Brent Watson, CPA, is the principal for SALTA PLLC in Tulsa. An OSCPA member for 12 years, he has served on the OSCPA's Taxation and Continuing Professional Education Committee and is currently serving on the Oil & Gas Resource Pool. His 31 years of practice in state and local taxes have focused on sales and use tax, but have also included property tax and state incentive programs. His expertise is concentrated in the manufacturing, oil and gas, multi-state contracting and retailing industries.

Self-Study CPE Details

Interest Area: Taxation

Designed for: CPAs in public practice and industry

Objective: Identify opportunities for utilizing Oklahoma's tax incentives for businesses.

Level: Basic
Prerequisite: None

MUST BE COMPLETED AND SUBMITTED BY OCTOBER 31, 2020 TO QUALIFY.

Oklahoma's business incentives provide great benefits

By Brent Watson, CPA

A key component of Governor Stitt's goal to make Oklahoma a "Top 10 State" is attracting and retaining profitable businesses. Oklahoma provides a competitive set of incentive programs to accomplish those goals, and these programs provide substantial benefits. Unfortunately, potential benefits are often lost because businesses are unaware of them. For example, in one case, an Oklahoma-based corporation qualified for the Oklahoma Quality Jobs Program, but did not apply for it. By the time that this was brought to their attention, over $4,500,000 in benefits was lost.

The following is an overview of three of the most important benefits available to Oklahoma businesses so CPAs can help their clients' companies—or their own—locate or expand in Oklahoma with the help of these lucrative incentives. This article is limited in scope and cannot include the myriads of lesser state credits provided, such as credits for hiring aerospace engineers, nor federal credits like the Work Opportunity Tax Credit or the Indian Jobs Credit.

Oklahoma Quality Jobs Program

The Oklahoma Quality Jobs Program (QJP) is the main tool used to encourage creation of new business or expansion of existing business in Oklahoma. All three variants of QJP provide a cash rebate directly to businesses based on increased payroll. These rebates are based on claims that are filed quarterly. First, the provisions of the general QJP are given, then variations applicable to the other two specialized versions of this program will be covered.

The QJP pays a cash rebate of up to 5% of qualifying wages for increased employment on a quarterly basis to targeted businesses who locate or expand in the state. For example, if a manufacturer were to add 50 jobs at an average wage of $50,000, and maintain those jobs for 10 years, benefits could be as much as $125,000 annually (5% * 50 * $50,000), or $1,250,000 over the 10-year life of the program.

Requirements to participate in QJP include:

- Increased payroll of $2,500,000 annually (an average of $2.5 million new annualized payroll for 4 consecutive quarters) within the first three years in the program (except $1,500,000 for certain food processors, R&D and testing laboratories);
- Offer basic health insurance coverage;
- Average wage must be at least the lower of the county or state ($34,966 in 2020) average wage;
- Be a qualifying industry, including (NAICS codes):
  - Manufacturing: 31-33; 5111; 11331;
  - R&D and testing laboratories;
  - Central administrative, corporate and technical services offices;
  - Certain jobs related to mining or oil and gas (2111, 213111,213112 and 486);
  - Warehouse/distribution centers – if >40% of inventory shipped out-of-state; and
  - Select service industries – if 75% of sales are out-of-state, including
    - Insurance carriers and processors;
    - Debt adjustment and collection services (>75% loans to OOS debtors);
    - Computer programming, data processing and other computer-related services;
    - Engineering, management and related services;

- Motor freight transportation and warehousing NAICS (484, 4884-4889, 493);
- Medical laboratories;
- Misc. business services; and
- Other minor categories.

In order to qualify, applications must be made to the Oklahoma Department of Commerce (ODOC). That application process can be quite involved, and approval by ODOC is discretionary, so it is important to properly and completely prepare applications. Additionally, it is highly important to file applications timely, as any payroll increases that are attributable to employees hired prior to date stamping of the application will not count for calculation of benefits.

Once an application is approved and an employer enters the QJP, benefits begin the first quarter following approval into the program and will continue for at least three years as long as employment remains above the base employment level established before entering the program. If the required payroll is achieved (usually $2,500,000 annually) within the first 12 quarters, participation can continue for 10 years. If the threshold is not met, participation is terminated after the conclusion of the 12th quarter, but benefits are not required to be paid back to the state, unless the company fails to maintain a presence in the state.

Once the threshold is met, rebates are payable to the extent that the employment level remains above the base for the 10-year duration of the program. Even if due to an economic downturn employment dips below the base level, benefits can re-commence when employment recovers above the base level established. If employment is to be further increased in later years due to an expansion, applications for additional contracts covering the additional employment increase can be made.

An unbelievable amount of benefits is lost due to non-filing of claims. These losses can be attributable to poor compliance processes, including personnel who do not understand the rules, personnel changes or other factors. Usage of a third-party to prepare and file these claims can be a wise investment to insure maximization of rebates available.

Small Employer Quality Jobs Program (SEQJP)

The SEQJP is similar to the QJP except that it is tailored for smaller employers with lower thresholds required for participation. Variations from the QJP include:

- Life of program – seven years;
- Limited to employers with 500 or fewer employees at entry to the program;
- Threshold to qualify is much lower and is based on number of employees rather than total payroll dollars. The threshold is based on the size of the employer and population of community (can be as few as five employees, but no more than 15 employees);
- No benefits are paid until the hiring threshold is achieved;
- Employers have eight quarters to achieve the hiring threshold;
- Average wage must be at least 110% of the average wage in the county in which the business is located; and
- Business must make out-of-state sales of >35% within the first 24 months of entering the program, then 60% for the remainder of participation in the program.

21st Century Quality Jobs Program (21QJP)

The 21QJP is similar to the QJP except that it is tailored to high-paying employers, such as knowledge-based service industries, including professional, scientific and technical services; music, film and performing arts; and specialty hospitals. Variations from the QJP include:

- Rebates can equal between 7% to 10% of qualifying wages for the 10-year life of the program;
- The threshold to qualify is much lower: 10 full-time employees;
- No benefits are paid until the hiring threshold is achieved;
- Average wage must be at least the lesser of $103,736 (2020) or 300% of the average wage in the county in which the business is located; and
- Businesses in service industries must make out-of-state sales of >50% within the first four quarters of participation.

New Jobs/New Investment Income Tax Credit for Manufacturers

The New Jobs/New Investment income tax credit is applicable to income tax due by the taxpayer corporation or to its pass-through owners. It is based on a choice of either investment in depreciable property or increased employee headcount. Minimum increases are quite low: $50,000 in depreciable manufacturing property (real or personal) or on an increase in employment of one employee. Businesses must hold a manufacturer's sales tax exemption permit (MSEP) to qualify for the credit. This credit cannot be claimed by businesses participating in QJP unless an investment of $40,000,000 is made.

Credits earned for increases in one tax year are then granted each of the succeeding four years (as long as employment does not fall below the base employment level) and are computed annually based on 1% of increased property or $500 per employee. However, if a business is in an Enterprise Zone, credits are doubled. Any credits unused in a tax year can be carried forward indefinitely. If credits are not claimed for a tax year, returns cannot be amended to claim the credit, but the business is not disqualified from claiming the remaining years for each layer of credits earned as long as employment does not fall below the base level. Each new tax year that additional investment or hiring occurs will begin an additional set of credits that will have a five-year life. Computation of credits earned annually and tracking of carryforwards for these credits can become complex.

Ad Valorem Exemptions

Two major ad valorem exemptions will be covered here, although one of them (Freeport Exemption) is not so much an incentive, but rather a cost-of-business reduction (which, of course, makes doing business in the state more attractive).

Freeport Exemption

This exemption applies to inventory that would otherwise be subject to tax as of January 1 each year. The exempted portion is based on inventory ultimately to be sold out-of-state and is calculated based on the lesser of the percentage of inventory (COGs) purchased from out-of-state or the percentage of inventory sold out-of-state. Exemption form 901F must be filed with the regular rendition to the county assessor by March 15 annually to claim the credit.

Five-Year Exemption

These exemptions apply primarily to manufacturing businesses, but also apply to R&D facilities, data processing centers and to warehousing and distribution facilities. The exemption applies to new equipment and real property. Repairs or spare parts of machines do not qualify.

Qualifying property is exempt for the five years following the year that the property is placed in service as long as that property is still in service. To qualify, a minimum of $250,000 in property must be added, and a payroll increase must occur. The minimum payroll increase is $250,000 for counties with less than 75,000 residents and $1,000,000 for counties having a population of 75,000 or more.

To claim the exemption, each year when ad valorem renditions are filed, the exempted property must be reported to the assessor on Form 901-XM by the March 15 ad valorem reporting deadline. For the first year reported for a set of exempt property, the form will be referred to as an XM-1, then in the succeeding four remaining years of the exemption for that property, the forms will be referred to as XM-2, 3, 4 and 5. Typically, the Oklahoma Tax Commission will send an auditor to verify the assets claimed qualify for usage in manufacturing or whatever qualifying usage the exemption claimed is based upon. The state actually reimburses the county for tax attributable to these assets.

Many citizens are excited about prospect of making Oklahoma a Top 10 State, including being more economically competitive with other states. Oklahoma's incentive package is a key tool to accomplish that goal. As a knowledgeable CPA, you can be a hero to your company or to your clients by helping them participate in these lucrative programs, and you can help Oklahoma attract and retain profitable industries while doing so.

CPE Self-Study Section: Earn CPE credit for reading the article on pages 12-14.
Earn one hour of CPE credit by reading the preceding CPE article and completing the provided self-study exam. Mail in the completed exam by October 31, 2020, to the OSCPA Education Department for grading. If you receive a score of 70% or higher, you will be issued a certificate for one hour of CPE credit, dated as of when the test arrives in the OSCPA office. If you score below a 70%, you will be notified of your score and may be allowed to retake the exam. The answers for this exam will be printed in the next issue of the CPA*FOCUS*.