



ALABAMA DEPARTMENT OF COMMERCE

THE INVESTMENT CREDIT

Alabama Department of Commerce

ABSTRACT

Per the ALABAMA DEPARTMENT OF REVENUE ADMINISTRATIVE CODE CHAPTER 810-17-1 ECONOMIC TAX INCENTIVES Reporting Requirements, the Alabama Department of Commerce is reporting on the Investment Credit.

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Section I- Overview of the Economic Tax Incentive

Section One- The purpose of the Economic Tax Incentive and shall report whether or not each Economic Tax Incentive has been successful in meeting the purpose for which it was enacted, in particular, whether each Economic Tax Incentive benefits those originally intended to be benefited, and if not, those who have benefited.

A description of the Tax Incentive. The description shall include the initial statement of purpose of the Tax Incentive as provided for in the enabling legislation, the name(s) of the agency administering the Tax Incentive, a description of the Tax Incentive and how it is calculated or awarded, the history of the Tax Incentive which shall include when and under what authority the Tax Incentive was created, including any amendments to the statute and any departmental rules associated with the Tax Incentive;

The **Investment Credit** (the "Tax Incentive") was passed, as one of two incentives, through the Alabama Jobs Act. The enabling legislation for the Tax Incentive, administered by the Department of Commerce (the "State Agency"), provided the following statement of purpose:

1. Enhance the economic well-being of the citizens of the State by the increased development and growth of employment within Alabama; and
2. Foster economic development through the recruitment of quality projects and the expansion of existing businesses within Alabama; and
3. Encourage the creation of new jobs that may not otherwise exist within the State of Alabama; and
4. Increase revenues.

The Tax Incentive is a tax credit of up to 1.5% annually of qualified capital investment for a qualifying project for up to 10 years. The Tax Incentive may be transferred at 85% or more of face value for the first three years. The Tax Incentive can be carried forward for up to five years. Companies locating in a targeted county (a county with a population less than 25,000) can receive the Tax Incentive for up to 15 years if the transit distance for their output or services is less than 50 miles.

The Tax Incentive is authorized under Code of Alabama § 40-18-376. The Tax Incentive became effective July 2, 2015.

Code of Alabama § 40-18-383 was amended by Act 2017-314 to amend the balance of outstanding jobs act incentives from not exceeding \$850 million to the annualized balance of outstanding jobs act incentives not exceeding \$300 million.

The goals of the Tax Incentive and whether or not the Tax Incentive has been successful in meeting these goals. For example, if a job creation incentive includes wage thresholds for a business to qualify, a goal for the tax incentive program would be to create high-paying jobs;

The purpose of the Tax Incentive is to incentivize increased capital investment and job creation in Alabama. Yes, the Tax Incentive has proven to be a successful inducement of increased capital investment in Alabama.

A description of the intended beneficiaries of the Tax Incentive, including any tax types to which the Tax Incentive applies to or is designated. This description shall include the activities the Tax Incentive is intended to promote and the effectiveness of the Tax Incentive in promoting those activities.

The intended beneficiary of the Tax Incentive is the investing company (the "Taxpayer"). The Tax Incentive can be applied against the Taxpayer's:

1. Alabama income tax liability, financial institution excise tax liability, or insurance premium tax liability; and
2. Alabama gross utility tax liability.

The Tax Incentive is intended to promote the activities found in Code of Alabama § 40-18-372. The Tax Incentive has proven to be a successful inducement of promoting such activities and increasing capital investment in Alabama.

Describe how and why such recipients benefit from such Tax Incentive.

Taxpayers benefit by receiving a Tax Incentive based directly on the Taxpayer's eligible capital investment. If the Tax Incentive exceeds the Taxpayer's tax liability, a Taxpayer may carry the remaining Tax Incentive forward for up to five years.

Section II- Impact and Benefits

Section Two shall encompass the impact of the Economic Tax Incentive and shall report whether or not the state receives a positive return on investment, specifically the direct and indirect impact on state and local tax revenues, from the business or industry for which the Economic Tax Incentive is intended to benefit and any other economic benefits produced by such Tax Incentive. If applicable, this shall include, but is not limited to:

The number of taxpayers applying for, qualifying for and claiming the Tax Incentive, and the Tax Incentive amounts (in dollars) claimed by taxpayers in the reporting year:

57 Taxpayers applied for and qualified for the Tax Incentive in 2017. No Taxpayers claimed the Tax Incentive against their Alabama tax liability in the 2017 reporting year.

The number of taxpayers applying for, qualifying for and claiming the Tax Incentive, and the Tax Incentive amounts (in dollars) claimed by taxpayers since the creation of the Tax Incentive, if available:

143 Taxpayers have applied for and qualified for the Tax Incentive since the creation of the Tax Incentive. No Taxpayers have claimed the Tax Incentive against their Alabama tax liability.

The amount of Tax Incentives that could be carried forward and the length of time the Tax Incentive can be carried forward;

The amount of the Tax Incentive that can be carried forward is the amount of the Tax Incentive exceeding the Taxpayer's tax liability. This amount may be carried forward for up to five years.

The amount of Tax Incentives that have been transferred, if applicable, and the amount that the credit(s) were discounted when they were transferred;

No Taxpayers have received the Tax Incentive so no Tax Incentive has been transferred.

The amount of fees and/or other transaction costs associated with the Tax Incentive, including but not limited to application fees and transferability fees;

There is no application fee associated with the Tax Incentive.

The estimated cost of administering the Tax Incentive;

The estimated cost of administering the Tax Incentive is \$193,931.

The number of direct jobs created by the Tax Incentive;

The Tax Incentive created an estimated 10,624 direct jobs.

The timing between awarding the Tax Incentive and creation of jobs and/or investment, and the maintenance of any job creation requirement;

The timing between the award of the Tax Incentive and the Taxpayer's investment varies by project and is dictated by the project agreement between the Taxpayer and the State.

Describe any caps associated with the Tax Incentive (identify if fiscal year or calendar year) and whether or not the cap was met for each year the Tax Incentive was in existence. Include the number of taxpayers who were denied a Tax Incentive due to the cap being in place:

The Tax Incentive legislation caps the Alabama Jobs Act incentives at an annualized balance not exceeding \$300 million. The cap has not been met in any year of the program. No Taxpayers were denied the Tax Incentive due to the cap.

Describe any penalties, including clawback provisions, associated with noncompliance of the Tax Incentive;

Taxpayers receiving the Tax Incentive must agree to a jobs commitment and minimum average wage commitment in a project agreement with the State. The project agreement provides for the Incentive Period of the Tax Incentive (the period during which the Taxpayer may claim the Tax Incentive) and a Maintenance Period (the period following the Incentive Period during which the Taxpayer must still maintain the jobs commitment and minimum average wage commitment).

If a Taxpayer defaults on either commitment during the Incentive Period, the Taxpayer does not receive the Tax Incentive for that year. If a Taxpayer defaults on either commitment during the Maintenance Period, the Taxpayer must pay back the proportional amount of the Tax Incentive received.

Provide an estimate of the indirect economic activity stimulated by the Tax Incentive. This shall include an estimate of any tax benefits that have been sourced outside of Alabama; and

The answer is unknown because the underlying source data does not exist.

Any other information necessary for the State Agency to comply with the requirements of the Act.

No.

Section III- Economic Results

Section Three shall encompass the economic results of each Economic Tax Incentive, taking into account the extent to which the Tax Incentive successfully changes business behavior, and the unintended or inadvertent effects, benefits, or harm caused by the Economic Tax Incentive, including whether the Economic Tax Incentive conflicts with other state laws or regulations. This shall include, but is not limited to:

Any results the Tax Incentive has on Alabama's economy. Indicate whether or not the Tax Incentive is successfully influencing business decisions and describe how this is being determined;

Yes, the Tax Incentive has influenced business decisions to locate in Alabama as opposed to competing states.

Any evidence that the Tax Incentive is or has changed business behavior, as opposed to rewarding businesses for what they would have done anyway;

The State Agency evaluates the competitiveness of each project before awarding the Tax Incentive. The State Agency believes that competing against other states for projects is a strong indicator that the Tax Incentive is changing business behavior. The State Agency believes the evidence to be proven through the State Agency's annual New and Expanding Industry Report.

How the Tax Incentive is effecting businesses beyond those that benefit directly from the Tax Incentive;

The Tax Incentive is positively affecting businesses beyond the Taxpayers that benefit directly from the Tax Incentive. The State Agency utilizes RIMS multipliers to estimate the positive effect the Tax Incentive has on surrounding businesses.

Any potential changes to the design or administration of the Tax Incentive that could lead to better results. If possible, indicate if the Tax Incentive could be made more effective through legislative changes;

No.

State whether or not the State Agency could accomplish the same purpose or goal of the existing Tax Incentive through a non-tax incentive or subsidy, such as a normal budgetary expenditure, and do it more effectively or efficiently. Explain your reasoning.

No, the State Agency could not accomplish the same goal of the Tax Incentive through a non-tax incentive or subsidy. The State Agency believes that, while a competitive tax environment is important, targeted incentives such as the Tax Incentive are the best way to achieve success for highly sought-after competitive projects creating new jobs and capital investment.

Explain the methodology and assumptions of the review, analysis, and evaluation of the Tax Incentive.

The State Agency builds an economic impact model taking into account the following revenue streams:

1. Property tax from Taxpayer.
2. Sales tax from Taxpayer, construction payroll, direct payroll and indirect payroll (from RIMS multipliers).
3. Income tax from Taxpayer, direct payroll and indirect payroll (from RIMS multipliers).

The State Agency evaluates the return on investment (after the Tax Incentive) from the Taxpayer prior to making a Tax Incentive offer.