

Revenue Ruling 19-2010-01

June 14, 2010

Application of 2010 House Bill 2554 to Business and Job Development Tax Credits

This Revenue Ruling provides guidance concerning how the Department of Revenue will administer Business and Job Development tax credits claimed for tax years commencing after December 31, 2010 and prior to January 1, 2013 pursuant to K.S.A. 2009 Supp. 79-32,160a and K.S.A. 2009 Supp. 79-32,153, as amended by Sections 9 and 10 of 2010 House Bill 2554. Sections 9 and 10 of 2010 House Bill 2554 prohibit claims for Business and Job Development tax credits for investment placed into service in tax years commencing after December 31, 2010, for any qualified business facility located in the metropolitan counties (Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte). House Bill 2554 was passed by the Kansas Legislature on May 7, 2010, signed by the Governor on May 17, 2010, and takes effect as of July 1, 2010.

The Business and Job Development tax credit must be claimed in the tax year in which the investment in a qualified business facility is completed and placed in service. If a taxpayer timely provides sufficient written proof to the Department that such taxpayer has commenced making a qualified business facility investment located in a metropolitan county on or prior to May 17, 2010 but such investment will not be completed and placed into service until after December 31, 2010 and prior to January 1, 2013, the Department will provide the taxpayer with a written determination that the taxpayer may claim Business and Job Development tax credits earned in tax year 2011 or 2012, for qualified business facility investment placed in service after December 31, 2010 and prior to January 1, 2013, and located in a metropolitan county, without regard to Sections 9 and 10 of 2010 House Bill 2554.

A taxpayer shall be considered to have commenced a qualified business facility investment as of the date the taxpayer has: (a) entered into a written contract for the construction or expansion of a qualified business facility (the project); (b) entered into a written contract for the financing of such project; or (c) provided other evidence satisfactory to the Department that the investment has commenced prior to May 17, 2010.

In order to be eligible to obtain from the Department the written determination discussed above, the taxpayer must complete and submit the attached form, including all requested information and documentation, to the Department not later than September 30, 2010.

The Department's written determination shall pertain only to the issue of whether the provisions in Sections 9 and 10 of 2010 House Bill 2554 prohibiting the Business and Job

Development credit for qualified business facility investment located in a metropolitan county and placed into service in tax year 2011 or 2012 shall apply to tax credits claimed for the project, when those credits arise from a qualified business facility investment placed in service after December 31, 2010 and prior to January 1, 2013, and commenced prior to May 17, 2010. Such written determination shall not constitute any determination as to whether the tax credit claim itself, or amount thereof, is valid.

If a taxpayer fails to timely apply by September 30, 2010 and obtain a written determination from the Department as set forth above, then the prohibition in Sections 9 and 10 of 2010 House Bill 2554 against claiming the Business and Job Development credit for qualified business facility investment located in a metropolitan county and placed into service during any tax year commencing after December 31, 2010 shall apply.

Taxpayers must file a copy of the written determination received from the Department with the return on which the Business and Job Development credits arising from the qualified business facility investment commenced on or prior to May 17, 2010 and placed into service after December 31, 2010 and prior to January 1, 2013, are claimed.

Secretary of Revenue

Joan Wagnon

INSTRUCTIONS

House Bill 2554, passed during the 2010 Legislative session, prohibits claims for Business and Job Development tax credits for investment placed into service in tax years commencing after December 31, 2010 for any qualified business facility located in the metropolitan counties of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte. If a taxpayer timely provides sufficient written proof to the Department that such taxpayer has commenced making a qualified business facility investment located in a metropolitan county prior to May 17, 2010 but such investment will not be completed and placed into service until after December 31, 2010 and prior to January 1, 2013, the Department will provide the taxpayer with a written determination that the taxpayer may claim Business and Job Development tax credits earned in tax year 2011 or 2012, for qualified business facility investment placed in service after December 31, 2010 and prior to January 1, 2013, and located in a metropolitan county, without regard to Sections 9 and 10 of 2010 House Bill 2554.

A taxpayer shall be considered to have commenced in a qualified business facility investment as of the date the taxpayer has: (a) entered into a written contract for the construction or expansion of a qualified business facility (the project); (b) entered into a written contract for the financing of such project; or provided other evidence satisfactory to the Department that the investment has commenced prior to May 17, 2010.

If a taxpayer fails to timely apply for and obtain a written determination from the Department as set forth above, then the prohibition in Sections 9 and 10 of 2010 House Bill 2554 against claiming the Business and Job Development credit for qualified business facility investment located in a metropolitan county and placed into service during any tax year commencing after December 31, 2010 shall apply.

All applications (including all documentation) for a written determination by the Kansas Department of Revenue must be provided to the Department by **September 30, 2010**. Applications may be mailed to Kansas Department of Revenue, Office of Policy and Research, Room 230, 915 SW Harrison St, Topeka, KS 66612-1588, faxed to 785-296-7928, or emailed to kathleen_smith@kdor.state.ks.us.

- Line (1) Enter the name and EIN of the taxpayer and check the appropriate box identifying the business type. If the business is a sole proprietorship, enter the SSN of the owner.
- Line (2) Print the name, email address, telephone number, and fax number of the individual to be contacted regarding this application.
- Line (3) Enter the complete mailing address of the taxpayer.
- Line (4) Enter the street address, city, state, zip and county of the qualified business facility.
- Line (5) Indicate the estimated qualified business facility investment to be made in whole dollars.
- Line (6) Indicate the estimated number of qualified business facility employees to be hired as a result of the qualified business facility investment to be made.
- Line (7) Indicate the estimated completion date as to when the qualified business facility investment will be placed into services (month/day/year). All investment must be placed into service by December 31, 2012.
- Line (8) **ATTACH** documentation to indicate that the taxpayer has commenced making a qualified business facility investment prior to May 17, 2010. **If no documentation is provided, the application for a written determination shall be denied.**
- Signature The name of the taxpayer as well as the authorized representative should be typed or printed in the area provided. The authorized representative must also sign the application and provide a phone number where they can be reached during business hours.

Upon review of this application for a written determination, the Kansas Department of Revenue will **email** all correspondence to the taxpayer. If no email address is given, the Department will send all correspondence to the mailing address that has been provided on the application.