

# **BUSINESS EMPLOYMENT INCENTIVE PROGRAM (“BEIP”) - TAX CREDIT CONVERSION**

## **FREQUENTLY ASKED QUESTIONS (FAQs)**

On January 11, 2016, Governor Christie signed P.L. 2015, c. 194 into law, permitting the voluntary conversion of BEIP grant commitments into tax credits. Under the law, a business approved for a BEIP grant that chooses to pursue this opportunity has 180 calendar days following enactment to direct the EDA to convert the grant into a tax credit. Following are the most frequently asked questions regarding the conversion.

### ***FOR BUSINESSES THAT ARE SUBJECT TO CORPORATION BUSINESS TAX OR INSURANCE PREMIUMS TAX:***

#### **DO I HAVE TO CONVERT THE GRANT INTO A TAX CREDIT?**

No. The conversion is strictly voluntary.

#### **HOW LONG DO I HAVE TO OPT-IN?**

180 days following enactment - by close of business (5 pm) on July 11, 2016.

#### **ONCE I OPT-IN, CAN I CHANGE MY MIND AND GO BACK TO A CASH PAYMENT?**

No. Opt-in is irrevocable.

#### **IF I CHOOSE NOT TO CONVERT TO A TAX CREDIT, WILL I GET A CHECK NEXT YEAR?**

If a company remains with the grant program, funding is reliant on an annual NJ budget appropriation. EDA does not know if an appropriation will be made for FY 2017 or any future year.

#### **WHAT IS THE PROCESS TO OPT-IN?**

There are three forms of the Amendment to Agreement: one for corporation business tax (CBT) filers, one for insurance premiums tax (IPT) filers, and one for gross income tax (GIT) filers. Executing the appropriate Amendment to Agreement will enable a company to elect to convert their grant award to a tax credit. Please note that if a company is an IPT filer that has CBT filers on its current BEIP Agreement, the company may choose to execute the Amendment to Agreement for CBT filers to ensure that its tax credits will be refundable.

#### **WHAT HAPPENS TO MY GRANT IF I DO NOT OPT-IN?**

If the applicant does not submit an executed Amendment to Agreement by 5 pm on July 11, 2016, the terms of their BEIP grant will remain the same.

#### **HOW WILL WE RECEIVE THE CREDIT?**

An annual certificate will be issued. The company will attach the certificate to its tax return for the year for which the credit is taken and claim the credit on the appropriate line.

Please note that beginning with tax year 2016 and after, **all taxpayers and tax preparers** are required to file CBT returns and make payments electronically. So, after the company has filed their CBT return electronically they will have to print out a copy of the return and mail it with the tax credit certificate to the Division of Taxation for final processing.

#### **WHAT HAPPENS IF THE COMPANY HAS NO TAX LIABILITY IN A PARTICULAR YEAR?**

If the company that is subject to corporation business tax has no CBT liability in the year for which the tax

credit is issued, the credit will be treated as an overpayment. The overpayment will then be credited against any outstanding tax liabilities the company has. If the company has no outstanding tax liabilities, a refund will be issued.

The Act as written does not allow a refund to be issued to a company that is subject to insurance premiums tax and has no IPT liability in the year for which the credit is issued.

#### **CAN CREDITS BE CARRIED FORWARD IF MY COMPANY CAN'T USE THEM?**

No carry forwards are permitted.

#### **WHAT HAPPENS IF THE COMPANY'S TAX LIABILITY IS GREATER THAN THE AMOUNT OF THE TAX CREDIT?**

If a company that is subject to corporation business tax or insurance premiums tax has a tax liability that exceeds the amount of the tax credit, the amount of the credit will be applied against the tax liability and the company will pay the difference.

#### **HOW ARE CREDITS PAID?**

The payout of unpaid payments through filing year 2013 will be paid as indicated in the law. As an example, if a company is owed a total sum of \$1,000,000 for years 2011, 2012 and 2013 and such amount has been approved by the Authority and certified by the Division of Taxation, the credit will be issued as follows:

2017 (1<sup>st</sup> year) - 30% ~ \$300,000

2018 (2<sup>nd</sup> year) - 30% ~ \$300,000

2019 (3<sup>rd</sup> year) - 20% ~ \$200,000

2020 (4<sup>th</sup> year) - 10% ~ \$100,000

2021 (5<sup>th</sup> year) - 10% ~ \$100,000

#### **IS THERE A WAITING PERIOD OR LIMITATION REGARDING THE USAGE?**

The legislation requires that BEIP tax credits be used prior to all other credits and payments.

#### ***FOR BUSINESSES THAT ARE NOT SUBJECT TO CORPORATE BUSINESS TAX OR INSURANCE PREMIUMS TAX TO THE STATE OF NEW JERSEY:***

Businesses that are not subject to corporation business tax or insurance premiums tax due to filing status (LLCs, S corporations and Partnerships) can still elect to convert their grant awards to credits. The election must be made by July 11, 2016. Once the tax credit certificate is issued, such companies will apply to the NJEDA for a tax credit transfer certificate which will allow them to sell the credit for not less than 75% of face value. The transfer certificate is not tax specific and the transferee can use it for either CBT or IPT.

#### **WHAT IS THE PROCESS TO OPT-IN?**

There are three forms of the Amendment to Agreement: one for corporation business tax (CBT) filers, one for insurance premiums tax (IPT) filers, and one for gross income tax (GIT) filers. Businesses that are not subject to corporation business tax or insurance premiums tax due to filing status must execute the Amendment to Agreement for GIT filers in order to elect to convert to a tax credit.

#### **CAN A TAX CREDIT BE SOLD ONLY ONCE OR CAN IT BE SOLD MULTIPLE TIMES BY DIFFERENT ENTITIES?**

A tax credit can be sold only once; subsequent sales are not allowed.

**WHAT ARE THE INCREMENTS IN WHICH A TAX CREDIT TRANSFER CERTIFICATE WILL BE ISSUED?**

The certificates will be issued in a minimum amount of \$100,000 or the amount of the refundable tax credit if less than \$100,000.

For example:

*If a company that is not subject to corporation business tax or insurance premiums tax has a BEIP award (converted to tax credits) of \$245,000 in a particular year applies to receive tax credit transfer certificates, the total award can be disbursed in the form of one tax credit transfer certificate of \$100,000 plus one tax credit transfer certificate of \$145,000.*

*If a company that is not subject to corporation business tax or insurance premiums tax has a BEIP award (converted to tax credits) of \$75,000 in a particular year and applies to receive a tax credit transfer certificate, the total award will be disbursed in the form of one tax credit transfer certificate of \$75,000,*

**CAN A COMPANY SELL/TRANSFER THE CREDITS IN 2016?**

No. The first tax credits will be available to be sold beginning in tax accounting period 2017.

**CAN THE COMPANY TRANSFER TAX CREDITS BEFORE THEY ARE ISSUED?**

No, a tax credit transfer certificate will only be issued for the amount actually certified in any given tax accounting period.

**ONCE THE CREDITS ARE SOLD, ARE THEY AVAILABLE IMMEDIATELY FOR USE BY THE TRANSFEREE AS AN ESTIMATED PAYMENT**

Yes, they are available for use against the tax liability arising in the tax accounting period in which they were issued. They will be subject to the same privileges, limitations and conditions discussed above.

**IS THERE A WAITING PERIOD OR LIMITATION REGARDING THE TRANSFEREE'S USAGE?**

The legislation requires that BEIP tax credits be used prior to all other credits and payments.

**CAN CREDITS BE CARRIED FORWARD IF MY COMPANY CAN'T SELL THEM?**

No carry forwards are permitted.