

## Revisions to the Urban Transit Hub Tax Credit Program

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On July 27, 2009, Governor Jon S. Corzine signed the New Jersey Economic Stimulus Act of 2009 into law. In doing so, the law authorized significant **amendments** to the Urban Transit Hub Tax Credit (UTHTC) program, as administered by the New Jersey Economic Development Authority (NJEDA). Intended to act as a catalyst for private capital investment, business development, job creation and transit-oriented residential development, the newly enacted UTHTC program provides tax credits for businesses planning large expansions in or relocation to the State's designated Urban Transit Hubs.

These Transit Hubs are located within nine (9) of New Jersey's more substantial urban areas and apply to "qualified business facilities" located within a ½-mile radius of New Jersey Transit, PATH, PATCO or Light Rail stations in these designated municipalities (Camden City<sup>1</sup>, East Orange City, Elizabeth City, Hoboken City, Jersey City, Newark City, New Brunswick City, Paterson City and Trenton City). Specifically, these "eligible municipalities", are defined as qualifying for State Aid and in which 30% or more of the value of real property was exempt from local property taxation during the tax year 2006.

Eligibility has also been expanded to locations in these municipalities that have active freight adjacent or connected to the qualified business facility and is utilized by the occupant, thus creating a strong incentive for port development and expanded freight use throughout the State. However, note that the international airport hubs and surrounding lands are not eligible for these tax credits.

Specifically, corporations, S corporations, limited liability corporations and partnerships are eligible to apply for the tax credit provided that a minimum **\$50 million capital investment** is made and the eligible business employs a minimum of **250 employees** (*note: tax credits may be reduced or forfeited if facility or employment level are not retained*). Tenants occupying the facility must represent at least **\$17.5 million** of the capital investment and employ a minimum of **250 employees**.

The regulations allow the business tenant and two other tenants (three maximum tenants) to collectively total the number of employees located the qualified business facility to count towards the minimum employment standard and may also be satisfied with affiliates, as this is redefined in the revised regulations.

Credits are limited to the 10-year "eligibility period" and may be applied at a rate of 10% of the credit amount over each year against their corporation business tax and insurance premium tax during that eligibility period (*note: gross income tax no longer applies*). Businesses may also apply to both the Director of the Division of Taxation in the Department of Treasury and the Executive Director of the NJEDA for a transfer tax certificate "covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business" and allows this certificate to be sold or assigned in part or in full.

The UTHTC rule amendments introduced provisions that allow for qualified residential projects, allowing a credit of up to 20% of its capital investment made by a developer. Like that of

<sup>1</sup> Locations of "qualified business facilities" are expanded to include lands within a 1-mile radius from a transit hub if the property is located within a municipality identified under the "Municipal Rehabilitation and Economic Recovery Act"

"qualified business facilities", developers must make or acquire capital investments equal to or greater than **\$50 million** dollars.

The regulations limit the value of all approved credits so that they do not exceed **\$1.5 billion**, with the total value of credits under the residential portion not exceeding **\$150,000,000** (*note: the NJEDA has discretionary authority to exceed the residential credit value cap*). The program also limits and prohibits the use of other NJEDA program funds in conjunction with the UTHTC program. For instance, Business Retention & Relocation Assistance Grant (BRRAG) or InvestNJ may not be used in conjunction with UTHTC, and there may be limitations on the use of the Business Employment Incentive Program (BEIP) at the project site.

"Qualified business facility" participants must apply for the tax credits by **January 13, 2013** and satisfy the capital investment and employment conditions by **January 13, 2016**. Residential development must apply for the tax credits by **July 28, 2014** and satisfy the capital investment conditions by **July 28, 2017**.