



SC PRIVATE LETTER RULING #94-5 (TAX)

TO: ABC

SUBJECT: Job Tax Credit
(Income Tax)

DATE: May 27, 1994

REFERENCE: S. C. Code Ann. Section 12-7-1220 (Supp. 1993)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (Supp. 1993)
SC Revenue Procedure #94-1

SCOPE: A Private Letter Ruling is an official advisory opinion issued by the Department of Revenue to a specific person.

NOTE: A Private Letter Ruling may only be relied upon by the person to whom it is issued and only for the transaction or transactions to which it relates. A Private Letter Ruling has no precedential value.

Question:

Based upon the facts presented, will the full-time jobs created by ABC qualify for the five year job tax credit provided in Code Section 12-7-1220 if the jobs are initially staffed at a leased facility in XYZ Park in D County while ABC's permanent facility is being constructed in the same industrial park?

Conclusion:

Based upon the facts presented, the full-time jobs created by ABC, at a leased facility in XYZ Park in D County and transferred to a new, permanent facility in the same industrial park upon completion will qualify for the job tax credit of \$1000 and the additional job tax credit of \$500 for five years beginning with years two through six after the creation of the jobs, provided all other requirements of Code Section 12-7-1220 are met.

NOTE: This document provides no opinion as to the job tax credit consequences if ABC, locates in a different county or moves to another county having a different job tax credit dollar amount.

Facts:

ABC, is a recently formed South Carolina corporation that will manufacture precision metal components for sale to automobile manufacturers. The company plans to begin training employees in South Carolina during April 1994 and begin production during July 1994. The company will hire at least 10 new full time employees to fill new jobs no later than September 30, 1994, ABC's tax year end.

Due to its training requirements and its customer contracts, ABC, is in immediate need of a manufacturing facility. ABC, will lease a manufacturing facility located in XYZ Park on X Road in D County. The company will occupy the leased facility until construction of its permanent facility is complete. Upon completion, the employees will move to the permanent facility that will also be located in XYZ Park.

XYZ Park will be classified as a multi-county industrial park, pursuant to Section 13, Article VIII of the South Carolina Constitution and Section 4-1-170, no later than September 30, 1994, ABC'S tax year end. D County, a developed county for purposes of the job tax credit, and E County, a less developed county for purposes of the job tax credit, will participate in the industrial park.

Discussion:

JOB TAX CREDIT

Code Section 12-7-1220(A) provides that corporations which create new full-time jobs qualify for the appropriate tax credit as provided in subsections (B), (C), and (D). The subsections provide, in part:

(B) Corporations operating manufacturing...facilities in counties designated by the commission as less developed are allowed a job tax credit for taxes imposed by Section 12-7-230...equal to one thousand dollars annually for each new full-time employee job for five years beginning with years two through six after the creation of the job. The number of new full-time jobs must be 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 corresponding period of the prior taxable year. Only those corporations that increase employment by ten or more in a less developed county are eligible for the credit. Credit is not allowed during the five years if the net employment increase falls below ten. The appropriate commission shall adjust the credit allowed each year for net new employment fluctuations above the minimum level of ten.

(C) Corporations operating manufacturing...facilities in counties that have been designated by the commission as moderately developed are allowed a job tax credit for taxes imposed by Section 12-7-230...equal to six hundred dollars annually for each new full-time employee job for five years...

(D) Corporations operating manufacturing...facilities in counties designated by the commission as developed are allowed a job tax credit for taxes imposed by Section 12-7-230...equal to three hundred dollars annually for each new full-time employee job for five years...

Therefore, the credit for each new full-time employee job is \$1000.00 to corporations with a minimum increase of 10 jobs in less developed counties, \$600.00 to corporations with a minimum increase of 18 jobs in moderately developed counties and \$300.00 to corporations with a minimum increase of 50 jobs in developed counties.

In accordance with Code Section 12-7-1220(A), the South Carolina Department of Revenue ranks South Carolina counties as less developed, moderately developed and developed each year for computation of the new job tax credit. This ranking of a county by the Department of Revenue is effective for corporate tax years which begin after the date of designation.

For tax years of permanent business enterprises which began after December 31, 1993, the Department of Revenue ranked D County as a developed county. This designation generally allows corporations a \$300.00 job tax credit for each new full-time job created in D County. However, Code Section 12-7-1220(I), provides an exception to this designation for permanent business enterprises that locate in a multi-county industrial park. Code Section 12-7-1220(I) reads, in part:

Notwithstanding which of the participating counties where the permanent business is located, for purposes of the regular job tax credits authorized by subsections (B), (C), and (D), the participating county which would qualify for the greatest dollar amount of job tax credit is the county the permanent business enterprise is deemed to be located in regardless of whether or not it actually is located in another participating county.

Therefore, for purposes of the regular job tax credit, ABC, is deemed to create jobs in E County, the county participating in the industrial park which qualifies for the largest dollar credit, whether or not ABC, is actually located in that participating county.

ADDITIONAL JOB TAX CREDIT FOR MULTI-COUNTY INDUSTRIAL PARKS

In addition to the regular job tax credit provided above, subsection (I) provides an additional \$500.00 job tax credit for each new full-time job created by corporations located in a multi-county industrial park. Subsection (I) reads, in part:

(I) Permanent business enterprises engaged in manufacturing...industries in a business or industrial park jointly established and developed by a group of counties pursuant to Section 13, Article VIII of the Constitution of this State are allowed an additional job tax credit for taxes imposed by Section 12-7-230, in addition to those job tax credits already authorized by this section, equal to five hundred dollars annually for each new full time employee job for five years beginning with years

two through six after the creation of the job. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to South Carolina income tax withholding for the taxable year with the corresponding period of the prior taxable year...

DEFINITIONS

Finally, we must determine if ABC, is a corporation that will create new full-time jobs in South Carolina as provided in Code Section 12-7-1220. The definition for the terms "new job", "full-time" and "manufacturing facility" are provided in subsection (H) and read:

(1) "New job" means a job created by an employer in South Carolina at the time a new facility or an expansion initially is staffed but does not include a job created when an employee is shifted from an existing South Carolina location to a new or expanded facility.

(2) "Full-time" means a job requiring a minimum of thirty-five hours of an employee's time a week for the entire normal year of company operations or a job requiring a minimum of thirty-five hours of an employee's time for a week for a year in which the employee was hired initially for or transferred to the South Carolina facility.

* * *

(4) "Manufacturing facility" means an establishment where tangible personal property is produced or assembled.

Based upon the facts presented in this ruling and by the taxpayer, ABC, will meet the requirements, and will be allowed to claim the regular job tax credit and the additional job tax credit for five years beginning with years two through six after the creation of the jobs, provided all the statutory requirements are met. The fact that ABC will move from its leased facility in XYZ Park in D County to its permanent facility in the same industrial park in the same county will not affect the computation of the credit.