

December 29, 2006

Dear JCTC Grantee:

The Ohio Department of Development (ODOD) and the Ohio Department of Taxation (Taxation) have begun working together to ensure that the transition of Job Creation Tax Credit (JCTC) credits from the corporate franchise tax (CFT) or personal income tax (PIT) to the commercial activity tax (CAT) will be seamless.

Part of Ohio's tax reform package passed in June 2005 included provisions to shift the JCTC from a credit claimed against the CFT and PIT to a credit claimed against the CAT. Pursuant to Section 122.17(B) of the Ohio Revised Code as amended on June 30, 2005, taxpayers subject to the CAT must claim any JCTC credits against the CAT for tax periods ending after June 30, 2008.

This advisory, jointly approved by ODOD and Taxation, outlines the procedures that both departments intend to follow in implementing this transition and advise taxpayers with JCTC agreements of key issues that they should be aware of and make arrangements to handle.

If your company currently has an active JCTC agreement but does not anticipate being subject to the CAT as of July 1, 2008, please contact the ODOD's Office of Tax Incentives soon so that we may discuss your specific situation. This situation, while possible, is not expected to occur with any frequency and will be handled on an individual basis. If you have questions about whether or not your company is subject to the CAT, please visit http://www.tax.ohio.gov/divisions/commercial_activities/index.stm or call (888) 722-8829.

The conversion process will impact several elements of the process for filing reports and claiming JCTC credits. Several of these areas are discussed in detail below.

Filing of annual progress reports. ODOD does not anticipate that the procedure for issuing tax credit certificates will change as a result of the transition to claiming JCTC credits against the CAT. JCTC recipients will continue to file annual progress reports with ODOD prior to March 1 for all tax credit periods ending in the previous calendar year. (For example, companies with JCTC reporting periods ending January 30, 2007 will file their JCTC annual progress report for the period from February 1, 2006 - January 30, 2007 prior to March 1, 2008.)

CFT taxpayers. For CFT taxpayers, JCTC certificates issued prior to May 31, 2008, must be claimed against the CFT. This date was chosen to correspond to the last date to timely pay all CFT liability for tax year 2008. Tax credits from JCTC certificates issued after May 31, 2008 must be claimed against the CAT. To facilitate a smooth transition, ODOD does not anticipate issuing any JCTC certificates during June 2008.

Beginning July 1, 2008, taxpayers subject to the CAT must claim credits based on any newly issued JCTC certificates against the CAT. Taxpayers may claim JCTC credits as soon as the first CAT filing after the JCTC certificate is issued, but no later than the CAT filing for the period in which the JCTC certificate was issued. In general, this applies to all JCTC certificates issued

beginning July 1, 2008, regardless of the time period covered by the JCTC certificate. For example, if a JCTC certificate is not issued for the JCTC reporting period ending December 31, 2006 until September 15, 2008 due to efforts by ODOD and the taxpayer to resolve questions regarding the 2006 annual progress report, the taxpayer should claim the JCTC certificate on its November 9, 2008 CAT filing (for a quarterly CAT filer).

Requirement to file JCTC certificate with the return. Prior to July 2005, companies were permitted to claim JCTC credits under the CFT or PIT without attaching a tax credit certificate to their tax return. Taxpayers are advised that pursuant to amended R.C. 122.17(H), for any request made on or after March 30, 2006, taxpayers must attach a copy of the JCTC certificate with any return that is filed which claims any portion of the JCTC credit. If the taxpayer fails to attach a copy of the JCTC certificate with the return, the taxpayer must supply the JCTC certificate within 60 days of Taxation's request. Failure to do so will prevent the taxpayer from being able to claim the JCTC credit. If the taxpayer claims a JCTC credit under CFT or PIT without attaching a JCTC certificate, those same credits may not be claimed a second time under the CAT by attaching a JCTC certificate. If a taxpayer is issued an amended JCTC certificate and the credits provided under the original JCTC certificate have already been claimed, the taxpayer must file an amended return for the return on which the JCTC credits were initially claimed.

Revised JCTC annual progress report. With the 2006 JCTC annual progress report to be filed prior to March 1, 2007, ODOD will request that taxpayers provide ODOD with their CAT account number so that ODOD can begin the process of cataloging and verifying CAT account numbers in our records. ODOD anticipates requiring the CAT account number for the 2007 JCTC annual progress report to be filed prior to March 1, 2008.

PIT taxpayers (including Pass-Through Entities (PTE)). Taxation and ODOD will be working on a proposal to present to the General Assembly to clarify how individuals and PTE will claim JCTC credits. This method will most likely include an election such that if the PTE is subject to the CAT, the PTE can elect either to claim the credit against the CAT or against the PIT. Taxation and ODOD will issue specific guidelines addressing PIT and PTE prior to July 1, 2008.

ODOD and Taxation hope that the information outlined above is helpful. If you require additional clarification on the issues that we have raised here or believe that there are additional issues that we should address, please contact Steve Schoeny, manager of the Ohio Department of Development's Office of Tax Incentives, at sschoeny@odod.state.oh.us or 614-752-9690.

Sincerely,

Steve Schoeny
Manager of Tax Incentives
Ohio Department of Development