



ALABAMA DEPARTMENT OF COMMERCE

CERTIFIED
CAPITAL
COMPANY
(CAPCO)
2019 REPORT

Alabama Department of Commerce

Pursuant to the ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE CHAPTER 810-17-1
ECONOMIC TAX INCENTIVES

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 **CAPCO Program** (the "Tax Incentive") was authorized by Act 2002-429. The enabling legislation for the Tax Incentive, administered by the Department of Commerce (the "State Agency"), provided the following statement of purpose:

"To increase the amount of available venture capital for small technology businesses by using credit against the premium-tax liability for insurance companies."

The law was amended by Act 2007-472, which provided the following statement of purpose:

"To amend Section 40-14B-22, Code of Alabama 1975, relating to the tax credits for certified capital companies, to extend the certified capital company program by allocating additional tax credits."

The Tax Incentive is authorized by Act 2002-429 (Program 1) and amended by Act 2007-472 (Program 2) (Code of Alabama 40-14B) The Tax Incentive became effective April 18, 2002 and the amendment became effective June 14, 2007. Administrative Rule is 281-2-1.

Although the CAPCO law has not been officially repealed, all of the credits (\$100,000,000) from Program 1 have been taken. All allocations have been made (\$100,000,000) for Program 2; however, taxpayers will continue to take the credits until they are fully utilized.

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 goal of the Tax Incentive is to create more jobs and an increased tax base for small businesses with a higher risk profile. The program has been successful in that regard; however, many of the businesses are now closed and jobs were not maintained.

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 insurance companies (“Taxpayers”) who invest in a certified capital company (“CAPCO”). The Tax Incentive can be applied against the Taxpayer’s insurance premium tax liability.

The Tax Incentive is intended to provide capital to small (100 employees or less), high-risk companies to open or expand. The qualifying activities of the business must be manufacturing, processing, or assembling products, or conducting research and development. The Tax Incentive has been successful in promoting those activities.

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

Taxpayers benefit by receiving an insurance premium tax credit of 100% of its investment in a CAPCO. Up to 5% may be taken each year through 2013; up to 17.5% credit may be taken each year thereafter until the credits equal 100% of the investor’s capital.

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:

No Taxpayers applied for or qualified for the Tax Incentive in 2018, as all funds for Program 2 were allocated in 2008. 51 taxpayers claimed the Tax Incentive for a total amount of \$15,593,175 during the 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:

52 Taxpayers have applied for and qualified for the Tax Incentive since the creation of the Tax Incentive and have claimed a total of \$97,589,085. (Credit amounts provided by the Department of Insurance claimed in 2012-2014 is estimated.)

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

Any unused credit may be carried forward to subsequent tax years, with no limitation of time.

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 is not transferable.

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

A renewal fee of \$5,000 is due each year by 1/31 to the State Agency from each CAPCO that has not decertified.

The estimated cost of administering the Tax Incentive;

The estimated annual cost of administering the Tax Incentive is \$9,247.

The number of direct jobs created by the Tax Incentive;

Based on information provided by the CAPCOs, since 2008 a total of 529 direct jobs have been created under Program 2. However, since reporting is no longer due from decertified CAPCO's, information is not available as to how many of these jobs still exist.

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 awarding the Tax Incentive and creation of jobs and/or investment varies. There is no job maintenance requirement.

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 total amount of insurance premium credits for all years is \$100,000,000. Each Taxpayer (certified investor) may take up to 5% of the credit each year against its tax liability until 2014. Beginning January 1, 2014, up to 17.5% of the tax credit can be taken each year until the tax credits taken is equal to 100% of the Taxpayer's certified capital. No Taxpayers were denied the Tax Incentive due to a cap.

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

The CAPCO must have made qualified investments of at least 35% of its certified capital before the third anniversary of its allocation date and at least 50% by the fifth anniversary. Each company is required to file a report with the State Agency and pay a renewal fee of \$5,000 each year by January 31. Failure to meet these requirements could result in decertification of the CAPCO and result in recapture of premium tax credits previously claimed and the forfeiture of future premium tax credits.

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 State Agency does not have information to determine.

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

None.

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;

This Tax Incentive has provided funds to small, high-risk companies that could not otherwise obtain financing. However, many of the companies have closed and the jobs created were not maintained.

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

Many of these businesses could not have received funding without this program.

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

The Tax Incentive benefits small businesses with a high-risk profile, primarily start-up companies who are not able to obtain funds from banks or other traditional lending sources. The program also benefits the CAPCO companies by providing those funds for them to invest and receive a high return on the investments.

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;

None

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.

N/A – program no longer available.

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

Annual reporting from the CAPCO companies was used to obtain data.