

State and Local Tax Bulletin

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Alabama Edition



2011 Proposed Alabama Incentives Legislation

By Christopher R. Grissom, James E. Long, Jr., and William T. Thistle

Upcoming Seminars Involving Members Of Our SALT Practice Group

May 10, 2011

The annual Council On State Taxation (COST) Southeast Regional State Tax Update will be held in Birmingham, Alabama at the Regions Bank headquarters. The seminar presenters, which include representatives from industry, the BABC SALT Practice Team, and key Alabama Department of Revenue officials, will provide an update on significant state tax issues for the Southeast States. With the tax arena constantly changing, this seminar is a must for SALT professionals. For details, visit the COST website at www.cost.org.

May 23, 2011

COST's 2011 Spring Audit Session/Income Tax Conference will be held in Albuquerque, New Mexico. BABC attorneys Chris Grissom and Will Thistle will be speaking on "State Taxation of Owners of Pass-Through Entities". For more information, visit the COST website at www.cost.org.

June 24, 2011

The Tax Executives Institute (TEI) Region VII Annual Conference will be held on Hilton Head Island. Chris Grissom and David Huizenga of Jefferson Wells will be co-presenting "Developing State Tax Audit Management Strategies & Current Trends". For more information, visit the TEI website at www.tei.org.

June 27, 2011

The Institute for Professionals in Taxation's (IPT) Annual Conference will be held in San Antonio, Texas. Chris Grissom and Ben Turner of Aaron's Inc. will be co-presenting "Developing State Tax Audit and Appeals Strategies and Audit Maxims to Live By". For more information, visit the IPT website at www.ipt.org.

Like most states, Alabama is facing difficult financial times, including a 9.7 percent statewide unemployment rate, causing Governor Robert Bentley and the Alabama Legislature to impose severe budget cuts. Recognizing the need to spur the sagging economy, several Republican legislative leaders have introduced bills this session designed not only to encourage new businesses to locate in Alabama, but also to provide incentives to existing businesses to create new jobs. Below is a summary of four such bills introduced this session that the authors believe have a good chance of passing and one bill recently signed by the Governor.

HB 230 – The Full Employment Act of 2011: This bill, promised by Governor Bentley in his State of the State speech, is designed to encourage small businesses to create new jobs by offering a one-time income tax credit of \$1,000 for each new job created. To be eligible for the credit, wages for the position must exceed \$10 per hour. The bill was amended in committee to delete the provision that would have repealed last year's Reemployment Act of 2010. That Act provided an enhanced income tax deduction for Alabama employers that create jobs for unemployed persons that meet certain wage and hour requirements. HB 230, as amended, has passed the House of Representatives and is now pending in the Senate for consideration.

HB 485 and SB 223 – Alabama Data Processing Center Economic Incentive Enhancement Act of 2011: In order to encourage data centers to locate in Alabama, this bill would extend the time period for abatements of certain noneducational sales, use, and property taxes from the current 10-year maximum to as long as 30 years, depending on the total capital investment; and would also allow abatements for recurring capital investment in a data center project during the abatement period. This bill would also reduce the employment threshold to a minimum of 20 new jobs in order for the data center to qualify for tax abatements and other incentives. SB 223, as amended, was voted out of committee and is pending consideration by the full Senate.

HB 478 and SB 373 – Jobs Creation and Retention Act: This bill would allow companies that undertake certain qualifying projects, similar to those listed in the Tax Incentive Reform Act of 1992, to also qualify to receive "withholding incentives." New businesses would be entitled to retain up to 90% of the state income taxes withheld from the wages of their eligible employees and existing businesses could retain up to 75%. The incentives are designed to encourage the retention of existing jobs and create new jobs by increasing development and growth of industry within the state. Several competitor states offer these. The State Industrial Development Authority, the Governor, the Alabama Development Office and the Department of Revenue would determine whether a project qualifies for the withholding incentives. A substituted version of HB 478 moved out of committee last week and can now be considered by the full House. In a recent press conference, Governor

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Bentley touted the bill as “another incentives option we can use to give greater flexibility to bring companies and keep companies in the State.”

SB 255 and HB 345: These bills would make several technical corrections to the film incentives portion of the Entertainment Industry Incentive Act of 2009, including clarifying how to determine which expenditures incurred in connection with producing a television series or commercial in the state qualify for incentives. The bill would also clarify that the sales, use, and lodgings tax exemption applies only to the state portion of these taxes, and not to the local government’s share; and provides caps on amounts expended beyond which rebates and exemptions are not allowed. Initially, both bills provided that the income tax credits are only available in the year in which the production activity concludes, but that provision was removed from SB 255 during committee hearing.

Act 2011-155 - Small Business Health Care Deduction: increases the state income tax deductions for both qualifying employees’ and employers’ (*i.e.*, those with less than 25 employees) payment of health insurance premiums to 200% of the health insurance premiums. A qualifying employee must be employed by a qualified employer, earn no more than \$50,000 of annual wages, and report no more than \$75,000 of adjusted gross income (\$150,000 if married filing jointly) during the applicable tax year. This bill was one of the top legislative priorities of the Business Council of Alabama, House Speaker Mike Hubbard, and Governor Bentley.

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