



## Small Business Job Tax Credit

Burnet R. Maybank, III, Esquire  
[bmaybank@nexsenpruet.com](mailto:bmaybank@nexsenpruet.com)



# JOB TAX CREDIT

South Carolina law contains three job tax credit provisions, the “traditional” annual job tax credit, the “annual” small business job tax credit, and the “accelerated” small business job tax credit.

So there are 3 kinds of Job Tax Credits!

# GENERAL PROVISIONS

South Carolina Code law provides a tax credit against South Carolina income tax, bank tax, or insurance premium tax for a qualifying business creating new jobs in this state. Corporations, sole proprietorships, partnerships, S corporations, and limited liability companies are eligible for the credit. To qualify for the job tax credit, a business must:

(1) be a certain type of business, and

(2) create and maintain a required minimum number of “new, full time jobs” at the time a new facility or expansion is initially staffed. The “basic” credit amount for each new job is from \$1,500 (Tier I) to \$25,000 (Tier IV) per year depending, in part, on where a taxpayer’s facility is located. A taxpayer can receive an “additional” \$1,000 credit per year for each new qualifying job if the taxpayer’s qualifying facility is located in a multi-county industrial part.

# GENERAL PROVISIONS

The credit is adjusted for job increases or decreases each year. During the 5-year credit period, a credit is also allowed for additional new, full time jobs created. Any unused credit may be carried forward for 15 years.

# QUALIFYING BUSINESSES

A business must be engaged in manufacturing, processing, warehousing, distribution, research and development, agribusiness operations, agricultural packaging, a corporate office facility, or a technology intensive facility to qualify for the job tax credit.

# PROCESSING FACILITY

“Processing facility” means:

an establishment that prepares, treats, or converts tangible personal property into finished goods or another form of tangible personal property.

The term includes a business engaged in processing agricultural, aquacultural, or maricultural products and specifically includes meat, poultry, and any other variety of food processing operations.

It does not include an establishment in which retail sales of tangible personal property are made to retail customers.

# DISTRIBUTION FACILITY

“Distribution facility” means:

an establishment where shipments of tangible personal property are processed for delivery to customers.

The term does not include an establishment where retail sales of tangible personal property are made to retail customers on more than twelve days a year except for a facility which processes customer sales orders by mail, telephone, or electronic means, if the facility also processes shipments of tangible personal property to customers and if at least seventy-five percent of the dollar amount of goods sold through the facility are sold to customers outside of South Carolina.

Retail sales made inside the facility to employees working at the facility are not considered for purposes of the twelve-day and seventy-five percent limitation.

# TECHNOLOGY INTENSIVE FACILITY

“Technology intensive facility” means:

A facility at which a firm engages in the design, development, and introduction of new products or innovative manufacturing processes, or both, through the systematic application of scientific and technical knowledge. Included in this definition are the following NAICS:

- ▶ 5114 database and directory publishers;
- ▶ 5112 software publishers;
- ▶ 54151 computer systems design and related services;
- ▶ 541511 custom computer programming services;
- ▶ 541512 computer systems design services;
- ▶ 541711 research and development in biotechnology; 2007 NAICS;
- ▶ 541712 research and development in physical, engineering, and life sciences; 2007 NAICS;
- ▶ 58210 data processing, hosting, and related services;
- ▶ 9271 space research and technology; or
- ▶ A facility primarily used for one or more activities listed under the 2002 version of the NAICS Codes 51811 (Internet Service Providers and Web Search Portals).



# AGRICULTURAL PACKAGING FACILITY

“Agricultural packaging” means:

the technology of enclosing or protecting or preserving agricultural products for distribution, storage, sale, and use.

Packaging also refers to the process of design, evaluation, and production of packages used for agricultural products.

Packaging can be described as a coordinated system of preparing agricultural goods for transport, warehousing, logistics, sale, and end use.

# QUALIFYING BUSINESSES

A retail facility or service-related industry located in a Tier IV county may also qualify for the credit.

# MINIMUM NUMBER OF NEW JOBS – TRADITIONAL JOB TAX CREDIT

In general, a taxpayer must increase employment by a monthly average of 10 new, full time jobs to qualify for the credit, regardless of the county in which the employer is located.

# DEFINITION OF “FULL TIME” AND “NEW JOB”

A “full time” job is one requiring a minimum of 35 hours of an employee’s time each week for the entire normal year of company operations. Two half time jobs requiring a minimum of 20 hours of each employee’s time a week qualify as one “full time” job.

Additionally, seasonal workers in agricultural packaging and agribusiness operations may be considered full-time. However, a seasonal employee only counts as a fraction of a full-time worker, with the numerator being the number of hours worked a week multiplied by the number of weeks worked and the denominator being 1,820.

# COUNTY RANKINGS

The amount of credit that a business may receive for each job created is determined by the county where the business's facility is located. There are 4 categories of counties: Tier I, Tier II, Tier III and Tier IV.

# COUNTY RANKINGS

Companies planning significant expansions may lock-in the current county designation without regard to whether the ranking of the particular county changes by filing a Form SC616.

Entities locating in Tier III and IV counties need to file it!!! Most counties don't rotate off Tier II and IV but a few do. Cherokee County likely to rotate off Tier IV>

# CREDIT AMOUNT

## TRADITIONAL JOB TAX CREDIT

The “basic” job tax credit amounts under the traditional annual job tax credit are listed below:

- **\$25,000 per year** for each new, full time job created in a Tier IV county
- **\$20,250 per year** for each new, full time job created in a Tier III county
- \$2,750 per year for each new, full time job created in a Tier II county
- \$1,500 per year for each new, full time job created in a Tier I county

The credit amount in Tier III and Tier IV counties was significantly increased by the General Assembly in 2019.

# CREDIT AMOUNT

The job tax credit taken in one tax year may not exceed 50% of the taxpayer's income tax, bank tax, or insurance premium tax liability. If the credit is passed through, the 50% limitation is determined at the shareholder, partner, or member level.

Any unused credit may be carried forward for 15 years.



# CALCULATING THE CREDIT

## TRADITIONAL JOB TAX CREDIT

The job tax credit is claimed on the taxpayer's tax return for 5 years provided those jobs are maintained in the year in which the credit is claimed. The credit is not claimed in the year the new jobs are created. The number of new and additional new full time jobs is determined by comparing the monthly average number of full time employees subject to South Carolina income tax withholding in the applicable county for the taxable year with the monthly average for the prior taxable year.

For purposes of calculating the monthly average number of full-time employees in the first year of operation in this State, a taxpayer may use the actual months in operation or a full twelve-month period. If a taxpayer's business is in operation for less than twelve months a year, the number of new and additional new full-time jobs is determined using the monthly average for the months the business is in operation.

# SMALL BUSINESS JOB TAX CREDIT

## GENERAL

South Carolina provides a job tax credit against South Carolina income tax, bank tax, or insurance premium tax for small businesses (*i.e.*, a business with 99 or fewer employees worldwide). The qualifying small business must generally create and maintain a monthly average increase of 2 new, full time jobs.

The credit amount is determined by the South Carolina county where the taxpayer's facility is located and the amount of gross wages paid to each employee. The "basic" credit amount for each new job for the small business job tax credit ranges from \$750 to **\$25,000** per year.

# SMALL BUSINESS JOB TAX CREDIT

There are two types of small business Tax Credits –  
(1) Annual; and (2) Monthly (accelerated)

# SMALL BUSINESS JOB TAX CREDIT

## “ANNUAL” SMALL BUSINESS JOB TAX CREDIT

The credit is first claimed on the taxpayer’s tax return for the year following the creation of the new jobs (For example, jobs created in Year 1 are claimed in Year 2), provided the jobs are maintained. The credit is adjusted for job increases or decreases. No credit is allowed for the year or any subsequent year in which the net increase in employment falls below the minimum level.

# SMALL BUSINESS JOB TAX CREDIT

## MONTHLY ACCELERATED SMALL BUSINESS TAX CREDIT

“Monthly” small business job tax credit (Alternative Method). South Carolina allows a small business qualifying for the “annual” small business job tax credit an “election” to accelerate the use of the credit by computing it on a “monthly” basis and claiming the credit in the year the jobs are created. The credit amount depends, in part, on the county in which the taxpayer is located and the amount of gross wages paid for a full month to each employee.

The credit is allowed for the monthly average of new, full time jobs for which wages are paid for the full month. The credit is claimed on the taxpayer’s tax return for not more than 60 consecutive months and is claimed beginning with the first full month wages are paid for the new, full time jobs created.

# SMALL BUSINESS JOB TAX CREDIT

## TYPES OF QUALIFYING BUSINESSES

Qualifying small businesses are the same as for the traditional JTC

See slides above for qualifying businesses for Traditional JTC

# SMALL BUSINESS JOB TAX CREDIT CREDIT AMOUNTS

## Basic Credit Amounts:

In general, the “basic” job tax credit amount for each new, full time job created under the small business job tax credit and maintained by a small business is substantial and can be either the “100% credit amount” or the “50% credit amount.”

# SMALL BUSINESS JOB TAX CREDIT

## CREDIT AMOUNTS

The “basic” job tax credit amounts available to a small business creating a monthly average of 2 or more new, full time jobs are the:

- “50% credit amount” – This amount ranges from \$750 to \$12,500 per year per job for a taxpayer who pays gross wages per job below 120% of the county or state average per capita income (whichever is less). The amount depends upon the location of the business. 50% credit amount in Tier IV is \$12,500 and in Tier III counties it is \$10,125!!!
- “100% credit amount” – This amount ranges from \$1,500 to \$25,000 per year per job for a taxpayer who pays gross wages per job at or above 120% of the county or state average per capita income (whichever is less). The amount depends upon the location of the business. In Tier IV counties it is \$25,000 and in Tier III it is \$20,250!



# SMALL BUSINESS JOB TAX CREDIT

## CREDIT AMOUNTS

The 100% credit amount is wages per job of 120% or more of the county or state average – whichever is less.

In 2021, the State per Capita was \$48,021

For 2022, the State Per Capita was \$52,074

120% of this amount is \$57,625 and \$62,489, respectively

The SC Department of Revenue has not published County per Capita Income amounts for 2022. It will be published in December.

# SMALL BUSINESS JOB TAX CREDIT AMOUNT

## TIER I

TIER I	Per Capita Income	120%
Aiken	\$47,118	56,541
Beaufort	\$61,298	74,558
Berkeley	\$41,134	52,961
Charleston	\$66,656	79,987
Greenville	\$52,213	62,656
Lexington	\$44,497	53,396
Kershaw	\$45,782	54,938
Lexington	\$50,188	60,225
Newberry	\$41,910	50,292
Oconee	\$47,511	57,013
Richland	\$49,678	59,614
York	\$51,772	62,126

# SMALL BUSINESS JOB TAX CREDIT AMOUNT

## TIER II

TIER II	Per Capita Income	120%
Anderson	\$43,459	52,151
Calhoun	\$44,655	53,586
Dorchester	\$42,662	\$51,194
Edgefield	\$41,178	49,414
Florence	\$46,749	56,099
Georgetown	\$51,775	62,130
Hampton	\$39,185	47,022
Lancaster	\$52,999	63,599
Pickens	\$41,770	50,124
Saluda	\$37,637	45,164
Spartanburg	\$46,543	55,852

# SMALL BUSINESS JOB TAX CREDIT AMOUNT

## TIER III

TIER III	Per Capita Income	120%
Abbeville	\$38,033	45,640
Chesterfield	\$34,477	41,372
Clarendon	\$38,001	45,601
Colleton	\$40,336	48,403
Darlington	\$41,928	50,314
Fairfield	\$41,827	50,192
Greenwood	\$40,786	48,943
Horry	\$42,110	50,532
Jasper	\$34,446	41,335
Laurens	\$38,108	45,730
McCormick	\$42,422	50,906
Saluda	\$43,003	51,604

# SMALL BUSINESS JOB TAX CREDIT AMOUNT

## TIER IV

TIER IV	Per Capita Income	120%
Allendale	\$38,991	46,789
Bamberg	\$37,596	45,115
Barnwell	\$38,682	47,618
Cherokee	\$36,567	43,880
Chester	\$38,931	46,717
Dillon	\$33,030	39,636
Lee	\$36,638	48,966
Marion	\$36,606	43,927
Marlboro	\$35,748	42,898
Orangeburg	\$38,730	46,476
Union	\$37,515	45,018
Williamsburg	\$38,528	46,234

# SMALL BUSINESS JOB TAX CREDIT

## CREDIT AMOUNTS

### Basic Credit Amounts:

The “100% credit amount” and the “50% credit amount” are dependent, in part, on the “wage category” of the minimum number of required jobs and the “wage category” of each additional job.

# SMALL BUSINESS JOB TAX CREDIT

## CREDIT AMOUNTS

The following rules apply in determining the credit amount.

For a small business taxpayer to qualify for the “100% credit amount,” the minimum 2 new, full time jobs must be created paying gross wages at or above the 120% wage threshold “wage category.”

The credit amount for each additional job created over minimum during the original credit period is determined separately based upon the wage category of each additional job (*i.e.*, some additional jobs may qualify for the “50% credit amount” and other additional jobs may qualify for the “100% credit amount”).

# SMALL BUSINESS JOB TAX CREDIT

## CREDIT AMOUNTS

If a small business taxpayer creates the minimum 2 new, full time jobs with one job paying at or above the 120% wage threshold and the other job paying below the 120% wage threshold, then the taxpayer would be eligible only for the “50% credit amount” for these 2 jobs.

The credit amount for any additional jobs created over the minimum is determined separately and will be eligible for either the “50% credit amount” or the “100% credit amount,” depending on the wage category of each additional new job.



# SMALL BUSINESS JOB TAX CREDIT GROSS WAGES

As discussed above, the “basic” job tax credit amount for each new, full time job created and maintained by a small business depends, in part, on the amount of gross wages paid to each new, full time employee. The 120% wage threshold is determined for each job at the end of the taxpayer’s tax year in which the jobs are created.

This computation can involve a series of steps depending on when the jobs are created, the amount of gross wages paid, and whether both part time and full time jobs are created.

# CALCULATING JOBS

The calculation of new jobs can be very complex given that few are hired on January 1<sup>st</sup> and employees come and go, often with gaps in between.

Generally, for purposes of calculating the monthly average number of full-time employees in the first year of operation in this State, a taxpayer may use the actual months in operation or a full twelve-month period. If a taxpayer's business is in operation for less than twelve months a year, the number of new and additional new full-time jobs is determined using the monthly average for the months the business is in operation.

# CALCULATING JOBS

The DOR has issued two lengthy Policy Docs on calculating jobs, SC DOR Rev. Rul. #07-2, Small Business Provisions (54 pages) and Rev. Rul. #99-5 (62 pages) (Traditional JTC);

NOTE: the JTC statutes have changed since these docs were issued, (for example county classification rankings have changed).

# TAKING THE CREDIT

The JTC is a credit – not a deduction – so it reduces dollar for dollar the taxes owed (up to the 50% limitation).

It is not transferable/refundable/assignable.

If you earned the credit in past years but didn't claim it you can file amended returns during the 3-year statute of limitations.

# TAKING THE CREDIT

What Tax Liabilities is the Credit Applied Against?

There are 3 Rules for applying the Credit:

1. C Corps
2. S Corps; and
3. Partnerships, including LLCs

# TAKING THE CREDIT

The job tax credit taken in one tax year may not exceed 50% of the taxpayer's income tax, bank tax, or insurance premium tax liability. If the credit is passed through, the 50% limitation is determined at the shareholder, partner, or member level. An S corporation must first use the credit against its own income tax liability, if any, before passing the credit through to its shareholders. The amount of credit allowed a shareholder, partner or member of a limited liability company is equal to the shareholder's percentage of stock ownership, partner's interest in the partnership, or member's interest in the limited liability company for the taxable year multiplied by the amount of the credit the entity would have been entitled to if it was taxed as a corporation.

# TAKING THE CREDIT PARTNERSHIPS AND LLCs

A member of an LLC has income (K-1) from several partnerships.

Is the Credit applicable only to income from the LLC generating the JTC – or to all the Member's state tax liability?

# TAKING THE CREDIT PARTNERSHIPS AND LLCs EXAMPLE

A Heart surgeon in Columbia has substantial income from her medical practice.

She is a member of an LLC which owns a C Store in a Tier IV County which has generated a substantial JTC but has much less income.

Is the JTC applied just against the C Store income, or her total income (state tax liability)?

Her total state tax liability – including her spouse's if they file a joint tax return.



# TAKING THE CREDIT PARTNERSHIPS AND LLCs

SC DOR Rev. Rul. #99-5

Question 34 - Use of Credit by Partner, Shareholder, or Member:

Q. What income of the partner, shareholder or member does the credit offset?

A. The credit may be used against all South Carolina income tax reported by the partner, shareholder, or member that is subject to tax imposed by Code §12-6-510. It is not limited to use only against the partnership, S-corporation, or limited liability company income that passed through the credit. Further, if the partner, shareholder, or member files a joint income tax return, the credit may be used to offset the income of both spouses, even if only one spouse is the partner, shareholder, or member. The credit is limited to 50% of the partner's, shareholder's, or member's income tax liability or married couple's income tax liability. Code §12-6-3360(K)(3).