

# **Economic Development Incentives**

2008 - 2009



**TENNESSEE**

DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT

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M A N U F A C T U R I N G



## Tennessee Taxes & Incentives

**Manufacturer** - is one whose principal business is fabricating or processing of tangible personal property for resale.

### **Franchise Tax**

- Tax on the greater of apportioned net worth in Tennessee or book value of real and tangible personal property owned or used in Tennessee
- Tax rate is 25 cents per \$100

### **Incentives**

- Finished goods inventory<sup>1</sup> in excess of \$30 million may be excluded from franchise tax base
- Pollution control equipment is exempt from franchise tax base
- Property under construction and not being utilized is not included in franchise tax base
- Property rented from the industrial development corporation may be valued by capitalizing it on the books
- 2/3 of capital investment for super job tax credit is excluded from franchise tax base

### **Excise Tax**

- Tax is based on the net earnings of the company derived from the business in Tennessee
- Tax rate is 6.5%

### **Incentives**

- All capital losses claimed in the year incurred
- Net operating losses can be carried forward for 15 years
- Tennessee's Excise Tax is based on the net earnings of the company derived from business in Tennessee as determined by a three factor apportionment formula of property, payroll and sales with sales double-weighted.
- Tennessee does not have a throwback provision – thus the state does not require companies with sales outside of Tennessee that are not apportioned to or taxed by another state to be included in the numerator of sales in Tennessee.

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All Tennessee tax and tax-based incentive information herein is for informational purposes only. For more specific information on whether a facility qualifies as a manufacturer and what incentives are potentially available please contact your ECD Business Development Specialist.

<sup>1</sup> Finished goods inventory" means tangible personal property that is: (1) owned by the taxpayer; (2) stored in a facility used primarily for manufacturing, warehousing of distribution of such inventory and (3) held for wholesale or retail sale by the taxpayer, but not sold over the counter at the location where stored.



## Tennessee Taxes & Incentives

### Job Tax Credit

- \$2,000 per net new full-time job in a non-economically distressed county: Hamilton County, Knox County, Loudon County, Montgomery County, Shelby County and Williamson County.
- \$4,500 per net new full-time job in a Tier 1, Tier 2 and Tier 3 Economically Distressed County.<sup>2</sup>
- \$5,000 per net new full-time job for companies that qualify for the super job tax credit by investing over \$100 million and creating at least 100 net new full-time jobs paying 100% of the average occupational wage.
- The Job Tax Credit can offset both Franchise and Excise Tax liability
- Must create 25 net new full-time jobs and increase capital investment<sup>3</sup> by \$500,000 in a qualified business enterprise<sup>4</sup> within a fiscal year, unless in a Tier 2 or Tier 3 county.
- Qualified business enterprises that are in a Tier 2 economically distressed county shall have three (3) years in order to create the minimum number of 25 jobs necessary to qualify for the Job Tax Credit.
- Qualified businesses in a Tier 3 county shall have five (5) years to create the minimum number of 25 jobs to receive the Job Tax Credit.
- Unused job tax credit may be carried forward for up to 15 years
- The percentage of liability offset from 33 1/3 to 100 for employment ranging from 25 to 5,000 or more (see below).
- A business plan<sup>5</sup> must be filed on or before the last day of the fiscal year in which the investment is made and must describe the investment made, the number of jobs the investment will create, and the expected dates the jobs will be filled. Tenn. Code Ann. § 67-4-2109(c)(2)(D).

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<sup>2</sup> Tier 2 and Tier 3 counties are entitled to additional enhanced incentives as detailed below. For information on which counties qualify as economically distressed see "Tennessee Job Tax Credit Economically Distressed Counties."

<sup>3</sup> "Capital investment" means a business investment in real or tangible personal property.

<sup>4</sup> "Qualified business enterprise" means an enterprise in which the business has made the required capital investment necessary to permit the creation or expansion of manufacturing, warehousing and distribution, processing tangible personal property, research and development, computer services, call centers, headquarters facilities as defined in § 67-6-224(b), or convention or trade show facilities. Tenn. Code Ann. § 67-6-2109(c)(1)(F)(i).

<sup>5</sup> For information on how to obtain the appropriate Job Tax Credit Business Plan forms please contact your local ECD Business Development Specialist.



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### *Credit Offset Limitation Based on Number of Tennessee Employees*

Percentage of Total Franchise and/or Excise Tax Liability Offset by JTC	Total Number of Tennessee Full-Time Employees at the End of the Fiscal Year
33 1/3%	Less than 1,000
50%	1,000 or more but less than 3,000
75%	3,000 or more but less than 5,000
100%	5,000 or more

### **Enhanced Job Tax Credit for Tier 2 and Tier 3 Economically Distressed Counties**

Tennessee recently enacted new legislation that allows for an additional tiered Job Tax Credit. This credit had been created to promote new industry locations and expansions in the more rural areas of the state. The tiers are based on each Tennessee counties' per capita income, unemployment, and poverty level. Analysis has been performed determining each Tennessee counties' tiered status. Projects which locate in a Tier 2 or Tier 3 county will be eligible for this additional credit.

- \$4,500 per net new full-time job applied to offset both Franchise and Excise Tax
- Tier 2 counties – credit is taken each year for three (3) years after the investment period.
- Tier 3 counties – credit is taken each year for five (5) years after the investment period.
- Must increase capital investment by \$500,000 in a qualified business enterprise within a fiscal year and create 25 net new full-time jobs during the investment period of three (3) years in a Tier 2 county and five (5) years in a Tier 3 county.
- Enhanced Job Tax Credit can offset up to 100% of the total Franchise and Excise tax liability each year for the three (3) or five (5) year period.
- Credit is in addition to the regular Job Tax Credit

### **Super Job Tax Credit<sup>6</sup>**

Tennessee has enacted legislation that provides a job tax super credit (“super credit”) for taxpayers investing in excess of \$100 million in a qualified business enterprise creating 100 or

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<sup>6</sup> A taxpayer that qualifies for the job tax credit in connection with a capital investment in excess of \$100 million shall be allowed to carry forward its net operating losses beyond the initial 15 year period if the Commissioner of Revenue and Commissioner of ECD determine it is in the best interest of the state. The Commissioners shall determine the amount of time allowed beyond the initial 15 year period. Public Chapter No. 1106, Public Acts, 2008 Section 43



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more net new full-time jobs paying at least 100% of the average occupational wage in the state.<sup>7</sup> The average occupational wage for 2008-2009 is \$35,376.

This super credit may be used to offset up to 100% of a taxpayer's Tennessee Franchise and Excise Tax liability annually beginning with the first tax year after the investment and job creation thresholds have been met. The super credit is taken annually and does not have a carry forward provision.

- The super credit is in addition to the regular Job Tax Credit which will still have the fifteen (15) year carry forward and normal percentage of offset. The only difference is by qualifying for the super credit, the amount of the regular Job Tax Credit increases to \$5,000 per new occupational wage job instead of the regular \$2,000 or \$4,500.
- In addition, the super credit allows for the offset of total Franchise and Excise Tax liability to be up to 100% during the time when the super credit is being taken on an annual basis.
- In addition to the jobs portion of the credit, a company that qualifies for the super credit may exclude 2/3 of its capital investment made during the investment period from its Franchise tax base on Schedule G of the Franchise and Excise Tax return.
- The super credit investment period is three (3) years, but can be expanded to five (5) years for investments of \$100 million or more and to seven (7) years for investments of \$1 billion or more with the approval of the Commissioner of ECD.
- The number of years a company may take the annual super credit of \$5,000 per job is dependent upon the capital investment and number of jobs created as follows:

Capital Investment	Number of Net New Occupational Wage Jobs	Number of Years for Annual Credit
\$100,000,000 or more	100	3
\$250,000,000 or more	250	6
\$500,000,000 or more	500	12
\$1 billion or more	1000	20

### **Industrial Machinery Credit**

Tennessee offers manufacturers an Industrial Machinery Credit which may be used to offset up to 50% of the total Franchise and Excise Tax liability. Any unused credit may be carried forward for up to 15 years.

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<sup>7</sup> The current Average Occupational Wage data can be found on the website for the Tennessee Department of Labor and Workforce Development - [www.state.tn.us/labor-wfd/wages/intro.htm](http://www.state.tn.us/labor-wfd/wages/intro.htm)



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The credit is for the purchase, third-party installation, and/or repair of qualified industrial machinery as defined in T.C.A. 67-6-102<sup>8</sup> and computer equipment and any peripheral devices purchased in making the required capital investment for the Job Tax Credit.

The percentage of Industrial Machinery Credit allowed is dependent upon the capital investment made during the investment period<sup>9</sup> as follows:

Capital Investment <sup>10</sup>	Percentage of Credit	Must File a Business Plan
Less than \$100,000,000	1%	No
\$100,000,000	3%	Yes
\$250,000,000	5%	Yes
\$500,000,000	7%	Yes
\$1,000,000,000	10%	Yes

The Industrial Machinery Credit is available whether the manufacturer is creating jobs or not.

### **Green Energy Tax Credit for Certified Green Energy Supply Chain Manufacturers**

As part of its comprehensive energy strategy and to encourage certain projects to locate in Tennessee, legislation was recently enacted to create a “Green Energy Tax Credit” against franchise and excise tax for certified green energy supply chain manufacturers.

“Certified green energy supply chain manufacturer” means any manufacturer that has made during the investment period a required capital investment in excess of \$250 million in constructing, expanding, or remodeling a facility that is certified by the Commissioner of Revenue, Commissioner of ECD and Commissioner of TDEC, in their sole discretion, to be a facility engaged in manufacturing a product that is necessary for the production of green energy.

<sup>8</sup> Although exempt from sales and use tax, the Industrial Machinery Credit does not include industrial supplies or raw materials. To claim the Industrial Machinery Credit, the company must file a Schedule T.

<sup>9</sup> For purposes of the Industrial Machinery Credit the “investment period” means a period not to exceed three (3) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made. The three (3) year period for making the required capital investment may be extended by the Commissioner of ECD for a reasonable period, not to exceed two (2) years for good cause shown. Tenn. Code Ann. § 67-4-2009(4)(I)(vi).

<sup>10</sup> For purposes of the Industrial Machinery Credit the “capital investment” means an increase of a business investment in real or tangible personal property owned in Tennessee and/or leased property in Tennessee valued according to Tenn. Code Ann. § 67-4-2108(a) or (b). A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction. Tenn. Code Ann. § 67-4-2009(4)(I)(v).



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The investment period is three (3) years but may be extended two (2) years by the Commissioner of ECD.

- The Green Energy Tax Credit is equal to the amount by which the charge for electricity sold to the certified green energy supply chain manufacturer exceeds the charge that would have been made for such total delivered electricity if the maximum certified rate had been applied during the applicable tax year.
- “Maximum certified rate” means a rate expressed as a price per kilowatt hour established by private letter ruling by the Commissioner of Revenue, subject to approval by the Commissioner of ECD and the Commissioner of Finance & Administration.
- TVA shall provide such information necessary to verify the amount of such credit.
- To the extent the credit exceeds the manufacturer’s franchise and excise tax liability it will be refunded as an overpayment not to exceed \$1.5 million in any tax year. It may also be carried forward for up to 15 years.

### **Carbon Charge Tax Credit for Certified Green Energy Supply Chain Manufacturers**

A certified green energy supply chain manufacturer, as defined above, shall be allowed a carbon charge credit, against the sum total franchise and excise tax liability, equal to any carbon tax levied by TVA on a certified supply chain manufacturer’s energy bill.

- The credit must be used to offset a certified green energy supply chain manufacturer’s Tennessee franchise and excise tax liability. Any credit that can not be benefited during a fiscal year may be refunded to the taxpayer in the form of a cash overpayment.

### **Integrated Supplier Credit for Certain Suppliers**

Tennessee currently provides a super credit for qualified businesses that invest over \$1 billion and create over 1,000 jobs. Tenn. Code Ann. § 67-4-2109(c)(2)(H). In order to encourage manufacturers to invest in and locate their facilities in Tennessee and to facilitate the co-location of integrated suppliers on or near a manufacturer’s facility legislation was recently enacted to create a new Integrated Supplier tax credit for qualified suppliers.

This new tax credit will provide integrated suppliers that locate within a qualified manufacturer's “footprint” with a one time super job tax credit equal to \$5,000 per net new full-time occupational wage job to offset one-third of the integrated supplier’s total franchise and excise tax liability with a fifteen (15) year carry-forward plus an additional \$5,000 per job annual credit each year for six (6) years to offset 100% of the integrated supplier’s total franchise and excise tax liability with no carry forward.

- “Integrated supplier” means a supplier located within the footprint of a project site, as determined by the commissioner of economic and community development and the commissioner of revenue, which provides goods and services on the project site solely for the qualified manufacturer.



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- This new tax credit will be available to all integrated suppliers irrespective of whether they reach the \$250 million investment and 250 qualified job thresholds that are normally associated with this amount of credit.

### Property Tax

- No state property tax

### Sales and Use Tax<sup>11</sup>

- No sales tax on purchases, installation and repairs of qualified industrial machinery
- No sales tax on raw materials for processing
- No sales tax on pollution control equipment for manufacturers
  - Application for certification of pollution control equipment is available on the Department of Revenue website:  
<http://tennessee.gov/revenue/forms/sales/f1303201.pdf>.
- No sales tax on quality control equipment provided it is used for 100% testing
- Reduced sales tax rates for manufacturers' use of energy fuel and water (1.5% vs. 7%)
  - No sales tax on energy fuel or water used directly in the process and separately metered.

### Additional Tax Credit

#### Day Care Credit

- Applies to both Franchise and Excise Tax
- 25% of the cost of a day care facility not to exceed \$25,000 per facility with a max of \$100,000

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<sup>11</sup> Manufacturer or processor must be registered for a sales and use tax number to apply for exemption on industrial machinery purchases and repairs, and reduced rates on energy fuel and water used. Tenn. Code Ann. §§ 67-6-102(2) & 67-6-206. In addition, the manufacturer must apply for and receive an authorization separate from the sales tax registration in order to qualify for the exemption and reduced rates. Please contact your local ECD Business Development Specialist for information on applying for and obtaining an Industrial Machinery Exemption Authorization.



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### **FastTrack**

Tennessee has a state funded program called FastTrack. Included in the program is the FastTrack Infrastructure Development Program (FIDP)-[*Community generated*] and the FastTrack Job Training Assistance Program (FJTAP)-[*Company generated*].

Under the guidelines of this program the state can make grants to local governments to help them meet the public infrastructure requirements for locating and expanding industries as well as address the training needs of a company.

Both programs require application for financial assistance.

### **FastTrack Infrastructure Development Program (FIDP)**

The FastTrack Industrial Development Program is Tennessee's initiative to support the public infrastructure needs of the local community to support expansion or location of industry. Project funding is determined by evaluating each project in terms of capital investment, new jobs created, the types of the created jobs, and the community in which the project locates. Once a targeted funding amount of eligible activity is established, final approval is subject to FIDP funding appropriated by the Tennessee General Assembly and approval by the Department of Economic and Community Development's Loan & Grant Committee. There are state regulations that apply relative to procurement/bidding procedures.

### **FastTrack Job Training Assistance Program (FJTAP)**

The FastTrack Job Training Assistance Program is Tennessee's initiative to support industrial recruitment and expansion through direct training assistance for newly hired employees, employees in upgraded positions, and employees retained through instruction. FJTAP staff assists each individual company to develop customized training plans and to provide funding. Eligibility for FJTAP support and levels of funding for training assistance are determined by:

- The amount of company investment
- The number of new hires
- The types of skills and knowledge that must be obtained by prospective or newly hired employees

### **Job Specific Training** (*Training assistance is targeted to production/technician level individuals.*)

- Classroom - formal instruction relating to specific skills presented in a classroom environment
- On-the-Job Training - instruction that focuses on the development of specific skills and knowledge vital to production. Training is provided by company technicians or instructors mutually acceptable to FJTAP and the company.
- Vendor - manufacturer of actual manufacturing equipment or service provider being used by the client may be utilized to deliver specific skills training.



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- System Support - instruction associated with plant-wide applications. Instruction may include new methods for increasing mechanization, quality, materials handling, etc.
- Development and Coordination - supports the cost associated with the development of instructional materials and coordination of the overall training program.

### Travel

- Supporting the expense of travel for the purpose of training can be considered as a viable option for the training of new hires and especially for persons who will serve as a company instructor.

### Job Based Training (JBT)

Program to offer potentially faster reimbursement monies associated with training. Once the project commitment is determined and cost per job established, this quick start program may offer the company an accelerated portion of training dollars.

- After the first 3 months (60 work days) The Company records are reviewed ***{proper documentation will be required}*** for number of new jobs created.
- Calculation is made to determine salary paid to those new jobs multiplied by 25%.
- Calculation is made of predetermined cost-per-job multiplied by the number of jobs created during this period.

The company will be entitled to Job Based Training dollars for whichever above scenario is LESS.

- After 3 additional months the same calculation is run, with proper documentation, to allow an additional 25% computation on salaries for jobs created during the period, compared to the calculation of number of new jobs multiplied by again, the established cost-per-job.

The company is again entitled to JBT dollars for whichever scenario is LESS.

Depending on the number of new jobs to be created during the periods of review, it may be possible for the company to receive the entire training commitment ***IF the total committed job number is reached.***

It is the company's elective to pursue the training commitment in either type of reimbursement method or in a combination thereof. If the commitment is not met in JBT, then direct training can be used for the balance ***IF the total job commitment is met.***



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### **Employee Recruitment and Screening (Provided by Dept. of Labor & Workforce Dev.)**

The Tennessee Department of Labor and Workforce Development, Job Service Division, will provide recruitment and screening services. Utilizing the client/company's prepared job specifications, Job Service will recruit the number of persons requested by the company. The persons will be screened using the company's specifications. Those persons meeting the specifications will be referred to the company for employment considerations.

### **Workforce Development**

- Leadership Training - is directed toward providing supervisors, team leaders, and managers with the interpersonal skills necessary to motivate and lead production workers towards the accomplishment of organizational goals.
- Team Training - is provided for manufacturing/production employees where interpersonal communication is important in fostering interdependence, cooperation, commitment, motivation, etc.
- Instructor Certification - Certification of company personnel insures the availability of certified instructors not only at startup but also on a long term basis. The weeklong certification seminar provides candidates with the facilitation skills necessary to deliver a wide range of programs.

### **State Industrial Access Program (SIAP)**

Other state assistance can be considered for providing needed transportation improvement for the project. Through the State Industrial Access Program (SIAP), local governments submit their requests on behalf of new industry moving into their communities, which the Department of Transportation reviews to determine the most feasible design.

### **Industrial Revenue Bond Financing**

Industrial revenue bond financing is available in Tennessee for both taxable and tax-free situations.