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Kansas: Income tax credits, sales tax exemptions for investments; high performance incentive program (HPIP)

Recently enacted legislation (Senate Bill 65) allows more companies to qualify for tax incentives available under the Kansas “high performance incentive program” (HPIP).

The HPIP provides a 10% income tax credit and a sales tax exemption for eligible capital investments made by qualifying businesses in Kansas.

Prior to the enactment of Senate Bill 65, a business had to commit to training employees in one of three ways: (1) participating in the Kansas industrial training program; (2) participating in the Kansas industrial retraining program; or (3) spending 2% of payroll on eligible training. Senate Bill 65 removes this requirement.

Additionally, Senate Bill 65 allows a company to transfer up to 50% of HPIP tax credits to another company or individual per year. Transferability is allowed only for projects placed into service on or after January 1, 2021.

Kansas HPIP—overview

The HPIP is intended to encourage companies to expand their capital investment and raise employee wage and training levels through Kansas income tax credits and sales tax exemptions. HPIP offers three major state tax benefits:

- The Kansas investment tax credit, which equals 10% of all eligible capital investment that exceeds \$50,000. In the five metro counties of Douglas, Johnson, Sedgwick, Shawnee and Wyandotte, the threshold is \$1 million. The credit can be carried forward for 16 years and has no cap.
- A training tax credit up to \$50,000. There is no carryforward allowed for the training credit.
- Sales tax project exemptions apply to purchases of materials and services related to capital investment at the business’ worksite.

To qualify for Kansas HPIP benefits a business must:

- Be a for-profit company subject to state taxes
- Pay above-average wages (as compared to other similar firms in the same geographical area with matching NAICS codes) and
- Be either a manufacturer or able to document that most of its sales are to Kansas manufacturers and/or out-of-state businesses or government agencies

A business in any NAICS code can qualify if it is a headquarters or back-office operations of a national or multi-national corporation.

Kansas HPIP transferability

Prior to the enactment of Senate Bill 65, the Kansas investment tax credit had to be used by the taxpayer. Now, for projects placed into service on and after January 1, 2021, a taxpayer may transfer up to 50% of the tax credit allowed to any individual or other entity. A taxpayer may make a transfer to one or more transferees, but the total of all transfers cannot exceed 50% of the taxpayer's tax credit.

KPMG observation

The Kansas Department of Revenue has not released any guidance related to the mechanics of the credit transfer, but guidance (forms, form instructions or rules) are expected in the future.

Kansas HPIP certification

A taxpayer must provide the Kansas HPIP with a project description prior to any formal commitment to make an investment. A formal commitment is any agreement that gives the other party legally enforceable monetary or other remedies were the company to back out of the agreement (i.e., when a purchase or lease agreement is executed or when a deposit would be forfeited on machinery that had been ordered). A formal commitment also includes moving machinery or equipment into Kansas from out-of-state.

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