



# *ENHANCED ENTERPRISE ZONE TAX CREDIT PROGRAM*

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## Notice of Intent (NOI) Application & Guidelines

November 2009

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### REQUIREMENTS

- Multiple Worksite Report – If there are multiple facilities within the state, the business / organization is required to complete the Multiple Worksite Report (MWR) – BLS 3020 for the duration of the program benefits, including the twelve (12) months previous of the submission date of the Notice of Intent.
- Memorandum of Understanding (MOU) - A copy of the executed MOU between the company / organization and the Department of Homeland Security, United States Citizenship and Immigration Services (DHS-USCIS) and the Social Security Administration. **Must be electronically signed by company & DHS-USCIS.**
- Base Employees – Shall include employee name, last 4 of ssn and date hired of all current employees.

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# Program Guidelines

The Enhanced Enterprise Zone program provides a state income tax credit to a business based on various criteria, including geographic limits, per project caps and the new payroll and investment created by the project (Section 135.950 – 135.973, RSMo). These guidelines are for guidance only and do not state the complete law.

## Business Eligibility

- Located within a Missouri Enhanced Enterprise Zone.
- Meets the definition of an Enhanced Business Enterprise (see Definitions). Each Enhanced Enterprise Zone determines its own Enhanced Business Enterprises.
- The following minimum new employee and new investment requirements must be met as compared to the Base Year. These minimums must be maintained as an annual (tax year) average in order to receive state tax benefits each tax year during the benefit period.
  - The following are prohibited from receiving the state tax credits:
    - Retail trade (NAICS sectors 44 and 45)
    - Educational services (NAICS sector 61)
    - Gambling establishments (NAICS industry group 7132)
    - Food & drinking places (NAICS subsector 722)
    - Religious organizations (NAICS industry group 8131)
    - Public administration (NAICS sector 92)
  - However, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory.
  - Service industries can be eligible if a majority of their annual revenues will be derived from services provided out of state.
- **New or Expanded Business Facility** – Two (2) New Business Facility Employees AND \$100,000 New Business Facility Investment greater than the Base Year.
- **Replacement Business Facility** – Two (2) New Business Facility Employees AND \$1,000,000 New Business Facility Investment greater than the Base Year.

## Program Benefits

### **State Tax Credits:**

Tax credits may be provided each year for five tax periods after a facility receives approval of their Notice of Intent, based on tax credits reserved for the project. The following formula is used to determine the annual amount of tax credits reserved, not to exceed the lesser of \$500,000 per project per year or:

- **New Investment Tax Credit:** .5% of New Business Facility Investment over the Base Year per year for five tax periods.
- **New Payroll Tax Credit:** 2% of New Payroll per year for five tax periods.

A company may request a proposal for one additional 5-year period for a subsequent expansion if all program and minimum new job/investment requirements are met.

For competitive, high impact (high wages, high number of jobs and/or high dollar investment) projects, the formula amount may be increased and extended to ten years at the discretion of DED, not to exceed the lesser of \$500,000 per project per year or the statutory maximum.

### **Local Real Property Tax Abatement:**

An Enhanced Business Enterprise will receive at least 50% abatement of new real property taxes on subsequent improvements to real property for a minimum of ten years. At the zone's discretion, this benefit can be increased to a maximum of 100% abatement for 25 years. No exemption shall be granted for a period more than 25 years following the date on which the original enhanced enterprise zone was designated by the department.

## APPLYING – SEQUENCE OF EVENTS

### Proposal & Notice of Intent

1. DED must first offer program benefits to the business in the form of a formal proposal.
2. The business then submits a Notice of Intent which must be approved by DED prior to adding new jobs or new capital investment. Notices of Intent will be accepted by DED at any time of the year and will be approved on an individual, case-by-case basis, based on compliance with all program criteria.
3. Approvals will confirm eligibility and reserve tax credits for the project. Projects relocating employees from one Missouri location to another Missouri location must obtain the endorsement of the governing body of the community from which the jobs are being relocated and include this endorsement with the Notice of Intent.

### Annual Application for Tax Credits Deadline

1. The facility must file the Annual Application for Tax Credits and supporting documents each year for calculation of the facility's state tax benefits.
2. The first Annual Application for Tax Credits and supporting documents can be filed immediately following the end of Year 1 tax period (in which the Notice of Intent was approved). Failure to provide the documents within 12 months after the end of the tax period will result in the reserved tax credits being rescinded for all years approved.
3. If the minimum new job and new capital investment requirements have not been met at least one full month prior to the last day of the tax year in which the Notice of Intent is approved, then the first year of benefits can be deferred one tax period. The first year of benefits cannot be deferred past the tax year following the Notice of Intent.
4. Annual Applications for Tax Credits and supporting documents in subsequent years are due anytime within 12 months after the end of the tax period. Failure to comply with this deadline will result in all remaining tax credits being rescinded

**Pursuant to Section 620.1900, RSMo, this tax credit program is subject to a fee of 2.5% of the amount of tax credits issued. Applicants will be invoiced for the fee after the tax credit application has been approved. Tax credits will be issued upon receipt of the fee.**

## TAX CREDITS

The tax credits can be applied to Ch. 143 – Income tax, excluding withholding tax, for tax liability in the year in which they were earned.

**Claiming:** To claim earned tax credits, enter the amount of the tax credit being claimed on the Missouri Form MO-TC and on the appropriate line of your state tax return.

**Transferring:** These tax credits may be transferred, sold or assigned. The sale price CANNOT be less than 75% of the par value of such tax credits. To transfer any part of this tax credit, you must complete Missouri Form MO-TF. Upon receipt of the MO-TF, the transferor will be notified of the remaining portion of tax credits not transferred, if any, and the transferee will be notified of the amount of tax credits transferred.

**Refund:** The Department of Revenue will issue a refund to the taxpayer for the amount of tax credits that exceeds the amount of the taxpayer's income tax liability.

## PROGRAM RESTRICTIONS

### **Restrictions:**

1. The expansion, acquisition or replacement of the business facility cannot occur prior to the zone's designation date OR prior to the business filing the EEZ Notice of Intent.
2. A facility cannot earn benefits under this program if earning Rebuilding Communities, EZ (Enterprise Zone), BFC (Business Facility), Missouri Quality Jobs or Brownfield Jobs & Investment tax credits. If a facility is eligible for more than one program, the business must choose only one program.
3. Benefits cease if a facility moves from the initial qualifying address or if the company fails to create or maintain the minimum number of new jobs and investment.
4. This program has an annual calendar year cap for tax credits authorized of fourteen million dollars (\$14,000,000) until August 28, 2008. At which time the annual cap will increase to twenty four million dollars (\$24,000,000).

## CERTIFICATION & E-VERIFY

The Memorandum of Understanding Certification certifies that your organization does not employ illegal immigrants (undocumented workers) and the information contained in the application is true, correct, and complete.

The **E-Verify Program**, conducted jointly by the U.S. Citizenship and Immigration Services (USCIS) Verification Division and the Social Security Administration (SSA) is designed to provide employment status information to determine the eligibility of applicants for employment.

E-Verify program requires participating commercial employers use the automated Verification Information System (VIS) to check the SSA and the USCIS databases to verify the employment authorization of **ALL** newly hired employees.

To certify that your business / organization do not employ illegal immigrants, **all applicants must:**

Enroll in E-Verify. Currently an employer's participation in E-Verify is free. To access E-Verify website, go to: <https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES>

- 
- Check the box on the Certification confirming enrollment and participation in E-Verify
- Provide supporting documentation by including a copy of the executed Memorandum of Understanding.

## Definitions

These are for guidance only and do not state the entire law. Refer to Section 135.950, RSMo, for the complete definition.

**Base Year:** The twelve (12) months preceding the Notice of Intent date.

**Enhanced Business Enterprise:** An industry or one of an industry cluster that is either identified by DED as critical to the state's economic security and growth or will have an impact on industry cluster development as identified by the governing authority of an Enhanced Enterprise Zone and approved by DED. Retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61), gambling establishments (NAICS industry group 7132), food & drinking places (NAICS subsector 722), religious organizations (NAICS industry group 8131) and public administration (NAICS sector 92) are prohibited from receiving the state tax credits. Service industries with 50% or less of annual revenues derived from services provided out of state are excluded as Enhanced Business Enterprises.

**Enhanced Enterprise Zone:** Specified geographic areas designated by local governments and certified by DED. Zone designation is based on certain demographic criteria, the potential to create sustainable jobs in a targeted industry and a demonstrated impact on local industry cluster development.

**Existing Business Facility:** Any facility in this state which was in operation by the taxpayer claiming the credit in the operation of an Enhanced Business Enterprise immediately prior to an expansion, acquisition, addition or replacement.

**Expanding Business Facility:** Any facility in this state which was in operation by the taxpayer within the Enhanced Enterprise Zone that will create at least 2 new jobs and \$100,000 in new investment and receives DED approval for the facility expansion.

**NAICS (North American Industry Classification System):** The Federal Office of Management and Budget (OMB) adopted the NAICS as the industry classification system used by the statistical agencies of the United States. NAICS replaces the 1987 Standard Industrial Classification (SIC). The NAICS is used for classifying business establishments to assist with gathering data related to measuring productivity, unit labor costs, and the capital intensity of production, employment and other information. Missouri businesses are assigned a NAICS when the company files a "Report to Determine Liability Status" with the Missouri Department of Labor and Industrial Relations, Division of Employment Security to determine Unemployment Tax Liability. Normally, a general business employer becomes liable for the tax and responsible for providing unemployment insurance for its workers when it:

- Pays \$1,500 in wages (cash and in-kind) in a calendar quarter, or
- Has an employee in some portion of a day in each of 20 different weeks, or
- Becomes liable under the Federal Unemployment Tax Act (FUTA) and employs a worker in Missouri, or
- Acquires and continues without interruption substantially all the business of a liable employer.

**Net Monthly Rental Lease Rate:** Monthly rental / lease rate paid by the taxpayer for real and tangible personal property in use at this facility (land, building, machinery, equipment, furniture, fixtures and other depreciable tangible personal property, but not inventories) less any monthly rental / lease rates received by the taxpayer from sub-rentals or subleases.

**New Business Facility:** Any facility in the state that is new to the taxpayer in the operation of an Enhanced Business Enterprise and is not a replacement facility. Such facility must have been acquired by or leased to the taxpayer after December 31, 2004, and must not have begun hiring new jobs prior to the zone's designation date or the approval date of the NOI by DED. **If the facility was acquired from another taxpayer, the operation cannot be the same or substantially similar.**

**Replacement Business Facility:** A facility otherwise described as 'New Business Facility', hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met—

- a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and
- b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility.

Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as defined under "New Business Facility Investment" in these guidelines, in the new facility during the tax period for which the credits allowed in Missouri Revised Statutes, Section 135.967 are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two.

**Related Taxpayer:**

- a) A corporation, partnership, trust, or association controlled by the taxpayer; or
- b) An individual, corporation, partnership, trust, or association in control of the taxpayer; or
- c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer.

**Note:** "Controlled by" or "in control of" means 50% or more of ownership.

**New Business Facility Employee:** A person employed by the Enhanced Business Enterprise on a regular, full-time basis an average of at least 35 hours per week as well as receiving health benefits of which at least 50% is paid by the employer. Contract employees, truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees.

**New Business Facility Investment:** The value of the real and depreciable tangible personal property of the facility's land, buildings, furniture, fixtures, machinery, equipment (excluding inventory) if owned by the taxpayer, or eight times the net annual rental rate if leased, in use by the taxpayer during the taxable year for which tax credits are being claimed. If taking the Lease option, a Lease Agreement must be submitted for each year with the Annual Application for Tax Credits and additional proof of payments if the lease / rental rate is calculated on a monthly scale (versus a set monthly amount shown in the Lease). Trucks, truck-trailers, truck semi-trailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new investment.

**New Payroll:** Annual taxable salary or wages of New Business Facility Employees over the Base Year. Salaries / wages of New Business Facility Employees having the most recent hire dates will be considered New Payroll, with the exception of salaries of Highly Compensated Positions which will only be counted as New Payroll if the positions were added after the filing of the Notice of Intent.

**Facility Base Employment:** The greater of the number of employees located at the facility on the date of the notice of intent, or the twelve-month period prior to the date of the notice of intent; the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior tot the date of the notice of intent.

**Facility Base Payroll:** The total amount of taxable wages paid by the Enhanced Business Enterprise to employees of the enhanced business enterprise located at the facility in the twelve (12) months prior to the Notice of Intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on the consumer price index or other comparable measure, as determined by the department.

**New Job:** The number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job.

**Notice of Intent (NOI):** A form developed by the Department of Economic Development which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program.

**Related Facility:** A facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility.

**Related Facility Base Employment:** The greater of –

- (a) The number of employees located at all related facilities on the date of the Notice of Intent; or
- (b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state.

**CLOSED RECORDS (Sections 610.255 and 620.014, RSMo)**

**Prior to August 28, 2004 and pursuant to Section 620.014, RSMo, DED had the authority to close certain records except for the name of the tax credit recipient and the amount of the tax credit. SB 1099 removes this broad exception but DED retains the authority to close records or documents that “relate to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business” or as also allowed by law.**



**ENHANCED ENTERPRISE ZONE  
NOTICE OF INTENT (SECTION 135.950 – 135.973, RSMO)**

For Calendar Year \_\_\_\_\_ or Tax Year Beginning \_\_\_\_\_, \_\_\_\_\_ Ending \_\_\_\_\_, \_\_\_\_\_

Business Name			
Federal Tax ID No. (FEIN)		MITS/Missouri ID No.	
Address of Project Facility			
City	County	Missouri	Zip Code
<b>Contact Information</b>			
Business Contact Person		Title	
Address	City	State	Zip Code
Telephone Number	Fax Number	E-mail	
Preparer Contact Person		Title	
Address	City	State	Zip Code
Telephone Number	Fax Number	E-mail	
<b>Other Facility Address(es) (attach additional sheet if needed.)</b>			
Headquarters Address (if different than project facility)	City	State	Zip Code
1. Other Missouri Facility Address	City	Zip Code	UI Account #
2. Other Missouri Facility Address	City	Zip Code	UI Account #
3. Other Missouri Facility Address	City	Zip Code	UI Account #
4. Other Missouri Facility Address	City	Zip Code	UI Account #
<b>NOTE: If there are multiple facilities within the state – You are required to complete the Multiple Worksite Report (MWR) – BLS 3020 for the duration of the program benefits.</b>			
Has the BLS 3020 been completed for the prior year of this Notice of Intent submission?		YES	NO
<b>Acquire &amp; Submit the MWR – BLS 3020 to:</b> Mrs. Janette Nichols Missouri Department of Economic Development MERIC QCEW Supervisor, PO Box 3150 Jefferson City, MO 65102 Phone: 573-522-2791 Email: nicholsj@bls.gov		Per <b>Section 285.530 RSMo</b> , any business receiving <b>must</b> enroll in the E-Verify Program. The program is designed to provide employment status information to determine the applicant’s eligibility for employment. Currently an employer’s participation in E-Verify is <b>FREE</b> .  To access E-Verify website, go to: <a href="https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES">https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES</a>	

Type of Business	C Corp	S Corp	LLC	Sole Proprietor	Partnership	Other
If the taxpayer is a Partnership, S-Corporation, or other entity with a flow through tax treatment, identify the names, social security numbers and proportionate share of ownership of each beneficiary, partner or shareholder on the last day of the tax period. Aggregate proportionate shares or percent of total ownership may not exceed 100%. Attach a separate sheet if necessary.						
Name(s)		Social Security Numbers		% Ownership Year End		
				%		
				%		
				%		
				%		
				%		
Is this company owned 51% or more by women?				YES	NO	
Facility's NAICS Code:			NAICS codes are assigned by the Missouri Division of Employment Security and will be used for verification.			
Describe the proposed project and activity(s) to be conducted at this facility, including whether this is a new facility, expansion of an existing facility or replacement of an existing facility:						
Business Size in Annual Sales/Receipts (check one)						
	\$0 – \$250,000		\$250,000 – \$500,000		\$500,000 – \$1,000,000	
	\$1,000,000 - \$5,000,000		\$5,000,000 - \$10,000,000		\$10,000,000 & over	
Total Number of Employees at ALL Facilities in Missouri:						
List all other federal and state programs for which this facility is applying or is currently utilizing:						
Project Commencement Date:				Current Employment (>35 hrs/wk) at the Project Facility at the NOI Submission Date:		
Estimated Project Cost (Year 1 through Year 5): Real Property \$ _____ Machinery and Equipment \$ _____				Total Estimated Employment (>35 hrs/wk) at the end of 5 years:		
	New Business Facility Investment Cumulative over the Base Year	New Business Facility Employees (>35 hrs/wk) Cumulative over the Base Year		Average Wage		
Year 1	\$			\$		
Year 2	\$			\$		
Year 3	\$			\$		
Year 4	\$			\$		
Year 5	\$			\$		
Attachments						
<input type="checkbox"/> List of current employees at facility where tax credits are being requested <input type="checkbox"/> Certification of Facility Location Form (Page 9 of this packet) <input type="checkbox"/> Complete Memorandum of Understanding (Proof of enrollment in the E-Verify Program).						



## CERTIFICATION

### Please Read Carefully & Thoroughly

- I certify that I am an authorized representative of the applicant and as such am authorized to make the statement of affirmation contained herein.
- I certify that the applicant does NOT knowingly employ any person who is an unauthorized alien and that the applicant has complied with federal law (8 U.S.C. § 1324a) requiring the examination of an appropriate document or documents to verify that each individual is not an unauthorized alien.
- I certify that the applicant is enrolled and will participate in a federal work authorization program as defined in Section 285.525(6), RSMo., with respect to employees working in connection with the activities that qualify applicant for this program. I certify that the applicant will maintain and, upon request, provide the Department of Economic Development documentation demonstrating applicant's participation in a federal work authorization program with respect to employees working in connection with the activities that qualify applicant for this program.
- I understand that, pursuant to section 285.530.5, RSMo, a general contractor or subcontractor of any tier shall not be liable under section 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct subcontractor who violates section 285.530.1, if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of section 285.530.1 and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.
- I understand that if the applicant is found to have employed an unauthorized alien, applicant maybe subject to penalties pursuant to Sections 135.815, 285.025, and 285.535, RSMo.
- I understand that if the applicant is found to have employed an unauthorized alien in Missouri and did not, for that employee, examine the document(s) required by federal law, the applicant shall be ineligible for any state-administered or subsidized tax credit, tax abatement or loan for a period of five years following any such finding.
- I attest that I have read and understand the Enhanced Enterprise Zone Tax Credit Program guidelines.
- I hereby agree to allow representatives of the Department of Economic Development access to the property and applicable records as may be necessary for the administration of this program.
- I certify under penalties of perjury that the above statements and information contained in the application and attachments are complete, true, and correct to the best of my knowledge and belief.

Applicant Signature	Print Name	Title	Date
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Notary Public Embosser Seal	Appeared before me this _____ day of _____, 20____, _____ to me personally known to be the person who executed the above certification, and acknowledged and states on his/her oath to me that he/she executed the same for the purpose therein stated.		
	State of		County (or City of St. Louis)
	Notary Public Name	My Commission Expires	Use Rubber Stamp in Area Below
	Notary Public Signature		

**Effective August 28, 2005, and pursuant to Section 620.1900, RSMo, this tax credit program is subject to a fee of 2.5% of the amount of tax credits issued. Applicants will be invoiced for the fee after the tax credit application has been approved. Tax credits will be issued upon receipt of the fee.**



**ENHANCED ENTERPRISE ZONE PROGRAM  
CERTIFICATION OF FACILITY LOCATION**

Business Name			
Federal ID No. (FEIN):		MITS/Missouri Tax ID No.	
Project Facility Address			
City	County	Missouri	Zip Code

Following to be completed by Governing Authority's Representative, Not Taxpayer

I \_\_\_\_\_, of \_\_\_\_\_, a duly authorized representative of the governing authority of the foregoing city or county, do hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ that the foregoing facility's address is within the \_\_\_\_\_ Enhanced Enterprise Zone and is an eligible Enhanced Business Enterprise of that zone.

The above named business will receive 10 years of 50% tax abatement or \_\_\_\_\_ years of \_\_\_\_\_% tax abatement as set forth in the local governing resolution or ordinance.

\_\_\_\_\_  
Signature of Governing Authority's Authorized Representative

Notary Public Embosser Seal	Appeared before me this _____ day of _____, 20____, _____ to me personally known to be the person who executed the above certification, and acknowledged and states on his/her oath to me that he/she executed the same for the purpose therein stated.		
	State of		County (or City of St. Louis)
	Notary Public Name	My Commission Expires	Use Rubber Stamp in Area Below
	Notary Public Signature		