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State of South Carolina  
**Department of Revenue**  
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

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SC REVENUE RULING # 97-8

**SUBJECT:** Availability of Economic Impact Zone Investment Tax Credit

**EFFECTIVE DATE:** Applies to all periods open under the statute.

**SUPERSEDES:** All previous documents and any oral directives in conflict herewith.

**REFERENCES:** S. C. Code Ann. Section 12-14-30 (Supp. 1996)  
S.C. Code Ann. Section 12-14-60 (Supp. 1996)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 1996)  
SC Revenue Procedure #94-1

**SCOPE:** A Revenue Ruling is the Department of Revenue's **official advisory opinion** of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

Must a taxpayer be an "economic impact zone business" as that term is defined in Code Section 12-14-70 to be eligible for the "economic impact zone investment tax credit" described in Section 12-14-60 of the South Carolina Code of Laws ?

Conclusions:

A taxpayer is not required to be an "economic impact zone business" as that term is defined in Code Section 12-14-70 in order to claim the economic impact zone investment tax credit provided in Section 12-14-60 of the South Carolina Code of Laws.

Discussion:

Section 12-14-60 provides an investment tax credit for certain property that is placed in service in an "economic impact zone." Section 12-14-60 states:

(A) There is allowed as a credit against the tax imposed pursuant to Chapter 7 [SIC] of this title an economic impact zone investment tax credit for any taxable year in an amount equal to five percent of the aggregate bases of economic impact zone qualified manufacturing and productive equipment properties placed in service during such taxable year in the economic impact zone.

(B) For purposes of this section:

(1) "economic impact zone qualified manufacturing and productive equipment property" means any property:

(a) which is used as an integral part of manufacturing, production, or extraction of or furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services in the economic impact zone;

(b) which is tangible property to which Section 168 of the Internal Revenue Code applies;

(c) which is Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code); and

(d) (i) the construction, reconstruction, or erection of which is completed by the taxpayer in the economic impact zone; or

(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer inside the economic impact zone.

(2) In the case of any computer software which is used to control or monitor a manufacturing or production process inside the economic impact zone and with respect to which depreciation (or amortization in lieu of depreciation) is allowable, the software must be treated as qualified manufacturing and productive equipment property.

(C) This section does not apply to any property to which the other tax credits would apply unless the taxpayer elects to waive the application of the other credits to the property.

Section 12-14-30 provides:

- (1) An “economic impact zone” is a county or municipality, any portion of which is located within fifty miles of the boundaries of an applicable federal military installation or an applicable federal facility, and any area not otherwise included as part of the economic impact zone if the State Budget and Control Board determines the area to be adversely impacted by the closing, realignment, or downsizing of an applicable federal military installation or an applicable federal facility.
- (2) An “applicable federal military installation” is one which is closed or realigned under:
  - (a) the Defense Base Closure and Realignment Act of 1990;
  - (b) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act; or
  - (c) Section 2687 of Title 10, United States Code.
- (3) An “applicable federal facility” is one which is:
  - (a) a federal facility that has reduced its permanent employment by three thousand or more jobs after December 31, 1990;
  - (b) Reserved.

Section 12-14-70 of the South Carolina Code of Laws defines an "economic impact zone business." “Economic impact zone business” is a defined term that is used in Section 12-14-50 (which allows a deduction to taxpayers that invest in “economic impact zone stock” issued by a qualifying “economic impact zone business”) and Section 12-14-70 of the Code. It is not used anywhere in Section 12-14-60 and has no relevance to the economic impact zone investment tax credit.

The general rule of statutory construction is that nothing can be read into a statute which is not within the intent of the legislature as gathered from the statute itself. See, Laird v. Nationwide Insurance Co., 243 SC 388, 134 S.E. 2d 206 (1964). Where the language of a statute is clear and leaves no room for doubt as to the intention of the legislature, there is no authority to add or take away from the language in the statute. See, Hartford Accident and Indemnity Co. v. Lindsay, 273 S.C. 79, 254 S.E. 2d 30 (1979). Another rule of statutory construction is that a condition or restriction should not be implied if the right granted by the statute is unrestricted and it will be presumed that the legislature did not intend to restrict the use of the statute to a particular class of persons or things when it has included in the general language of the statute a number of persons or entities without limitation. 73 Am. Jur. 2d Statutes Sections 198 and 199. Furthermore, one cannot

construct or insert words or phrases into the language of a statute to address a subject which the statute does not address or even contemplate. 73 Am. Jur. 2d Statutes Section 203.

Looking at the economic impact zone investment tax credit statute (SC Code Section 12-14-60), it does require that the property be “economic impact zone qualified manufacturing and productive equipment property” and that the property be placed in service in an economic impact zone, however, the statute makes no mention that the taxpayer placing the property in service be an “economic impact zone business” as that phrase is defined in Section 12-14-70 of the South Carolina Code of Laws. Adopting the provisions of statutory construction cited above dictates the conclusion that a taxpayer does not have to be an “economic impact zone business” in order to be eligible to claim the economic impact zone investment tax credit provided in Section 12-14-60 of the South Carolina Code of Laws.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank, III, Director

Columbia, South Carolina  
July 22 \_\_\_\_\_, 1996