

Duvall & Associates, Inc.

Taking Care of Business

NEW OHIO INVESTMENT TAX CREDIT

"You'll invest yourself in me." My Chemical Romance

In an effort to expand business in Ohio, the legislature recently passed a tax bill which provides a 10% tax credit for qualifying new investments. Please note many facets of the law outlined below are preliminary and will be greatly clarified by the State in the coming months.

OF CRITICAL IMPORTANCE - Any new or expanding business which plans to spend additional monies to buy business stuff or hire (or even retain) employees could be eligible for this credit.

QUALIFYING INVESTMENT - After July 1, 2011, an investment by an individual or pass-through entity in a "small business enterprise" - said funds to be further invested within six months for tangible personal and real property, intangible property (patents, etc), or even to hire (or retain?) employees. The qualifying asset or employee "position" must be held for at least 2 years to qualify for the credit.

SMALL BUSINESS ENTERPRISE - A business which (1) has less than \$50 million assets and \$10 million sales and (2) employs at least 50 employees in Ohio or over 50% of the employees are located in Ohio (even if only 1 employee).

10% TAX CREDIT - A non-refundable tax credit equal to 10% of the qualifying investment - subject to a maximum \$1 million credit per investor (\$2 million if married). The credit is claimable in the year the 2-year holding period is met and any unused credits may be carried forward for 7 succeeding years.

APPLICATION PROCESS - Investors must complete application forms with the State to become Certified for the credit. The forms will be available September 30, 2011 - and there will be a Pamplona bull-rush for applications. Because total tax credits are limited to \$100 million - be the first in line to apply.

THEORETICAL EXAMPLE - Beatles, LLC plans to use \$1 million company funds to buy new equipment (\$800,000) and "retain" existing employees (\$200,000). Beatles pays a \$1 million dividend to its owner George - who in turn remits the money back to Beatles as an "investment" in the Company. The investment could qualify for a \$100,000 tax credit.

SUMMARY - This statute is weirdly drafted and frankly opens the door for free tax savings to companies who creatively structure their business story to qualify for the investment credit. Again note new investment is credit eligible if spent merely to "retain" existing employees - however that catch phrase is to be interpreted.

Thus, every business should immediately meet with tax advisors to determine how they can qualify for the credit - and swiftly submit an application to the State when forms are available.

Alan Duvall is a certified public accountant in Dayton. Contact him at Alan@Duvallcpa.com.