

Industry News

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The California Enterprise Zone Program Repeal takes the Forefront in 2013

The repeal of California's lucrative Enterprise Zone credit program has many businesses assessing their California tax posture for tax years 2014 and forward. Legislation enacted in July 2013 repeals the statewide enterprise zone program effective January 2014. In its place, the state has enacted a new hiring credit and sales tax exemption.

The new hiring credit allows certain businesses to claim a hiring credit in designated areas with high unemployment and poverty rates. The credit equals 35% of wages paid in the first five years of employment up to \$56,000 on qualified wages paid between 150% and 300% of the California hourly minimum wage. Employees eligible for the credit must be hired before January 1, 2021 and must have received the federal earned income credit, been unemployed veterans, been long-term unemployed, or must have been incarcerated.

The new sales and use tax exemption will replace the existing enterprise zone credit on sales tax paid on qualified assets. On purchases of manufacturing and R&D equipment up to \$200 million, approximately half of sales and use tax may be exempt. The exemption would apply for qualified assets purchased between July 1, 2014 and December 31, 2018, with extension of time to June 30, 2021 for businesses located in certain enterprise zones.

Taxpayers who have not claimed the current enterprise zone credit on qualified employees hired prior to January 1, 2014, have until January 1, 2015 to claim the credit. Unused enterprise zone credit can be carried forward and utilized for a ten-year period beginning with the first tax year after January 1, 2014.

After the repeal of such a lucrative credit, this newly enacted legislation provides reassurance that taxpayers will be able to document qualified hires, carryover unused EZ credits for ten-years, and place property into service in 2014.

A recent California tax issue addressed by the state legislature was the California Court of Appeals decision in *Cutler v. FTB*, which found qualified small business stock gain exclusions and deferrals for taxpayers who invested in businesses predominately based in California unconstitutional. With this decision, deferrals and exclusions that were once allowed suddenly became denied by the Franchise Tax Board ("FTB"). In light of the negative response the FTB received with its decision to deny exclusions and deferrals, enacted legislation removes the in-state requirement, allowing QSBS deferrals and exclusions for investments where 80% or more of the assets of the investee are in California at the time the investment is made. Taxpayers who were assessed additional tax, penalties and interest after the *Cutler* decision should be able to ignore these assessments and the FTB is in the process of cancelling any assessments notices that were issued. The enacted legislation allows taxpayers to amend 2008 returns and onwards to claim QSBS gain exclusions/deferrals related to out-of-state investments, provided that at the time the stock was acquired, the company had 80% or more of its payroll and assets in California.

If you have any questions on these or any other tax and accounting related matters please feel free to contact Tom Barry at tjbarry@ghjadvisors.com or 310-873-1647. © 2013 Green Hasson & Janks LLP. All rights reserved. Green Hasson & Janks LLP is an independent member of HLB International, a worldwide organization of accounting firms and business advisors.

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