

2005 Empire Zone Legislation as of 4/1/05 - Extends the program until June 30, 2011

INVESTMENT ZONES	DEVELOPMENT ZONES	MANUFACTURERS	REGIONALLY SIGNIFICANT PROJECTS
<ul style="list-style-type: none"> - Designated under (a) and (d) - Zone acreage must be wholly contained in 3 separate and distinct contiguous areas, subject to one time EZDB unanimous approval - These areas must be identified by January 1, 2006 - Can apply for one additional area based on need – total not to exceed 2 sq. mi. - Must not include stringers 	<ul style="list-style-type: none"> - Designated under (c) and (b) - Zone acreage must be wholly contained in 6 separate and distinct contiguous areas, subject to one time EZDB unanimous approval - Up to 3 of the separate and distinct areas shall be Investment Zones, based on census tract criteria. - These areas must be identified by January 1, 2006 - Can apply for one additional area based on need - not to exceed 2 sq. mi. - Up to 12 contiguous areas for zones within two counties. - Must not include stringers 	<ul style="list-style-type: none"> --With 50+ new jobs are regionally significant projects -- Can be located outside separate and distinct contiguous areas (will not count against zones total acreage) -- EDZB approval not required. -- Exempt from new BR requirements. Definition: engaged in production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, commercial fishing; or, engaged in “emerging technologies” (pursuant to PAL) 	<ul style="list-style-type: none"> -- Located outside separate and distinct contiguous areas (will not count against zones total acreage) -- Must demonstrate to the EZDB that the project cannot be accommodated within the separate and distinct areas. 1. Agri-business, High-tech, Bio-tech: > \$10 million investment and >20 new jobs 2. Financial, Insurance, Distribution: 300+ new jobs 3. Other projects (ESD will define via rules and regs.) - Must be presented (and meet criteria) to Designation Board for approval by ZAB and/or DED. - #3 requires 5 of 7 voting members approval vs. simple majority for #1 & #2.

ORIGINAL ZONE BENEFITS – (as of 4/1/05)

INVESTMENT ZONES	DEVELOPMENT ZONES	MANUFACTURERS
<u>Investment Tax Credit / EITC:</u> No change	<u>Investment Tax Credit / EITC:</u> No change	
<p><u>Wage Tax Credit:</u></p> <ul style="list-style-type: none"> ▪ Base period = four years preceding year certified (includes jobs in the zone and in NYS) ▪ Credit increased \$500 for wages over \$40,000 ▪ Adds Honorably Discharged as targeted workers 	<p><u>Wage Tax Credit:</u></p> <ul style="list-style-type: none"> ▪ Base period = four years preceding year certified (includes jobs in the zone and in NYS) ▪ Adds Honorably Discharged as targeted workers 	
<p><u>Zone Capital Credits:</u></p> <ul style="list-style-type: none"> ▪ New Zone Capital Credit Corporations allowed. (Existing Zone Capital Credit Corps are not affected, however, contributions from 1/1/05 are no longer eligible for the 25% tax credit.) ▪ No change to Direct Investments or Community Development 	<p><u>Zone Capital Credits:</u></p> <ul style="list-style-type: none"> ▪ New Zone Capital Credit Corporations allowed. (Existing Zone Capital Credit Corps are not affected, however, contributions from 1/1/05 are no longer eligible for the 25% tax credit.) ▪ No change to Direct Investments or Community Development 	
<u>Sales Tax Refund:</u> No change	<u>Sales Tax Refund:</u> No change	
<u>Utility Rate Reduction:</u> No change	<u>Utility Rate Reduction:</u> No change	
<u>485-e Real Property Tax Abatement:</u> No change	<u>485-e Real Property Tax Abatement:</u> No change	

QEZE TAX CREDITS – (as of 4/1/05)

QEZE New Business Test

- Not similar in ownership and operation, or, Identical in ownership and operation if operating in different counties of the State (will have same business tax benefit period)
- For businesses certified before 8/1/2002, with base period of zero years, or zero employment for its base period – deemed not to be a new business if not formed for valid business purpose and formed solely to gain EZ benefits.

INVESTMENT ZONES

DEVELOPMENT ZONES

MANUFACTURERS

Sales Tax Exemption

- Benefit period of 10 years
- Employment greater than zero
- New Business Test
- Base period = three years preceding test year (includes jobs in zone and in NYS)

Sales Tax Exemption

- Benefit period of 10 years
- Employment greater than zero
- New Business Test
- Base period = three years preceding test year (includes jobs in zone and in NYS)

Sales Tax Exemption

All manufacturers are treated as if located in an Investment Zone for purposes of taking QEZE credits

Tax Reduction Credit

- No change in the formula from pre-4/1/05
- Benefit period of 10 years
- Employment increase in zone and in NYS
- New Business Test
- Base period = four years preceding the year of certification (includes jobs in zone and in NYS)

Tax Reduction Credit

- No change in the formula from pre-4/1/05
- Benefit period of 10 years
- Employment increase in zone and in NYS
- New Business Test
- Base period = four years preceding the year of certification (includes jobs in zone and in NYS)

Tax Reduction Credit

All manufacturers are treated as if located in an Investment Zone for purposes of taking QEZE credits

QEZE TAX CREDITS – (as of 4/1/05)

INVESTMENT ZONES	DEVELOPMENT ZONES	MANUFACTURERS
<p>RP Tax Credit – the greater of wages/benefit formula or capital investment amount not to exceed RP taxes:</p> <p>Wages/Benefits formula - 25% of total wages and benefits to net new employees, capped at \$10,000 per new job (wages/ benefits over \$40,000 excluded)</p> <p>Capital Investment Amount – 10% of the federal basis of the real property and the greater of: -- the % of such property occupied and used by the QEZE or related person, or, -- the % of such cost or other basis attributable to construction, rehab, or expansion of zone property.</p> <ul style="list-style-type: none"> ▪ If more than 50%, then the percentage is deemed to be 100% ▪ Includes cost of acquisitions <p>-- Benefit period of 10 years -- Employment increase in zone and in NYS -- New Business Test -- Base period = four years preceding the year of certification (includes jobs in zone and in NYS) -- Eligible RP taxes: - Paid by property owner - Paid by lessee under certain conditions (applies to businesses certified pre and post 4/1/05 that enter into or amend leases on or after June 1, 05) - PILOTS not exceeding what fully assessed RP taxes would be.</p>	<p>RP Tax Credit – the greater of wages/benefit formula or capital investment amount not to exceed RP taxes:</p> <p>Wages/Benefits formula - 25% of total wages and benefits to net new employees, capped at \$10,000 per net new employee (wages/ benefits over \$40,000 excluded); times the Development Zone Employment increase factor (for non-mfgrs.): 1-10 = .25; 11–49 = .50; 50-75 = .75; over 75 not to exceed 1.00; divided by 100.</p> <p>Capital Investment Amount – the product of: 10% and the portion of the federal basis (percentage) that is attributable to construction, rehab, or expansion of the real property and the percentage of such real property physically occupied and used by the QEZE or related person;</p> <ul style="list-style-type: none"> ▪ If the % basis is at least 50%, then the percentage of occupancy is deemed to be 100% ▪ Excludes cost of acquisitions <p>-- Benefit period of 10 years. -- Employment increase in zone and in NYS -- New Business Test -- Base period = four years preceding the year of certification (includes jobs in zone and in NYS) -- Eligible RP taxes: - Paid by property owner - Paid by lessee under certain conditions (applies to businesses certified pre and post 4/1/05 that enter into or amend leases on or after June 1,05) - PILOTS cannot exceed a cap. ESD and ORPS approval no longer needed.</p>	<p>RP Tax Credit</p> <p>All manufacturers are treated as if located in an Investment Zone for purposes of taking QEZE credits</p>

OTHER NEW LEGISLATION:

- Three new zones would be designated each year, for the next four years. Timing order of those new zones is subject to an MOU and a “priority system of need”. The following are expressly stated as eligible for designation: Delaware; Green; Hamilton; Livingston; Nassau; Putnam; Rockland; Schoharie; Tompkins; Wyoming; Yates; and, Chinatown
- Allows one square miles zones designated under 485-b to become two square mile zones.
- Allows the Oneida/Herkimer Counties Zone to apply for two separate two square mile zones.
- Zones are prohibited from charging fees.
- ZEA have expired with no soft landing.

Development Plans:

- Zones shall submit a new development plan for approval by ESD.
- Plans will include all elements of existing development policies, plus the basis for the cost benefit analysis; demonstration of cooperation with other economic development entities to insure maximum integration of resources; and, anti-sprawl language.
- Plans should also include the basis for determining the distinct and separate contiguous areas
- On or before 1/1/06, draft plans can be submitted to ESD in conjunction with the zones proposal to reconfigure boundaries re: distinct and separate areas.

Development Policies:

- Existing development policies will remain in place until the final Development Plan is approved by ESD.
- Existing policies (or those revised by June 30, 2005) will be used in the zones evaluation process to determine 05-06 funding allocations.

Boundary Revisions

- Will not be approved prior to designation of contiguous areas, unless the ZAB can demonstrate that it was working with a business prior to April 1, 2005 for the purposes of submitting such a boundary revision that will result in the creation of jobs; subsequent certification will be deemed effective prior to April 1, 2005..
- After configuration of contiguous areas, boundary revisions will be subject to DED approval (not EZDB)
- BRs submitted after 4/1/05 must demonstrate there is no viable alternative area that has existing infrastructure other than the proposed zone.
- Boundaries cannot include stringers.
- Acreage designated via boundary revisions, except acreage designated for future development, that has not demonstrated commercial activity or capital investment over a two year period shall be referred to the ZAB for removal from the zone / business decertification.

Certification:

- Certifications must indicate that the business meets requirements of a cost benefit analysis.
- Cost benefit formula shall consider, but not be limited to: 1. estimated tax credits (including sales tax) to the entity or its members, partners or shareholders over five years; 2. projected jobs; 3. projected wages and benefits in the zone; 4. projected investment. (benchmarks for all zones will be provided by ESD – upon approval of distinct and separate contiguous areas, each zone can establish benchmarks specific to their zone.
- Non-quantifiable criteria may also be considered, including: 1. positive impact on an area that has high commercial vacancy rates, and/or is characterized by blight and disinvestment; or 2. the business enterprise is part of a strategic industry cluster or supply chain; or 3. the business enterprise is anticipating accessing zone capital credits.
- The ZAB must review/approve all certifications – after which the application will be deemed complete and the ZCO has 10 days to either approve or disapprove.
- Adding other locations to a certificate will be via addendum to the original cert application (vs. EZ-4 form).