Incentives Update

NEW JERSEY'S BEIP FUNDING

Current Legislation Update

A Cushman & Wakefield Business Incentives Practice Update

Executive Summary

On January 11, 2016, a key bill regarding New Jersey's Business Employment Incentive Program (BEIP) was passed and signed into law by Governor Christie. This bill represents a solution to unpaid BEIP rebates that New Jersey businesses have long been waiting for. The new law allows eligible companies to voluntarily convert grant funds into refundable tax credits, and demonstrates the states eagerness to fulfill its obligations to New Jersey companies and continue to partner in creating more business opportunities across the state.

A Closer Look

In 1996, New Jersey's Business Employment Incentive Program was introduced as a powerful economic development tool used to encourage businesses to locate and expand throughout the state. Under BEIP, businesses creating at least 25 new full-time jobs in urban-aid communities, or at least 75 jobs elsewhere in the state, were awarded cash grants. Twenty-years later, the New Jersey Economic Development Authority executed nearly 500 BEIP grant agreements worth more than $1.5 billion resulting in the creation of over 110,000 new jobs and more than $12 billion in total capital investment. However, due to budget constraints, the program was discontinued in 2013.

In an effort to streamline a number of the state's subsidy programs, the New Jersey Economic Opportunity Act of 2013 was introduced. Leading to the discontinuation of BEIP, this act restructured a number of the state's incentive programs by consolidating five existing programs into two: the Grow New Jersey Assistance Program and the Economic Redevelopment and Growth program. Ultimately, these changes strengthened New Jersey's economic development efforts and enabled the state to target more companies. Although the new law did not cancel any future disbursements of previously approved BEIP funds, legislators failed to appropriate funds to meet the state's commitments for existing grant payments. After being underfunded for the past eight years, Senate Bill No. 3232 offers a solution to the backlog of due grant payments.

Senate Bill No. 3232

Created by legislators and the New Jersey Economic Development Authority ("NJEDA" or "the Authority"), Senate Bill No. 3232 allows companies due to receive grant funds under BEIP to make an irrevocable election to convert grant funds to refundable tax credits. In order to take advantage of the new law, companies must make this election within 180 days of the passing of this legislation. Tax credits and/or grant funds may not be less than 10% or more than 50% of the company's withholdings, or less than 10% or more than 30% of the company's withholdings if utilized by an eligible partnership on behalf of the company. Projects promoting smart growth and the goals, strategies, and policies of the State Development and Redevelopment Plan may be eligible to receive an award of up to 80% of the company's withholdings, or up to 50% of the estimated tax if utilized by an eligible partnership. In order to remain eligible, projects must remain at the project site for a minimum of 1.5X's the length of the grant; in addition to submitting New Jersey Tax Returns, an appropriate form of ownership, and documentation reflecting the businesses income and activity for each taxable year grant funds are claimed.

The new law includes a repayment structure that manages the fiscal effect on New Jersey in any one year, while also allowing for the issuance of tax credits. For companies that accrued BEIP grant funds but did not receive payments during the years 2008-2015 and through 2025, the payment schedule is as follows:

- For a grant accrued but not paid in 2008-2013, tax credits will be issued in five installments (30% in year one, 30% in year two, 20% in year three, 10% in year four, and 10% in year five) beginning in fiscal year 2017;

- For a grant accrued but not paid during calendar years 2014 and 2015, tax credits will be issued in four equal installments over a four year period beginning in 2019;
- For a grant accrued but not paid during calendar years 2016 and 2017, tax credits will be issued in three equal installments over a three year period beginning in 2020;
- For a grant accrued but not paid during calendar years 2018 and 2019, tax credits will be issued in two equal installments beginning in 2022;
- For a grant accrued but not paid during calendar years 2020-2023, tax credits will be issued in two equal installments over a two year period beginning in 2023; and
- For a grant accrued but not paid during calendar years 2024 and 2025, tax credits will be issued in 2025.

Awarded tax credits may be applied against a Company's corporate income or insurance premium tax. In the event that the credits awarded exceed the amount of tax liability due, companies will be refunded. Companies that don't pay applicable taxes may apply to the executive director of the Authority for a tax credit transfer certificate. Tax credits may then be sold to another company that can utilize them in full or in part, in an amount not less than $100,000. The sale of such tax credits may not be exchanged for less than 75% of the transferred amount. In no event will the grant term exceed 10 years.

The Authority anticipates that by March 2016, businesses will be able to opt-in and utilize this new law via an online portal available on their website. Until then, companies may call and place their requests with their point of contact at NJEDA.

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