BY THOMAS JOHNSON

Tax Credits & Incentives You Should Know About

Many contractors are eligible for federal and state incentive programs, but not all contractors take advantage of them. Perhaps, they are unaware of all the opportunities or may find the requirements too complicated to administer. Either way, they are leaving money in Uncle Sam's pocket.

To help CFMs identify potential business opportunities and tax credits from federal and state programs, we'll discuss the advantages available to contractors working in Empowerment Zones (EZ) and Renewal Communities (RC), and outline the Historically Underutilized Business Zone (HUBZone) and the Work Opportunity Tax Credit (WOTC) programs.

Empowerment Zones & Renewal Communities

In the 1990s, HUD and the USDA put forth an interagency effort to help revitalize economically distressed areas and encourage the employment of disadvantaged workers. These programs designate communities across the nation as EZs and RCs, and provide tax credits to businesses. (A third category, the Enterprise Community (EC), will not be covered in this article since the vast majority of EC designations are now inactive.)

Qualifying contractors in EZs are eligible for: **1)** employment wage credits up to $3,000 annually per EZ resident employed, **2)** low-cost loans through EZ facility bonds, and **3)** an additional $35,000 per year in §179 tax deductions on equipment purchases in these areas. Also, qualifying contractors may be able to exclude up to 60% of their capital gains from taxation upon the sale of certain assets.

Qualifying contractors in RCs are eligible for: **1)** employment wage credits up to $1,500 yearly per RC resident employed and **2)** a 0% tax on the capital gains of assets sold, provided they hold the asset for at least five years. Contractors in RCs that build or substantially rehabilitate commercial property may also be eligible for up to $10 million in Commercial Revitalization Deductions (CRDs) to rapidly increase their depreciation schedules.

The most notable incentive for EZs and RCs is the employment wage credit.

Employment Wage Credits

The wage credits generated by these two programs give businesses an incentive to retain or hire employees that live and work in designated areas. (The chart on page 84 lists EZs and RCs by state.)

To be eligible for the employment wage credit, contractors must be located in an EZ or RC. Qualifying employees must perform substantially all of their work within the EZ or RC, and they must reside in the community for which the contractor claims a federal credit. Both the EZ and RC programs allow an employer to claim as many employees as qualify.

Overall, the EZ and RC wage credits are subject to the same rules as other business tax credits. For example, unused credit amounts can be carried forward up to 20 years and carried back a year. However, the credit cannot be carried back prior to the EZ or RC designation. These are general business tax credits for federal tax purposes and may be passed through under the rules similar to other business tax credits.

The amount of the credit is tied to the amount of wages paid, rather than to the number of hours worked. The wage credit applies to part-time and full-time employees, as long as the employer has retained the employee at least 90 days.

Qualified wages are generally subject to the Federal Unemployment Tax Act (FUTA). The credit is calculated against a maximum of $15,000 in wages for the EZ wage credit per employee and $10,000 for the RC wage credit.

If an employee worked in an EZ or RC for only part of the year, an employer can use the pay-period or calendar-year method to determine the period of time the employee performed services in the qualifying area. The employer cannot use any other time periods to pro-rate the credit.

For example, if an HVAC employee works in several locations and is paid weekly, the contractor can claim the wage credit for the weekly pay periods during which the employee works "substantially all" of his or her time on a jobsite in an EZ or RC.

"Substantially all" is defined as 85% for the purposes of some tax incentives, but the regulations on the EZ and RC wage credits do not define the term. The employer must use the same method for all employees, but may change the method applied to all employees from one taxable year to another.

Empowerment Zones & Renewal Communities

Below is the list of designated EZs and RCs. To find out if your specific jobsite qualifies, check out *www.hud.gov/crlocator*.

State	Empowerment Zones	Renewal Communities
AL		Mobile, Green-Sumter, Southern Alabama
AR	Pulaski County	
AZ	Tucson	
CA	Fresno, Santa Ana, Los Angeles, Desert Communities	Los Angeles, San Diego, San Francisco, Orange Cove, Parlier
DC	Washington	
FL	Jacksonville, Miami-Dade County	
GA	Southwest Georgia United	Atlanta
IL	St. Louis-East St. Louis, Chicago, Southernmost Illinois Delta	Chicago
IN	Gary-Hammond-East Chicago	
KY	Kentucky Highlands	Eastern Kentucky
LA		Central Louisiana, Northern Louisiana, New Orleans, Ouachita Parish
MA	Boston	Lawrence, Lowell
MD	Baltimore	
ME	Aroostook County	
MI	Detroit	Detroit, Flint
MN	Minneapolis	
MO	St. Louis-East St. Louis	
MS	Mid-Delta EZ Alliance	West-Central Mississippi
ND	Griggs-Steele	Turtle Mountain Band of Chippewa
NJ	Cumberland County, Philadelphia-Camden	Camden, Newark
NY	Syracuse, Yonkers, New York	Buffalo-Lackawanna, Niagra Falls, Rochester, Schenectady, Jamestown
OH	Cincinnati, Columbus, Huntington-Ironton, Cleveland	Hamilton, Youngstown
OK	Oklahoma City	
PA	Philadelphia-Camden	Philadelphia
SC	Columbia-Sumter	Charleston
SD	Oglala Sioux-Pine Ridge	
TN	Knoxville	Chattanooga, Memphis
TX	San Antonio, El Paso, FUTURO, Rio Grande Valley	Corpus Christi, El Paso County
VA	Norfolk-Portsmouth	
VT		Burlington
WA		Tacoma, Yakima
WI		Milwaukee
WV	Huntington-Ironton	

Source: www.hud.gov/offices/cpd/economicdevelopment/programs/rc/tour/roundnumber.cfm

Ideal Businesses

Contractors can utilize the EZ or RC wage credits when they are:

- Expanding within an EZ or RC and hiring new employees
- Relocating to an EZ or RC jobsite that will have large hiring needs
- Recruiting employees frequently
- Maintaining a stable workforce of employees living in an EZ or RC
- Looking to reduce tax liability

Less Ideal Businesses

To qualify as EZ or RC business, contractors must meet the 35% resident employee requirement. (This means contractors must commit administrative resources to track qualifying employees, so double-check that the incentives offset the costs.) Also, the EZ or RC wage credit may not benefit contractors:

- Who do not have large tax liabilities
- Whose employees substantially spend all of their time (by pay period or on average over the calendar year) working outside an EZ or RC

Can a Jobsite Qualify?

A construction jobsite can qualify for the EZ or RC employment wage credits if employees reside in the EZ or RC and also substantially perform all of their work in the EZ or RC during the period.

So, if an employee works at a construction jobsite for substantially all of specified pay periods, the wages paid during those pay periods would qualify up to the maximum amount – provided the employee lives in the EZ or RC during that same period.

Other Tax Savings

Contractors can also pursue opportunities through the HUBZone program and save money through the Work Opportunity Tax Credit (WOTC) program.

HUBZone Program

The HUBZone Empowerment Contracting program is managed by the Small Business Administration (SBA). Created in 1997, the program allows certified businesses to compete for federal contracts, and provides local employment in distressed communities ranging from cities to rural areas and federally recognized Indian reservations. Eligible HUBZone contractors can also qualify for higher SBA-guaranteed surety bonds on construction and service contract bids. To qualify for the HUBZone program, a company must:

- Be a small business by SBA standards,
- Have a principal office in a HUBZone – however, regulatory changes accommodate contractors who assign personnel to on-site locations,
- Be owned and controlled by one or more U.S. citizens, and
- Have 35% of its employees residing in a HUBZone. (Employees must live in a primary residence within the HUBZone for at least 180 days or be a currently registered voter in that area.)

Go to ***http://map.sba.gov/hubzone/init.asp# address*** to see if your company is in a HUBZone. Designated areas typically overlap some of the same areas flagged for state programs.

The Work Opportunity Tax Credit Program

The Work Opportunity Tax Credit (WOTC) program encourages employers to hire job seekers from groups that experience employment barriers. To qualify for this credit, a contractor does not have to be in an EZ or RC.

Employers can earn up to $2,400 in WOTC tax credits for each individual hired from a disadvantaged group before January 1, 2006. (As of this article's press date, the legislation to extend the WOTC is working its way through Congress. Applications are still being accepted during the interim.)

The wages applied toward the WOTC cannot be included in the EZ or RC calculations. Employees qualify if they are designated by their state em-ployment security agency as a:

Recipient of Public Assistance – A participant in one of two programs: Qualified IV-A/Temporary Assistance for Needy Families (TANF) or Aid to Families with Dependent Children (AFDC). A member of a family household that has received public assistance TANF or AFDC for at least one day in each of nine months during the 18-month period ending on the hire date also qualifies.

Qualified Food Stamp Recipient – A person age 18-24 as of the hire date who is a member of a family household that has received food stamp assistance for the past six-month period ending on the hire date. In addition, a member of a family household qualifies if the family is no longer eligible under Section 6(o) of the *Food Stamp Act of 1977 (Pub. L. No. 95-113)* and has received food stamp assistance for at least three months within the last five months that end on the hire date.

Qualified Veteran – A veteran who is a member of a family household that has received food stamp assistance for at least a three-month period during the 12-month period ending on the hire date, and who has served on active duty for more than 180 days, or who has been discharged due to a service-related disability.

Qualified Ex-Felon – A person who has been hired within one year of the latest conviction or release from prison, and whose annualized income during the six-month period prior to the hire date is 70% or less of the federal Lower Living Standard Income Level (LLSIL).

High Risk Youth – Anyone who is 18-24 as of the hire date and whose principal residence is in an EZ or RC.

Summer Youth – A youth who is age 16 or 17 and lives in an EZ or RC.

Vocational Rehabilitation Referral – A person who has completed or is receiving rehabilitative services under an approved plan from the Vocational and Educational Services for Individuals with Disabilities, the Commission for the Blind and Visually Handicapped, or the VA.

SSI Recipient – An individual who is certified by the Social Security Administration or a state social services agency as receiving Supplemental Security Income (SSI) benefits for at least one day in any month ending within the 60-day period of the hiring date.

State Programs

Typically, states have similar programs, with variations in the amount of tax credits and eligibility requirements. Also, to encourage business development in rural communities, the rural areas within many states tend to have easier eligibility requirements and allow larger tax credits on:

- Sales tax exemptions for:
  - Equipment purchases
  - Electricity rate reduction
- EZ tax credits for:
  - Jobs creation tax credits
  - Sales tax refunds for equipment purchases
  - Sales tax refunds for building materials (businesses and individuals)
  - Reduced electricity rates
- Job training and retraining benefits

Conclusion

The tax incentives discussed in this article have various requirements and deadlines – and while some may be retroactive, others are not. For more information, refer to IRS Publication 954, *Tax Incentives for Distressed Communities* (revised January 2004).

These programs require some administrative work and there are costs involved, but it pays to analyze the potential payback. Contractors who meet the necessary requirements will lower their tax burden and put money back into their pocket. BP

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