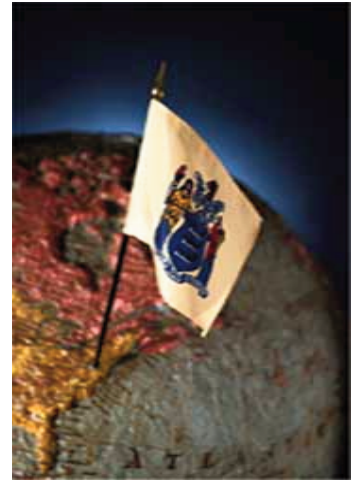


NEW JERSEY ECONOMIC STIMULUS ACT

Governor Jon S. Corzine signed legislation to boost the state's economy. The new law expands the urban transit hub tax credit, transferability of research and development credits and net operating losses (NOLs) under the Emerging Technology and Biotechnology Financial Assistance Program, and puts into place a seven year sales and use tax exemption for postconsumer manufacturing facilities. In addition, the legislation allows certain municipalities to impose motor vehicle rental taxes and amusement surcharges.



URBAN TRANSIT HUB CREDIT

New Jersey's "urban transit zones" are expanded and the capital investment required for the urban transit hub credit is reduced from \$75 million to \$50 million for an owner of a qualified business facility. A tenant that occupies a leased area of a qualified business also receives a reduction from \$25 million to \$17.5 million. In addition, the value of all credits approved under the plan is capped at \$1.5 billion. To qualify, a business owner must prove that the financial support provided by the state for the proposed capital investment in a qualified business facility will generate a net positive benefit to both the state and eligible municipality at the time of its application.

EMERGING TECHNOLOGY AND BIOTECHNOLOGY FINANCIAL ASSISTANCE PROGRAM

Within the New Jersey Emerging Technology and Biotechnology Financial Assistance Program, a corporation business tax benefit certificate transfer program must be established by the New Jersey Economic Development Authority. It will provide a tax benefit to new or expanding emerging technology and biotechnology companies in New Jersey. Corporations with unused research and development (R&D) tax credits, as well as unused NOL carryovers can surrender those tax benefits to another New Jersey business taxpayer. This is allowed as long as the taxpayer that receives the tax benefits is not affiliated with the corporation that is surrendering its tax benefits. Companies are considered affiliates if the same entity [directly or indirectly] owns or controls 5% or more of the voting rights or 5% or more of the value of all classes of stock of both the corporate taxpayer surrendering the benefits and the one that is receiving the benefits.

Applications by a new or expanding emerging technology or biotechnology company for the corporation business tax benefit transfer certificate will not be approved if: (a) it has a positive net operating income in any of the two previous full years of ongoing operations, or (b) is at least 50% owned [directly or indirectly] or controlled by another company that has reported a positive net operating income on its financial statements. This includes companies that are part of a consolidated group of affiliated corporations [for federal income tax purposes], that in aggregate has reported a positive net operating income in any of the two previous full years of ongoing operations.



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POSTCONSUMER MANUFACTURING FACILITIES

A seven year sales and use tax exemption is allowed on either the purchase and use of energy and utility service or from the transitional energy facility assessment (TEFA) unit rate surcharge. Large, energy efficient audited manufacturing facilities that produce products from postconsumer materials [materials recovered or recycled from discarded household, commercial, or industrial packages or products] may qualify for this benefit. Owners of such eligible facilities must continue to pay the sales and use tax and TEFA unit rate surcharge as the price of energy and utility service is collected. The owner of the manufacturing facility will then have to file for quarterly refunds of the sales and use tax and TEFA surcharge allowable under this exemption. The tax refunds must be repaid by the owner of the company to the Director of the Division of Taxation if the qualified postconsumer material manufacturing facility relocates outside New Jersey during the exemption period. In order to be eligible for the exemption, the facility must have employed no less than 150 workers in New Jersey on April 1, 2009, either individually or collectively with affiliated facilities.

MUNICIPAL TAXES

Municipalities are authorized to impose up to a 5% tax on the rental fee of motor vehicles, excluding taxes and surcharges if its population is more than 100,000 and it has within its border a commercial airport with more than ten regularly scheduled commercial flights per day. In addition, cities of the second class where a major place of amusement is located are authorized to impose a surcharge of an amount up to \$2 on each admission charge that is subject to the New Jersey sales tax, as well as a \$2 surcharge on parking for that place of amusement. This excludes municipalities that are subject to the Municipal Rehabilitation and Economic Recovery Act (MRERA).

Please consult with your Cowan, Guteski & Co., P.A. tax adviser to determine if you qualify for any of the benefits provided by the New Jersey Economic Stimulus Act or how these benefits will impact you. Call us today at 732-349-6880 in Toms River or 732-741-2624 in Shrewsbury.

The technical information in this tax alert is necessarily brief. No final conclusion on these topics should be drawn without further review and consultation. Please be advised that, based on current IRS rules and standards, the advice contained herein is not intended to be used, nor can it be used, for the avoidance of any tax penalty assessed by the IRS.