOR with notarized statements confirming that the CPA(s) are independent from any other activities related to the film project audited.
3. Verify supporting documentation for each individual expenditure claimed by the MPPC.
4. Work with the production company to resolve exceptions or discrepancies prior to submission to the MDOR.
5. Attest that all amounts on the rebate submission request are properly calculated and documented.
6. Find that the MPPC expended at least fifty thousand dollars (\$50,000) in base investment, payroll and/or fringes in the State of Mississippi.
7. Find that no one employee exceeds five million dollars (\$5,000,000) in payroll and fringes.
8. Verify that only eligible expenses incurred and paid for after the Mississippi Development Authority (MDA) certification date are included in the rebate amount.
9. Verify that only eligible expenses purchased by the MPPC certified for the incentive are allowed for the rebate.
10. Supply the MDOR with an electronic copy of the submission showing the rebate calculation and the line items that were approved/denied. The audit must be submitted to Incentives@dor.ms.gov.

The CPA shall specifically identify the amount of the base investment, payroll, and fringes expenditures eligible for the rebate. The CPA performing the audit may not include an expenditure in the rebate amount unless the MPPC has provided a receipt of payment or other evidence that the expenditure has been paid by the MPPC and was expended in Mississippi.

The CPA must verify that any property or services purchased through a Mississippi vendor that has acquired the property or services from out of state meets the three requirements found in the "Base Investment" section mentioned previously.

The CPA must include all statements and documents as outlined in the MDOR's "Requirements for CPAs Auditing Motion Picture Production Rebate Submissions" instructions when submitting the audit. The audit statements must be on the CPAs letterhead.

The MDOR will review the audit using a sample in lieu of a one hundred percent (100%) line-item review. Upon receipt of the CPA's audit the MDOR will request samples of supporting documentation to be submitted in electronic format if it is not provided. The sample will not exceed ten percent (10%) of the line items.

The CPA must provide the supporting documentation to the MDOR within ten (10) days of the request, or the submission will be denied.

The MDOR will apply the rate of misstatement of the exceptions identified in the sample, if any, to the respective populations tested. The rate of misstatement will be calculated by the total value of the exceptions identified, divided by

the total dollar value tested, and multiplied by the respective populations tested. The total of all calculated misstatements for each population tested will be deducted from the original submission to arrive at a revised rebate amount.

Any adjusted amounts per the sample will be presented to the CPA. Additional information may be provided to the MDOR for the transaction in the sample. The MDOR will have thirty (30) days after receipt of the original audit submission by the CPA to approve or deny a request. A rebate check will be issued to the MPPC and is not transferrable.

The State of Mississippi shall not be liable for or otherwise responsible for any actions of a qualified accountant.

The Motion Picture Incentive is authorized under Miss. Code Ann. Sections 57-89-1 through 57-89-7, 27-3-87, and is further defined in Title 35, Part X, Chapter 09 of the Mississippi Administrative Code promulgated by the MDOR.

Revised February 1, 2022

D.5. SMART Business Rebate

SMART Business Accelerate Initiative

The Strengthening Mississippi Academic Research Through (SMART) Business Rebate is available to investors who incur qualified research costs subject to a research agreement with college or research corporations in the state of Mississippi. The SMART Business Accelerate Initiative is to promote the development of state-owned intellectual property and is available to applicants that perform research validation pursuant to a research agreement.

SMART Business Rebate

The SMART Business Rebate is a program that allows approved investors who incur qualified research costs as a result of having entered into a new research agreement with a Mississippi public university or research corporation to be eligible for a rebate.

The total amount of rebate authorized for an investor is twenty-five percent (25%) of the qualified research costs but may not exceed one million dollars (\$1,000,000) in any fiscal year. The total amount of SMART Business Rebates authorized in any fiscal year may not exceed three million five hundred thousand dollars (\$3,500,000) in the aggregate. Rebates are allocated to investors by the Mississippi Department of Revenue (MDOR) in the order that SMART Business certificates are issued by the Mississippi Institute of Higher Learning (IHL).

Any research performed prior to certification by the IHL or performed outside the state of Mississippi will not be considered qualified research. Also, any research funded by any grant, contract or otherwise by another person or governmental entity will not be considered qualified research.

HOW TO APPLY FOR THE INCENTIVE

Application for certification must be made to the Mississippi Institute of Higher Learning (IHL). If it is approved, the IHL will issue a SMART Business Rebate certificate. The IHL will notify the MDOR when a certificate is issued.

TO CLAIM A REBATE:

Once research is complete, or annually if approved for a project spanning multiple years, the investor must submit a rebate allocation claim to MDOR that includes the SMART Business Incentive form as well as:

- Proof of payment to the Mississippi college or research corporation;
- Copy of SMART Business Rebate certificate issued by the IHL;
- Copy of the research agreement; and
- Any other documentation requested by the MDOR.

The MDOR may request an audit from the investor submitting a rebate allocation claim, at the investor's expense, to verify the investor has satisfied the requirements.

SMART Business Accelerate Initiative

The SMART Business Accelerate Initiative is available to applicants that perform research validation pursuant to a research agreement and meet the criteria as set out in Miss. Code Ann. Section 37-148-1 et seq.

The total amount of disbursement authorized for an applicant will not exceed one hundred fifty thousand dollars (\$150,000) per project for the applicant's qualified validation expenses. The total amount of disbursements issued by the state under the SMART Business Accelerate Initiative in any fiscal year may not exceed one million five hundred thousand dollars (\$1,500,000).

Disbursements made by MDOR will be made in the order that SMART Business Accelerate Initiative disbursement certificates are issued by IHL.

HOW TO APPLY FOR AND CLAIM THE INCENTIVE

Application for certification must be made to the Mississippi Institute of Higher Learning (IHL). If it is approved, the IHL will

issue a SMART Business Accelerate Initiative disbursement certificate. The IHL will send the following information to the MDOR when a certificate is issued and MDOR will issue a disbursement upon approval:

- Cover letter requesting disbursement that includes the applicant's current mailing address;
- Copy of SMART Business Accelerate Initiative disbursement certificate; and
- Copy of federal form W-9.

The SMART Business Rebate and the SMART Business Accelerate Initiative are authorized under Miss. Code Ann. Sections 37-148-1 through 37-148-9. The SMART Business Rebate is further defined in Title 35, Part X, Chapter 10 of the Mississippi Administrative Code promulgated by the MDOR.

Revised February 1, 2022

D.6. Economic Redevelopment Act

A rebate is available for state taxes and fees collected by business enterprises in a redevelopment project area that may be diverted back to the developer to defray remediation costs. The Mississippi Development Authority (MDA) must certify the county or municipality as a redevelopment county or municipality.

The Economic Redevelopment Act encourages economic development on and around environmentally contaminated sites in Mississippi. To promote redevelopment, this act provides incentives to defray the remediation costs associated with cleaning either contaminated property abandoned from a bankruptcy estate or a Brownfield property that is subject to a Brownfield agreement under Miss. Code Ann. Section 49-35-11. The act provides for a rebate of state taxes and fees collected and remitted by business enterprises located within a redevelopment project area.

The state taxes and fees collected and remitted by business enterprises located within a redevelopment project area are deposited into the Redevelopment Project Incentive Fund and then paid to the developer by the MDA. In the case of sales taxes, the amounts deposited in the Redevelopment Project Incentive Fund shall be reduced by the diversions required in Section 27-65-75.

“State taxes and fees” means the following taxes imposed on business enterprises within an approved redevelopment area:

1. Any sales tax on sales or certain purchases;
2. All income tax on income earned; and
3. All franchise tax imposed on the value of capital used, invested or employed.

“Business enterprise” means any permanent business enterprise locating or relocating within a redevelopment project area, including, without limitation:

1. Industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture;
2. Enterprises for research and development, including, but not limited to, scientific laboratories;
3. Industry for the retail sale of goods and services;
4. The industry for recreation and hospitality, including, but not limited to, restaurants, hotels and sports facilities; and
5. Such other businesses or industry as determined by the MDA.

A business enterprise does not include gaming businesses.

MDA will determine the amount of the incentive for the business enterprises located within the redevelopment project area. To receive any benefit, the developer must request payment of the incentive. The MDA will make incentive payments to an approved participant on a semiannual basis in the months of January and July. Payments made to a developer shall be in the following amounts:

1. For the first six (6) years in which payments are made, the developer will receive one hundred percent (100%) of the funds deposited into the Redevelopment Project Incentive Fund;
2. For the seventh year in which payments are made, the developer will receive eighty percent (80%) of the funds deposited into the Redevelopment Project Incentive Fund;
3. For the eighth year in which payments are made, the developer will receive seventy percent (70%) of the funds deposited into the Redevelopment Project Incentive Fund;
4. For the ninth year in which payments are made, the developer will receive sixty percent (60%) of the funds deposited into the Redevelopment Project Incentive Fund; and
5. For the tenth year and any subsequent year in which payments are made, the developer will receive fifty percent (50%) of the funds deposited into the Redevelopment Project Incentive Fund.

The total aggregate amount of incentive payments that are made to a developer must not exceed two and one-half (2½) times the amount of the allowable cost of remediation of the contaminated site. The Mississippi Department of Environmental Quality and the MDA will jointly determine the allowable cost of remediation of the contaminated site. The

MDA shall cease making incentive payments to a developer fifteen (15) years from the date that is two (2) years after the date on which the redevelopment project is approved by the MDA.

HOW TO APPLY FOR THE INCENTIVE

The county and/or municipality must apply to the MDA to be approved as a redevelopment county or municipality. Upon approval, a Mississippi Economic Redevelopment Act Certificate will be issued. For more information on obtaining approval from MDA, contact:

Mississippi Development Authority
Mississippi Economic Redevelopment Act
Financial Resources Division
P O Box 849
Jackson, MS 39205
(601) 359-3552

The MDA is responsible for notifying the MDOR of any approved redevelopment projects by sending a copy of the Mississippi Economic Redevelopment Act Certificate and certain information regarding businesses that are located in the redevelopment project area. The information should include the business name, Federal Employer Identification Number, sales tax account number, address, and contact information. Notification is also required for any new businesses moving to or leaving the redevelopment project area.

The Economic Redevelopment Act is authorized under Miss. Code Ann. Section 57-91-1 et seq.

Revised February 1, 2022

For further information or if you have any questions concerning the incentives involving Income, Franchise, Sales, Use or the Rebate Incentives Programs, contact:

Office of Tax Policy and Economic Development
Mississippi Department of Revenue
P. O. Box 22828
Jackson, MS 39225

E. Property Tax Incentives

E.1. Industrial Exemption

An incentive for new or expanded eligible businesses is available in the form of an exemption from ad valorem taxes (except for school district taxes) on tangible property (except for finished goods and rolling stock) by application to the local governing authority. Such project may include a new enterprise, an addition, or an expansion or a replacement of equipment necessary in the operation of the eligible business. Eligible businesses include the following:

- warehouse and/or distribution centers
- research facilities
- movie industry studios *
- recreational facilities that impact tourism *
- data information processing enterprises *
- health care industry facilities **
- manufactures, processors, and/or refineries
- regional or national headquarters *
- air transportation and maintenance facilities *
- telecommunication enterprises *
- technology intensive enterprises *
- data centers (as defined in Miss. Code Ann. §57-113-21)

* eligibility dependent on the business meeting minimum criteria established by MDA

** after June 30, 2022, health care industry facilities, as defined by Miss. Code Ann. § 57-117-3, will no longer be eligible for this incentive

Up to a ten (10) year exemption from ad valorem taxes on tangible property may be granted by local governing authorities. These local governing authorities are the board of supervisors for the county and the municipal authorities for the city. The exemption granted is for all local ad valorem taxes, except for the following:

- 1) school district taxes on any property;
- 2) taxes on finished goods;
- 3) taxes on rolling stock.

The tangible property exempted usually includes real property (land, building, and land improvements), machinery/equipment, furniture/fixtures, raw materials, and work-in-process.

Any request for an exemption must be made in writing by June 1st of the year immediately following the date of completion of a new enterprise or an addition or expansion by an existing enterprise. The request should be in the form of an application. Separate applications must be filed with the city and county if requesting an exemption from both city and county ad valorem taxes. The local governing authorities must then send the original application and a certified transcript of a resolution of approval to the Mississippi Department of Revenue (MDOR). The MDOR will then certify the property as eligible.

The exemption is for the specific tangible property included in the exemption application for a particular project and not for any additional tangible property that might be added later. A project may include a new enterprise, an addition, or an expansion or a replacement of equipment necessary in the operation of the enterprise. Applications for additions, expansions or replacements may be granted regardless of whether or not a company is currently exempt on a previous project.

When the initial exemption granted is for a period of less than ten (10) years, the local governing authorities may grant a subsequent consecutive period(s) to follow the initial exemption. However, the total time period of all the exemptions granted for a specific project cannot exceed ten (10) years.

If the initial request for the exemption is not timely made, the Board of Supervisors or Municipal Authorities may grant a subsequent request for the exemption and, in such case, the exemption shall begin on the anniversary date of completion of the enterprise in the year in which the request is made and may be for a period of time extending not more than ten (10) years from the date of completion of a new enterprise or an expansion. Any subsequent request for the exemption must be made in writing by June 1st of the year in which it is granted.

The ad valorem tax exemption granted by a local government to a new enterprise shall continue even though there is a change from leasehold to a fee title in an enterprise financed with bonds issued for the development of lands for industrial purposes or bonds issued under Miss. Code Ann. Section 57-10-1 et seq., Small Business Assistance.

If at any time during an authorized period of exemption, the company ceases activity for a continuous period of twelve months or the company has obtained the exemption under fraudulent misrepresentation, the exemption shall be cancelled. If the company resumes activities, then it may apply for a new exemption for the activities from such point forward for the remaining unexpired time.

For new enterprises, expansions or replacements of equipment exceeding a **minimum total investment**, local governing authorities may grant a fee in lieu of ad valorem taxes which will be negotiated and given final approval by the Mississippi Development Authority (MDA). **Applicable minimum investment thresholds of \$60,000,000 or \$100,000,000 depend on the type of enterprise.** The minimum fee allowable cannot be less than one-third (1/3) of the property tax levy, including ad valorem for school district purposes. The fee in lieu agreement **may** continue for a period of up to **thirty (30) years** from the date of the agreement, however, no particular parcel of land, real property improvement or item of tangible personal property will be subject to the fee in lieu for more than ten (10) years.

HOW TO APPLY FOR THE INCENTIVE

- The company must file an application with the local governing authority by June 1. Use the correct statute as to "new" enterprise or "expanded" replacement of equipment, etc., on all applications and board resolutions.
- The local governing authorities will forward the original application, a certified transcript of the resolution of approval, and a copy of the position statement of the Tax Assessor to the MDOR.
- A certificate of approval will be sent to the local governing authorities after the MDOR determines that the property is eligible for exemption.
- The local governing authorities shall forward a copy of the final board order to the State Auditor's Office and to the MDOR.

Contact the County Tax Assessor in the county where the business is located with any questions.

The Ad Valorem Tax Exemption Incentive is authorized under Miss. Code Ann. Sections 27-31-101 through 27-31-115 and is further defined by Title 35, Part VI, Subpart 01, Chapter 04 of the Mississippi Administrative Code.

Revised February 1, 2022

E.2. Free Port Warehouse Exemption

A ten (10) year ad valorem tax exemption is available to a warehouse or storage facility that is designated as a free port warehouse, as defined by Miss. Code Ann. § 27-31-51(2).

Warehouses, public or private, or other storage facilities in the State of Mississippi that are regularly engaged in the handling and storage of personal property are eligible to apply for licensing as a free port warehouse. Caves or cavities in the earth, whether natural or artificial, are not eligible for the license. To be designated a free port warehouse the facility would apply for a free port warehouse license with their local governing authorities. Once designated a free port warehouse the licensee will be eligible for exemption from ad valorem taxes on personal property being shipped out of state.

Such personal property shall not be deprived of exemption because while in a warehouse, the property is bound, divided, broken in bulk, labeled, relabeled, or repackaged. The personal property in transit includes such property which is (a) moving in interstate commerce through or over Mississippi, (b) which was consigned or transferred to a licensed free port warehouse for storage in transit to a final destination outside of Mississippi, (c) manufactured in Mississippi and stored in separate facilities maintained by a manufacturer that is licensed as a free port warehouse, pending transit to a final destination outside Mississippi, or, (d) consigned or when transferred to a licensed free port warehouse for storage pending transit to not more than one (1) other location in Mississippi for production or processing into a component or part that is then transferred to a final destination outside the State. The personal property may be exempt from all ad valorem taxes imposed by the respective county or municipality for a period of time set by the governing authority.

Each licensed free port warehouse must file with the County Tax Assessors an inventory of all personal property located inside the warehouse as of January 1st of each year. This inventory listing must be submitted before March 31st of each year. At the end of the year, a report of the percentage of all personal property that was shipped to a destination outside the state to the total of all personal property shipped anywhere must be calculated. This percentage is then applied to the total value of all property contained in the inventory of the free port warehouse as of January 1st. If the result is less than the amount of the initial exemption, the difference shall be deducted from the exemption and that amount shall be collected.

HOW TO APPLY FOR THE INCENTIVE

- The warehouse or storage facility shall file an application with the local governing authorities for a license to operate as a free port warehouse.
- The free port warehouse must file an inventory report by March 31st each year with the County Tax Assessor.
- The free port warehouse must file by March 31st with the County Tax Assessor a percentage calculation of the actual inventory shipped outside of Mississippi to total inventory shipped.

Contact the County Tax Assessor in the county where the business is located if you have questions.

The Free Port Warehouse Exemption Incentive is authorized under Miss. Code Ann. Sections 27-31-51 through 27-31-61.

Revised February 1, 2022

E.3. Ad Valorem Exemption for Growth and Prosperity (GAP) Areas

An ad valorem tax exemption is available for a qualified business within a Growth and Prosperity (GAP) Area for a ten (10) year period.

The Ad Valorem Tax Exemption for GAP Area businesses was created to encourage businesses to locate facilities and hire individuals in areas that have a certain percentage of the population below the federal poverty level or have an unemployment rate that is 200% of the state's average unemployment rate. A county or supervisor's district must apply to MDA to be designated as a GAP Area. After the application has been approved, the GAP Area is issued a certificate of public convenience and necessity. An eligible business that constructs a new facility or expands an existing facility located in a GAP Area can apply to MDA to be exempted from local taxes for a period of ten (10) years or until December 31, 2029, whichever occurs first.

Local taxes mean any county or municipal ad valorem taxes except for the school, fire, and police portions of the tax.

The business must be in compliance with all state and local tax laws and related ordinances and resolutions to be eligible for the exemption. Such exemption is not transferable and cannot be applied, used, or assigned to any other entity. A business that relocates from a county in Mississippi to a GAP Area is not eligible for the exemption.

For more information on the GAP areas, contact:

Mississippi Development Authority
Financial Resources Division
GAP Program
Post Office Box 849
Jackson, MS 39205

The exemption from local ad valorem taxes is based on the business's property, both real and personal, located in the GAP Area. This exemption must be approved by the local taxing authorities. Included is any county or municipality which has given its consent to participate in the GAP Program through its board of supervisors or the municipal governing board, council commission or other legal authority. The exemption applies to all ad valorem taxes, except those portions that represent levies for schools, fire, and police services.

If the 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 is unable to use the exemption from state taxes, the MDA may extend the period of time during which the minimum requirements must be met and the exemption may be taken for a period of time not to exceed two (2) years or until December 31, 2033, whichever comes first.

HOW TO APPLY FOR THE INCENTIVE

The company must file the application with the Mississippi Development Authority to apply for exemption.

Contact the County Tax Assessor in the county where the business is located if you have questions.

The Ad Valorem Tax Exemption for Growth and Prosperity (GAP) Areas is authorized under Miss. Code Ann. Sections 57-80-1 through 57-80-11.

Revised February 1, 2022

E.4. Ad Valorem Exemption for Broadband Technology Equipment

An ad valorem tax exemption is available for telecommunications businesses on the purchase of equipment used in the deployment of broadband technology.

EXCEPTION: Radio stations, television stations and news organizations are not considered telecommunication businesses and are not eligible for this exemption.

This incentive was created to encourage telecommunications businesses to invest in the infrastructure needed to develop the high-speed access to the Internet for all counties in the state. Telecommunication businesses that deploy such equipment are eligible for an ad valorem tax exemption based on the value of any equipment used for the transmission of information at a high speed, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics, and related equipment.

Telecommunications businesses are defined as companies engaged in the creation, display, management, storage, processing, transmission, or distribution for compensation of images, text, voice, video, or data by wire or by wireless means. It also includes companies engaged in the construction, design, development, manufacture, maintenance, or distribution for compensation of devices, products, software, or structures used in the above-mentioned activities.

The exemption is available on certain qualifying equipment placed in service on or between July 1, 2003 and June 30, 2025. The exemption is good for a period of ten (10) years from the date the equipment is placed in service.

HOW TO APPLY FOR THE INCENTIVE

The taxpayer must claim exemption with the applicable local governing authority.

Contact the County Tax Assessor in the county where the business is located if you have questions.

The Ad Valorem Tax Exemption for Broadband Technology is authorized under Miss. Code Ann. Section 57-87-7.

Revised February 1, 2022

For further information on Property Tax Incentives, contact/write the following Office:

Mississippi Department of Revenue
Office of Property Tax
Exemptions and Public Utilities Bureau
P. O. Box 1033
Jackson, MS 39215

F. Appendices

F.1. Definitions

1. Distribution Business

A business where shipments of tangible personal property are processed for delivery to customers, but "distribution" does not include a business which operates as a location where retail sales of tangible personal property are made directly to retail customers.

2. Full-time Job

A full-time job is a job requiring a minimum of thirty-five (35) hours of an employee's time a week for the entire normal year of company operations or a job requiring a minimum of thirty-five (35) hours of an employee's time a week for the year in which the employee was initially hired for or transferred to the Mississippi facility.

3. Leased Employee

A leased employee is an employee that qualifies as a "Full-time Job" and is leased from another entity.

4. Manufacturing Business

"Manufacturer" means one who is exclusively or predominately engaged in the business of manufacturing as defined under the terms "to manufacture" or "manufacturing." A person who is engaged in manufacturing and non-manufacturing activities may be classified as a manufacturer as to his manufacturing activities which are operated as a separate business or division.

"To manufacture" or "manufacturing" embraces activities of an industrial or commercial nature wherein labor or skill is applied, by hand or machinery, to materials belonging to the manufacturer so that a new, different, or more useful article of tangible personal property or substance of trade or commerce or electric power is produced for sale or rental and includes the production or fabrication of special-made or custom-made articles for sale or rental.

"To manufacture" or "manufacturing" does not include activities such as cooking or preparing food or food products by a retailer in the regular course of retail trade; repairing and reconditioning property; the filling of prescriptions by a pharmacist; the washing or screening of mineral products; the cutting, hauling, and decking of logs; or similar preparatory functions even when performed by a manufacturer.

"Remanufacturing" embraces activities of an industrial or commercial nature wherein labor or skill is applied by hand or machinery to materials, a portion of which may belong to the customer, so that rebuilt articles of tangible personal property, comparable in quality to new articles of the same property, are created, a majority of the value of which is produced by the remanufacturing activity.

"Repair," "repairs," or "maintenance" means the restoring of property in some measure to its original condition, which may involve the use of either personal property or labor or both.

5. New Job

Any job created by an employer in Mississippi at the time a new facility or an expansion is initially staffed but does not include a job created when an employee is shifted from an existing Mississippi location to a new or expanded facility.

6. Processing Business

"Custom processor" means one who is exclusively or predominately engaged in the business of custom processing or remanufacturing as defined under the terms "custom processing" and "remanufacturing".

"Custom processing" means the performance of a manufacturing service done or made to order upon the property of the customer and shall include laundering, cleaning, and pressing, but shall not include "repairs" or "maintenance" as these terms are defined herein; nor self-service commercial laundering, drying, cleaning, and pressing equipment.

7. Research and Development Business

A business engaged in laboratory, scientific or experimental testing and development related to new products, new uses for existing products or improving existing products. Research and development does not include any business engaged

in efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion or research in connection with literary, historical or similar projects. To qualify as a research and development business, the principal activity of the business must be research and development.

8. Telecommunication Enterprises

Entities engaged in the creation, display, management, storage, processing, transmission, or distribution for compensation of images, text, voice, video, or data by wire or by wireless means. It also includes entities engaged in the construction, design, development, manufacture, maintenance, or distribution for compensation of devices, products, software, or structures used in the above activities. Radio stations, television stations and news organizations are not considered to be telecommunication businesses.

9. Warehousing Activities

Warehousing activities refer to businesses that establish or expand facilities that service and support multiple retail or wholesale locations either in or outside the state. Warehousing activities may be performed solely to support the primary activities of the entity.

10. Wholesaler or distributor

“Wholesaler,” or “distributor” means a person doing a regularly organized wholesale or jobbing business, known to the trade as such, and selling to licensed retail dealers or other wholesalers for resale in the regular course of business.

F.2. Contractor's Tax

Within the Sales / Use Tax Incentives, one of the taxes that is NOT exempt is the contractor's tax. This should help in understanding the contractor's tax. This is a tax on the contractor and is not passed through as a line item on the contractor's invoice to his customer. If a business has received certification for a sales or use tax exemption, contractor's tax is excluded from this exemption. If the business wants to take advantage of their exemption and purchase the component materials, machinery and equipment for the initial construction or expansion, the items **MUST BE SOLD DIRECTLY TO, BILLED DIRECTLY TO and PAID FOR DIRECTLY BY** the business receiving the exemption. Component materials cannot be purchased through the construction contractor and receive the exemption.

The Mississippi Sales Tax Law levies a 3½% contractor's tax on all nonresidential construction activities where the total contract price or compensation received exceeds \$10,000.

Prior to commencement of work on such activities, the prime contractor is required to apply for a Material Purchase Certificate (MPC) to identify the contract. For those nonresidential contracts exceeding \$75,000, the contractor's tax, together with any use tax due, must be paid before work is begun unless a surety bond to guarantee payment of the taxes due is filed with the Department of Revenue. Persons or firms without a permanent place of business within Mississippi are required to prepay or bond their contracts over \$10,000.

Failure to comply with the requirements to obtain an MPC before work begins, prepay contractor's and use taxes, or obtain a bond shall result in the contractor being prohibited from performing the contract until such requirements are met.

The 3½% contractor's tax is levied directly against the prime contractor and is due on all non-residential, commercial contracts as described above regardless of whether or not the owner is a governmental, exempt or non-profit entity. For example, a construction contract for the U.S. Government, the State of Mississippi, a nonprofit hospital, or a church is subject to the tax.

Residential construction is excluded from the 3½% contractor's tax but is subject to retail sales taxes as explained in this Tax Guide.

Material Purchase Certificates and Component Materials.

A Material Purchase Certificate is a certificate issued by the Department upon application by a construction contractor with a qualifying contract. Each MPC is assigned an identifying number which relates to a specific contract. Application to the Commissioner for an MPC number is required before work is begun to cover all qualifying commercial, non-residential construction. The MPC number allows the contractor and his subcontractors to make tax-free purchases of materials and services that become a component part of the structure covered by the qualified contract. The MPC number is not applicable to other contracts and expires upon completion of the contract.

The contractor and his subcontractors shall provide their vendors with the MPC number when purchasing component materials. The vendors shall list the MPC number on each sales invoice as a prerequisite to claiming the exemption. Contractors and subcontractors incorrectly using an MPC number to purchase non- component materials or services will be held liable for the applicable sales tax due on their purchases. See Mississippi Department of Revenue vs Hotel and Restaurant Supply 192 So.3d 942. Vendors who incorrectly accept an MPC number to exempt the sale of consumables or services such as rental of construction and related equipment will be liable for the applicable sales tax due.

Component materials are all materials that become an integral part of the structure being erected. Certain taxable services provided under Miss. Code Ann. Section 27-65-23 are also considered to be component to the structure. Component materials may include built-in furniture, fixtures, appliances, and similar personal property. For personal property to become real property, it must be permanently attached to real property and lose its identity as personal property. To be considered permanently attached, one or more of the following criteria must be met:

1. The property or equipment must be attached to building walls, floors, and/or ceiling in such way as to require design or structural alterations to the real property to which it is being attached, or

2. The property cannot be removed intact or its removal would result in the alteration or destruction of the structure or property, or
3. The property must become an independent structure, itself (real property).

Non-component material is property that retains its identity as tangible personal property. Free-standing furniture, fixtures, appliances and similar personal property are non-component materials. Non-component property may be excluded from the measure of the contractor's tax.

Free-standing personal property sold under a contract with the United States Government, the State of Mississippi or any political subdivision or any other exempt agency, that has been qualified, can be purchased tax free. The contractor must apply to the Department for a letter granting the authority to purchase free-standing personal property exempt from tax.

When records and invoices are not kept in compliance with this regulation, sales made to the contractor or subcontractor will be considered retail sales, taxable at the regular retail rate. Contractors with contracts taxable under Miss. Code Ann. Section 27-65-21 who have paid retail sales tax on purchases of materials and services in the state that become a component part of a structure being erected or repaired may take a credit against their sales tax liabilities for the sales tax paid on these purchase after obtaining the MPC for the related project.

Bond Requirement. A surety bond must be filed on taxable contracts exceeding \$75,000 that are performed in this State unless the tax is prepaid. Persons or firms without a permanent place of business within Mississippi must file a bond on any taxable contract in excess of \$10,000, unless the tax is prepaid.

Such bonds shall be either (a) "job bonds" which guarantee the payment of taxes resulting from the performance of a specified job or activity regardless of date of completion; or (b) "blanket bonds" which guarantee the payment of taxes resulting from the performance of all jobs or activities taxable under Section 27-65-21 that are begun during a specified period, regardless of the date of completion. Use a factor of at least 4% to cover the aggregate tax liability on the total amount of all contracts that will be outstanding at any one time. Regardless of the type, the bond must be sufficient to cover the liability for sales, use, income, withholding and motor fuel taxes and must be approved by the Commissioner.

In lieu of a job or blanket bond, a tax rider, with a copy of a performance and/or payment bond, may be accepted. In order for the tax rider to be accepted, a copy of the performance and/or payment bond for which the tax rider is executed must be on file with the Department. It is in the discretion of the Department to require that a job bond be filed when making application to the Commissioner for an MPC for continuous and/or maintenance projects. This request must be updated annually along with the submission of proof of continued bonding coverage.

Where a contractor prepaid the sales tax, but a use, income, withholding or motor fuel tax bond is still required, the contractor will be notified of the bond requirement after an application for a Material Purchase Certificate has been received.

When a contractor defaults on the execution of his contract and the bonding company acting as surety for the performance of the contract assumes completion of the contract, the bonding company becomes primarily liable for the payment of the sales, use, income, withholding and motor fuel taxes accruing as a result of its activities. The contractor's MPC number becomes void at the time of default. The surety company shall make application to the Commissioner for an MPC covering the remaining/unfinished portion of the contract. The application must include proper bonding and/or prepayment of tax.

On all the above bonds, the licensed Mississippi agent's signature must be legible, or the bond will be returned. The name should be printed or typed below the signature. Also, the bond must have the original seal of the bonding company.

Please see Miss. Admin. Code Title 35.IV.10.01 for a more detailed description of the requirements concerning contractor's tax.

F.3. County Rankings by Year

These county rankings use the combination of the highest unemployment rate and the lowest per capita income for the most recent thirty-six (36) month period. They are provided to conform to the requirement of Miss Code Ann. §57-73-21, as amended. They are used to determine the Tier 1, Tier 2, and Tier 3 rankings of the counties in order to determine the various degrees of exemption for some of the incentives offered by Mississippi. These rankings are compiled by the Department of Revenue each year. They can be found on our web site at <https://www.dor.ms.gov/individual/county-rankings>.

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2022

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Wilkinson	29.	Leake	56.	Carroll
2.	Holmes	30.	Attala	57.	Tishomingo
3.	Quitman	31.	Stone	58.	Jackson
4.	Issaquena	32.	Wayne	59.	Pearl River
5.	Sunflower	33.	Washington	60.	Warren
6.	Claiborne	34.	Montgomery	61.	Marion
7.	Greene	35.	Marshall	62.	Tippah
8.	Kemper	36.	Leflore	63.	Webster
9.	Humphreys	37.	Chickasaw	64.	Harrison
10.	Yazoo	38.	Clay	65.	Hinds
11.	Jefferson Davis	39.	Prentiss	66.	Grenada
12.	Noxubee	40.	Winston	67.	Yalobusha
13.	Jefferson	41.	Calhoun	68.	Lowndes
14.	Pike	42.	Monroe	69.	Covington
15.	Tunica	43.	Scott	70.	Smith
16.	Sharkey	44.	Bolivar	71.	Itawamba
17.	Walthall	45.	Clarke	72.	Lauderdale
18.	Panola	46.	Jones	73.	Simpson
19.	Benton	47.	Union	74.	Alcorn
20.	Tallahatchie	48.	Hancock	75.	Forrest
21.	Adams	49.	Choctaw	76.	Lincoln
22.	Perry	50.	Oktibbeha	77.	Lee
23.	Coahoma	51.	Jasper	78.	Desoto
24.	Amite	52.	Tate	79.	Lamar
25.	George	53.	Newton	80.	Madison
26.	Copiah	54.	Pontotoc	81.	Lafayette
27.	Franklin	55.	Neshoba	82.	Rankin
28.	Lawrence				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2021

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Holmes	29.	Leake	56.	Tate
2.	Wilkinson	30.	Attala	57.	Tippah
3.	Quitman	31.	Franklin	58.	Jackson
4.	Issaquena	32.	Wayne	59.	Newton
5.	Claiborne	33.	Marshall	60.	Warren
6.	Sunflower	34.	Washington	61.	Covington
7.	Humphreys	35.	Leflore	62.	Pearl River
8.	Kemper	36.	Chickasaw	63.	Webster
9.	Greene	37.	Clay	64.	Itawamba
10.	Yazoo	38.	Montgomery	65.	Smith
11.	Jefferson Davis	39.	Prentiss	66.	Harrison
12.	Noxubee	40.	Winston	67.	Yalobusha
13.	Jefferson	41.	Monroe	68.	Grenada
14.	Sharkey	42.	Calhoun	69.	Lowndes
15.	Walthall	43.	Jasper	70.	Hinds
16.	Pike	44.	Scott	71.	Lauderdale
17.	Benton	45.	Bolivar	72.	Jones
18.	Panola	46.	Choctaw	73.	Simpson
19.	Tunica	47.	Clarke	74.	Alcorn
20.	Tallahatchie	48.	Marion	75.	Lincoln
21.	Adams	49.	Oktibbeha	76.	Forrest
22.	Amite	50.	Union	77.	Lee
23.	George	51.	Carroll	78.	Desoto
24.	Perry	52.	Hancock	79.	Lamar
25.	Coahoma	53.	Neshoba	80.	Lafayette
26.	Copiah	54.	Pontotoc	81.	Madison
27.	Stone	55.	Tishomingo	82.	Rankin
28.	Lawrence				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2020

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Issaquena	29.	Copiah	56.	Tippah
2.	Holmes	30.	Adams	57.	Jackson
3.	Quitman	31.	Marshall	58.	Webster
4.	Wilkinson	32.	Lawrence	59.	Hancock
5.	Kemper	33.	Washington	60.	Union
6.	Sunflower	34.	Marion	61.	Covington
7.	Humphreys	35.	Wayne	62.	Yalobusha
8.	Claiborn	36.	Winston	63.	Smith
9.	Greene	37.	Choctaw	64.	Warren
10.	Sharkey	38.	Clay	65.	Lauderdale
11.	Jefferson	39.	Prentiss	66.	Itawamba
12.	Walthall	40.	Chickasaw	67.	Pearl River
13.	Jefferson Davis	41.	Tunica	68.	Alcorn
14.	Yazoo	42.	Jasper	69.	Lowndes
15.	Benton	43.	Tishomingo	70.	Simpson
16.	Noxubee	44.	Carroll	71.	Jones
17.	Pike	45.	Bolivar	72.	Lincoln
18.	Amite	46.	Monroe	73.	Grenada
19.	Panola	47.	Montgomery	74.	Harrison
20.	George	48.	Scott	75.	Hinds
21.	Leake	49.	Clarke	76.	Forrest
22.	Perry	50.	Calhoun	77.	Lee
23.	Stone	51.	Oktibbeha	78.	Desoto
24.	Coahoma	52.	Newton	79.	Lamar
25.	Attala	53.	Neshoba	80.	Lafayette
26.	Franklin	54.	Pontotoc	81.	Madison
27.	Tallahatchie	55.	Tate	82.	Rankin
28.	Leflore				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2019

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Issaquena	29.	Tallahatchie	56.	Alcorn
2.	Holmes	30.	Copiah	57.	Hancock
3.	Quitman	31.	Winston	58.	Jackson
4.	Wilkinson	32.	Adams	59.	Webster
5.	Sunflower	33.	Carroll	60.	Union
6.	Kemper	34.	Marion	61.	Covington
7.	Claiborne	35.	Marshall	62.	Itawamba
8.	Greene	36.	Prentiss	63.	Pearl River
9.	Humphreys	37.	Tishomingo	64.	Tate
10.	Walthall	38.	Clay	65.	Lauderdale
11.	Jefferson	39.	Wayne	66.	Warren
12.	Jefferson Davis	40.	Lawrence	67.	Smith
13.	Sharkey	41.	Chickasaw	68.	Lowndes
14.	Yazoo	42.	Choctaw	69.	Neshoba
15.	Leake	43.	Jasper	70.	Simpson
16.	Benton	44.	Monroe	71.	Jones
17.	Noxubee	45.	Scott	72.	Harrison
18.	Panola	46.	Calhoun	73.	Lincoln
19.	Attala	47.	Tunica	74.	Grenada
20.	Perry	48.	Yalobusha	75.	Forrest
21.	Pike	49.	Clarke	76.	Hinds
22.	Coahoma	50.	Montgomery	77.	Lamar
23.	Stone	51.	Tippah	78.	Lee
24.	Amite	52.	Bolivar	79.	Lafayette
25.	George	53.	Oktibbeha	80.	Desoto
26.	Leflore	54.	Newton	81.	Madison
27.	Franklin	55.	Pontotoc	82.	Rankin
28.	Washington				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2018

Tier Three Less Developed Areas	Tier Two Moderately Developed Areas	Tier One Developed Areas
1. Issaquena	29. Noxubee	56. Tate
2. Holmes	30. Marshall	57. Clarke
3. Wilkinson	31. Washington	58. Newton
4. Sunflower	32. Tishomingo	59. Jackson
5. Quitman	33. Tallahatchie	60. Union
6. Kemper	34. Choctaw	61. Hancock
7. Claiborne	35. Prentiss	62. Itawamba
8. Greene	36. Chickasaw	63. Pearl River
9. Walthall	37. Copiah	64. Covington
10. Jefferson	38. Wayne	65. Lauderdale
11. Perry	39. Yalobusha	66. Warren
12. Yazoo	40. Clay	67. Smith
13. Benton	41. Tunica	68. Lowndes
14. Jefferson Davis	42. Marion	69. Simpson
15. Attala	43. Tippah	70. Jones
16. Panola	44. Adams	71. Forrest
17. Coahoma	45. Webster	72. Harrison
18. Leake	46. Monroe	73. Lincoln
19. Humphreys	47. Montgomery	74. Grenada
20. Leflore	48. Jasper	75. Neshoba
21. Pike	49. Calhoun	76. Lamar
22. Stone	50. Lawrence	77. Hinds
23. Winston	51. Alcorn	78. Lee
24. Carroll	52. Scott	79. Lafayette
25. Sharkey	53. Oktibbeha	80. Desoto
26. Franklin	54. Pontotoc	81. Madison
27. Amite	55. Bolivar	82. Rankin
28. George		

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2017

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Holmes	29.	Marshall	56.	Adams
2.	Wilkinson	30.	Tishomingo	57.	Clarke
3.	Sunflower	31.	Clay	58.	Pearl River
4.	Benton	32.	Franklin	59.	Newton
5.	Claiborne	33.	Stone	60.	Union
6.	Walthall	34.	Washington	61.	Itawamba
7.	Greene	35.	Amite	62.	Jackson
8.	Yazoo	36.	Choctaw	63.	Smith
9.	Perry	37.	Montgomery	64.	Grenada
10.	Attala	38.	Wayne	65.	Lincoln
11.	Jefferson	39.	Copiah	66.	Lowndes
12.	Quitman	40.	Tunica	67.	Lauderdale
13.	Jefferson Davis	41.	Calhoun	68.	Covington
14.	Kemper	42.	Tallahatchie	69.	Hancock
15.	Panola	43.	Issaquena	70.	Forrest
16.	Winston	44.	Pontotoc	71.	Warren
17.	Webster	45.	Marion	72.	Harrison
18.	Chickasaw	46.	Carroll	73.	Lamar
19.	Leake	47.	Yalobusha	74.	Simpson
20.	Noxubee	48.	Alcorn	75.	Lee
21.	Pike	49.	Scott	76.	Lafayette
22.	Monroe	50.	Jasper	77.	Jones
23.	Humphreys	51.	Lawrence	78.	Hinds
24.	Leflore	52.	Oktibbeha	79.	Neshoba
25.	Tippah	53.	Tate	80.	Desoto
26.	George	54.	Sharkey	81.	Madison
27.	Coahoma	55.	Bolivar	82.	Rankin
28.	Prentiss				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2016

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Holmes	29.	George	56.	Sharkey
2.	Benton	30.	Prentiss	57.	Newton
3.	Wilkinson	31.	Quitman	58.	Pearl River
4.	Greene	32.	Copiah	59.	Lincoln
5.	Walthall	33.	Wayne	60.	Grenada
6.	Claiborne	34.	Franklin	61.	Lowndes
7.	Sunflower	35.	Washington	62.	Carroll
8.	Jefferson	36.	Leflore	63.	Covington
9.	Winston	37.	Calhoun	64.	Warren
10.	Webster	38.	Coahoma	65.	Itawamba
11.	Yazoo	39.	Tunica	66.	Jackson
12.	Attala	40.	Amite	67.	Lauderdale
13.	Perry	41.	Marion	68.	Adams
14.	Tippah	42.	Pontotoc	69.	Union
15.	Jefferson Davis	43.	Clarke	70.	Hancock
16.	Noxubee	44.	Stone	71.	Forrest
17.	Tallahatchie	45.	Scott	72.	Lee
18.	Kemper	46.	Smith	73.	Simpson
19.	Leake	47.	Yalobusha	74.	Harrison
20.	Marshall	48.	Issaquena	75.	Lafayette
21.	Panola	49.	Jasper	76.	Lamar
22.	Monroe	50.	Bolivar	77.	Jones
23.	Clay	51.	Oktibbeha	78.	Hinds
24.	Pike	52.	Tate	79.	Desoto
25.	Choctaw	53.	Alcorn	80.	Neshoba
26.	Humphreys	54.	Chickasaw	81.	Madison
27.	Montgomery	55.	Lawrence	82.	Rankin
28.	Tishomingo				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2015

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Benton	29.	Humphreys	56.	Tate
2.	Noxubee	30.	Montgomery	57.	Newton
3.	Jefferson	31.	Pike	58.	Grenada
4.	Holmes	32.	Quitman	59.	Lowndes
5.	Webster	33.	Wayne	60.	Oktibbeha
6.	Greene	34.	Clarke	61.	Stone
7.	Winston	35.	Franklin	62.	Lauderdale
8.	Walthall	36.	Washington	63.	Covington
9.	Wilkinson	37.	Tunica	64.	Warren
10.	Claiborne	38.	Leflore	65.	Itawamba
11.	Tallahatchie	39.	Calhoun	66.	Union
12.	Sunflower	40.	Coahoma	67.	Forrest
13.	Yazoo	41.	Amite	68.	Adams
14.	Attala	42.	Smith	69.	Carroll
15.	Leake	43.	Marion	70.	Jackson
16.	Jefferson Davis	44.	Pontotoc	71.	Hancock
17.	Kemper	45.	Scott	72.	Lee
18.	Marshall	46.	Lincoln	73.	Simpson
19.	Tippah	47.	Chickasaw	74.	Harrison
20.	Tishomingo	48.	Bolivar	75.	Lafayette
21.	Clay	49.	Issaquena	76.	Jones
22.	Prentiss	50.	Jasper	77.	Hinds
23.	Perry	51.	Lawrence	78.	Desoto
24.	George	52.	Yalobusha	79.	Neshoba
25.	Choctaw	53.	Pearl River	80.	Lamar
26.	Panola	54.	Sharkey	81.	Rankin
27.	Monroe	55.	Alcorn	82.	Madison
28.	Copiah				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2014

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Jefferson	29.	Monroe	56.	Grenada
2.	Noxubee	30.	Franklin	57.	Union
3.	Benton	31.	Pike	58.	Bolivar
4.	Holmes	32.	Quitman	59.	Lowndes
5.	Kemper	33.	Montgomery	60.	Covington
6.	Winston	34.	Wayne	61.	Tate
7.	Greene	35.	Washington	62.	Lauderdale
8.	Webster	36.	Tunica	63.	Oktibbeha
9.	Claiborne	37.	George	64.	Warren
10.	Wilkinson	38.	Leflore	65.	Itawamba
11.	Walthall	39.	Coahoma	66.	Forrest
12.	Marshall	40.	Pearl River	67.	Stone
13.	Sunflower	41.	Amite	68.	Adams
14.	Tippah	42.	Marion	69.	Carroll
15.	Tishomingo	43.	Sharkey	70.	Jackson
16.	Yazoo	44.	Calhoun	71.	Lee
17.	Leake	45.	Jasper	72.	Hancock
18.	Attala	46.	Alcorn	73.	Simpson
19.	Copiah	47.	Smith	74.	Jones
20.	Humphreys	48.	Issaquena	75.	Lafayette
21.	Choctaw	49.	Lincoln	76.	Harrison
22.	Jefferson Davis	50.	Scott	77.	Neshoba
23.	Clay	51.	Chickasaw	78.	Desoto
24.	Perry	52.	Lawrence	79.	Hinds
25.	Panola	53.	Yalobusha	80.	Lamar
26.	Prentiss	54.	Pontotoc	81.	Rankin
27.	Tallahatchie	55.	Newton	82.	Madison
28.	Clarke				

MISSISSIPPI DEPARTMENT OF REVENUE
County Ranking and Designation
2013

Tier Three Less Developed Areas		Tier Two Moderately Developed Areas		Tier One Developed Areas	
1.	Jefferson	29.	Quitman	56.	Newton
2.	Noxubee	30.	Monroe	57.	Lincoln
3.	Benton	31.	Leake	58.	Covington
4.	Holmes	32.	Montgomery	59.	Itawamba
5.	Kemper	33.	Leflore	60.	Bolivar
6.	Claiborne	34.	Washington	61.	Lowndes
7.	Webster	35.	Tunica	62.	Lauderdale
8.	Greene	36.	Yalobusha	63.	Tate
9.	Sunflower	37.	Pike	64.	Carroll
10.	Tippah	38.	Wayne	65.	Forrest
11.	Winston	39.	Amite	66.	Adams
12.	Humphreys	40.	Coahoma	67.	Oktibbeha
13.	Wilkinson	41.	Sharkey	68.	Stone
14.	Tishomingo	42.	Alcorn	69.	Lee
15.	Marshall	43.	Calhoun	70.	Warren
16.	Attala	44.	George	71.	Jackson
17.	Walthall	45.	Grenada	72.	Simpson
18.	Choctaw	46.	Pearl River	73.	Jones
19.	Chickasaw	47.	Union	74.	Neshoba
20.	Yazoo	48.	Issaquena	75.	Hancock
21.	Franklin	49.	Jasper	76.	Hinds
22.	Clarke	50.	Lawrence	77.	Lafayette
23.	Copiah	51.	Pontotoc	78.	Desoto
24.	Prentiss	52.	Tallahatchie	79.	Harrison
25.	Panola	53.	Scott	80.	Lamar
26.	Clay	54.	Marion	81.	Rankin
27.	Jefferson Davis	55.	Smith	82.	Madison
28.	Perry				