



ALABAMA DEPARTMENT OF COMMERCE

# THE PORT 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 Port Credit.

Author

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## Section I- Overview of the Economic Tax Incentive

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

- (1) to create new programs for the growth of business and industry in Alabama; and
- (2) to create tax credits for increased use of the state's port facilities.

The Tax Incentive is a one-time income tax credit of up to \$50 per TEU, \$3 per net ton of bulk cargo or \$0.04 per net kilogram for air cargo. New distribution or warehouse shippers investing at least \$20 million and creating at least 75 net new jobs are eligible to receive up to \$100 per TEU over a three-year period if entering into a project agreement with the State.

The Tax Incentive is authorized under Code of Alabama § 40-18-403. The Tax Incentive became effective June 20, 2016. The Tax Incentive has not had any amendments to the statute. Departmental rules associated with the Tax Incentive are located in the Alabama Administrative Code Chapter 281-6-1.

**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 usage of Alabama ports. Yes, the Tax Incentive has proven to be a successful inducement to increase port usage 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 company increasing its usage of Alabama ports (the "Taxpayer"). The Tax Incentive is intended to promote manufacturing, distribution and warehousing activities. The Tax Incentive has proven to be a successful inducement of promoting such activities and increasing usage of Alabama ports.

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

Taxpayers benefit by receiving a Tax Incentive based directly on the Taxpayer's increased cargo usage.

## Section II- Impact and Benefits

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*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:

One (1) Taxpayer applied for and qualified for the Tax Incentive in 2017. No Taxpayers claimed the Tax Incentive 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:

Five (5) 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;

The Tax Incentive cannot be 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 a \$500 application fee associated with the Tax Incentive.

The estimated cost of administering the Tax Incentive;

The estimated cost of administering the Tax Incentive is \$15,871.

The number of direct jobs created by the Tax Incentive;

Based on information contained in Taxpayer applications for the Tax Incentive, it is estimated the Tax Incentive will create 573 direct jobs.

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

Taxpayers receiving the statutory one-year Tax Incentive have a one-year period to increase their cargo for purposes of calculating the Tax Incentive.

Taxpayers entering into a project agreement with the State for the increased Tax Incentive (\$100 per TEU over three years) have three years to increase their cargo for purposes of calculating the Tax Incentive.

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 available Port Credits at \$12 million over the life of the program and \$5 million in a fiscal year. The cap has not been met in any year of the program. No Taxpayers were denied the Tax Incentive due to the cap being in place.

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

There is no compliance requirement for taxpayers applying for the statutory one-year Tax Incentive.

Taxpayers applying for the increased Tax Incentive (\$100 per TEU over three years) must enter into a project agreement with the State and agree to maintain the increased cargo level during the cargo maintenance period. If the Taxpayer defaults on its cargo commitment during the cargo maintenance period, the Taxpayer must pay back a portion of the Tax Incentive received, proportional to how short of the commitment the Taxpayer was.

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

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*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 increase cargo shipping through Alabama ports or to relocate its cargo shipping from competing port to Alabama ports.

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 answer is unknown because the State Agency lacks the expertise to provide the data.

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 increasing cargo usage at Alabama ports.

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

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