

Effective 9/1/2015

Superseded 5/10/2016

63N-2-104 Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office, with advice from the board, may create an economic development zone in the state if the following requirements are satisfied:

- (a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan;
- (b) the request to create a development zone has first been approved by an appropriate local government entity; and
- (c) local incentives have been or will be committed to be provided within the area.

(2)

(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:

- (i) the new commercial project is within the development zone;
- (ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;
- (iii) the new commercial project brings new incremental jobs to Utah;
- (iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors and providers in the state, or a combination of these three economic factors;
- (v) the new commercial project generates new state revenues; and
- (vi) a business entity, a local government entity, or a community development and renewal agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105.

(3)

(a) The office, after consultation with the board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.

(b)

- (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.
- (ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c)

(i) Except as provided in Subsection (3)(c)(ii), the office may not authorize or commit to authorize a tax credit that exceeds:

- (A) 50% of the new state revenues from the new commercial project in any given year; or
- (B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.

(ii) If the eligible business entity makes capital expenditures in the state of \$1,500,000,000 or more associated with a new commercial project, the office may:

- (A) authorize or commit to authorize a tax credit not exceeding 60% of new state revenues over the lesser of the life of the project or 20 years, if the other requirements of this part are met;
 - (B) establish the year that state revenues and incremental jobs baseline data are measured for purposes of an incentive under this Subsection (3)(c)(ii); and
 - (C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive previously granted under Subsection (3)(c)(i) that is based on the baseline measurements described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to authorize a tax credit of more than 60% of new state revenues in any one year.
- (d)
- (i) A local government entity may by resolution assign a tax credit authorized by the office to a community development and renewal agency.
 - (ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.
 - (iii) If a local government entity assigns a tax credit to a community development and renewal agency, the written agreement described in Subsection (3)(a) shall:
 - (A) be between the office, the local government entity, and the community development and renewal agency;
 - (B) establish the obligations of the local government entity and the community development and renewal agency; and
 - (C) establish the extent to which any of the local government entity's obligations are transferred to the community development and renewal agency.
 - (iv) If a local government entity assigns a tax credit to a community development and renewal agency:
 - (A) the community development and renewal agency shall retain records as described in Subsection (4)(d); and
 - (B) a tax credit certificate issued in accordance with Section 63N-2-106 shall list the community development and renewal agency as the named applicant.
- (4) The office shall ensure that the written agreement described in Subsection (3):
- (a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;
 - (b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;
 - (c) establishes the length of time the business entity or local government entity may claim a tax credit;
 - (d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and
 - (e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.