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FRESNO'S "EMPOWERMENT ZONE"

Summary of Benefits & Qualifying Criteria

The City of Fresno recently received the highly coveted designation as an Empowerment Zone ("EZ" or "Zone")¹ from the U.S. Department of Housing and Urban Development ("HUD"), effective January 1, 2002. This eight-year designation enables Fresno to partake of an estimated \$17 billion in tax incentives to stimulate job growth, promote economic development and create affordable housing opportunities.

Businesses can realize substantial savings through tax incentives when moving to and/or expanding in the EZ and by employing EZ residents. Residents living in the Zone also benefit from the designation through job development and training programs, plus improved employability.

Program highlights include the following:

- ✓ **Employment Tax Credit:** Reduce your business' net federal income tax by up to \$3,000 per employee per year for the entire EZ designation period.
- ✓ **Increased Section 179 Deduction:** Deduct all or part of the cost of certain qualifying property in the year you place it in service.
- ✓ **Rollover of gain on sale of EZ assets:** Tax-free rollover of certain gains from the sale of qualified EZ assets.
- ✓ **Partial exclusion of gain from sale of EZ Stock:** Exclude 60% of gain on qualified EZ stock held for a minimum of five years.
- ✓ **Tax Exempt Bonds:** State or local governments can issue EZ facility bonds to finance EZ businesses with qualified EZ property.
- ✓ **Qualified Low-Income Community Investment Credit ("New Markets Credit"):** A tax credit for a qualified equity investment in a qualified community development entity.
- ✓ **Bonus Points for Federal Grant Applications:** Any entity with project/programs impacting the Zone would receive bonus points on most federal grant applications. (For more information, consult the grant Notice of Funding Availability or the agency administering the grant.)

Some of the preceding benefits are discussed more fully below. However, for more detailed information on all of the above listed benefits, please refer to **IRS Tax Publication 954** by logging onto or clicking on <http://www.irs.gov/pub/irs-pdf/p954.pdf> .

¹ Please note that the abbreviation "EZ" as used throughout this document refers only to Fresno's "Empowerment Zone, NOT to the Enterprise Zone.

Also, to determine whether your business is in the EZ or whether any of your employees reside in the EZ please log onto or click on http://hudweb.esri.com/egis/cpd/rcezec/ezec_open.htm. Once you are in the site, click on **CA** in the United States map and then, in the next page that comes up, click on Fresno, CA Empowerment Zone.

EZ “Employment Credit”

The EZ employment credit provides businesses with an incentive to hire individuals who both live and work in an empowerment zone. The Employment Credit is 20% of up to \$15,000 of “qualified zone wages” you pay or incur per calendar year per qualified zone employee throughout the EZ designation period. As a result, the credit can be as much as \$3,000 (20% of \$15,000) per qualified zone employee each year throughout the EZ designation period.

The terms “qualified zone employee” and “qualified zone wages” are generally defined as follows.

“Qualified Zone Employee”

A “qualified zone employee” is any employee who meets **both** of the following tests.

1. The employee performs substantially all of his or her services for you within an empowerment zone and in your trade or business.
2. While performing those services, the employee has his or her main home within that empowerment zone.

Note: The Fresno Zone is composed of a “Core Area” plus several “developable sites.” Qualified zone employees must live in the Core Area but will qualify if they work at either a business located the Core Area or a developable site.

Also, both full-time and part-time employees may qualify.

Nonqualified Employees

The following individuals are not qualified zone employees.

1. An individual you employ for less than 90 days. However, this 90-day requirement does not apply in either of the following situations:
 - a. You terminate the employee because of misconduct as determined under the state unemployment compensation law that applies.
 - b. The employee becomes disabled before the 90th day. However, if the disability ends before the 90th day, you must offer to reemploy the former employee.
2. Certain related taxpayers
3. Certain dependents.
4. Any 5% owner
5. An individual you employ at any:

- a. Private or commercial golf course,
 - b. Country club,
 - c. Massage parlor,
 - d. Hot tub facility,
 - e. Suntan facility,
 - f. Racetrack, or other facility used for gambling, or
 - g. Store whose principal business is the sale of alcoholic beverages for off-premise consumption.
6. Any individual you employ in a farming trade or business if, at the close of the tax year, the sum of the following amounts is more than \$500,000.
- a. The larger of the unadjusted bases or fair market value of the farm assets you own.
 - b. The value of the farm assets you lease.

“Qualified Zone Wages”

“Qualified zone wages” are any wages you pay or incur for services performed by an employee while the employee is a qualified zone employee (defined earlier). Wages are generally defined as those wages subject to the Federal Unemployment Tax Act (FUTA) without regard to the FUTA dollar limit.

Also treat as qualified zone wages certain training and education expenses you pay or incur on behalf of a qualified zone employee.

Effect of welfare-to-work or work opportunity credit.

Qualified zone wages do not include any amount you take into account in figuring the welfare-to-work credit or the work opportunity credit. In addition, reduce the \$15,000 maximum qualified zone wages for each qualified zone employee by the amount of the wages you use to figure either of those credits for that employee.

Claiming the Employment Credit

Use **Form 8844**, which may be obtained by logging onto or clicking on <http://www.irs.gov/pub/irs-pdf/f8844.pdf> to claim the EZ Employment Credit. Although the EZ employment credit is a component of the general business credit, a special tax liability limit applies to this credit. Therefore, you figure the credit separately and never carry it to Form 3800, General Business Credit.

Effect on Salary and Wage Deduction

In general, you must reduce the deduction on your income tax return for salaries and wages and certain education and training costs by the amount of your empowerment zone employment credit.

More Information

For more information about the EZ employment credit, see the instructions for *Form 8844*.

Increased Section 179 Deduction

Section 179 of the Internal Revenue Service Code allows you to choose to deduct all or part of the cost of certain qualifying property in the year you place it in service. You can do this instead of recovering the cost by taking depreciation deductions over a specified recovery period. There are limits, however, on the amount you can deduct in a tax year.

You may be able to claim an increased section 179 deduction if your business qualifies as an “enterprise zone business.” The increase can be as much as \$35,000 and applies to “qualified zone property” you place in service in an EZ.

It should be noted that there are several criteria that must be met in order for your business to qualify as an “enterprise zone business” and for your property to qualify as “qualified zone property,” all of which are more fully discussed in **IRS Publication 954** (<http://www.irs.gov/pub/irs-pdf/p954.pdf>).

Also, the term “enterprise zone business,” as used in Publication 954 to describe a business that meets the criteria of the increased section 179 deduction under the “federal” Empowerment Zone program, should NOT be confused with the term “enterprise zone business” used to describe a business located in a California “Enterprise Zone.” Although both programs utilize the term “enterprise zone” to describe one or more of their respective benefit components, they are, in fact, unrelated.

Rollover of Gain From Sale of Empowerment Zone Assets

You may qualify for a tax-free rollover of certain gains from the sale of qualified EZ assets. This means that if you buy certain replacement property and make the choice described in this section, you postpone part or all of the recognition of your gain.

You qualify to make this choice if you meet all the following tests:

1. You hold a qualified EZ asset for more than 1 year and sell it at a gain.
2. Your gain from the sale is a capital gain.
3. During the 60-day period beginning on the date of the sale, you buy a replacement “qualified EZ asset” in the same zone as the asset sold.

You should consult **IRS Publication 954** for the definition of a “qualified EZ asset.”

Increased Exclusion of Gain From Qualified Small Business Stock

Taxpayers other than corporations generally can exclude from income 50% of their gain from the sale or trade of “qualified small business stock” held more than 5 years. If the stock is in a corporation that qualifies as an “enterprise zone business” (as defined under *Increased Section 179 Deduction* in IRS Publication 954) during substantially all of the time you hold the stock, you can exclude 60% of your gain.

You should consult **IRS Publication 954** for a more complete discussion of this exclusion.

Tax-Exempt Bond Financing

State or local governments can issue enterprise zone facility bonds (a type of exempt facility tax-exempt bond) to raise funds to provide an “enterprise zone business” with “qualified zone property.” At least 95% of the net proceeds from the bond issue must be used to finance:

1. Qualified zone property whose principal user is an enterprise zone business, and
2. Certain land used for a related purpose (for example, land where the business is located and parking lot for customers and employees).

Tax-exempt bonds generally have lower interest rates than conventional financing.

You should consult **IRS Publication 954** for a more complete discussion of this potential benefit.

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Although the City of Fresno Downtown and Community Revitalization Department is committed to providing the best possible information and service, for detailed information on all of the above discussed potential benefits, readers who are NOT professional tax preparers or accountants **should contact their professional tax preparer or accountant** to discuss how these potential benefits may apply to their business.

Readers are also invited to visit our website at <http://www.fresnoez.com> or to call us at (559) 621-8350. We would love to hear you grow!

*** The City of Fresno is looking to develop a working relationship with Fresno area tax professionals. Please contact Kelly Vaughan Trevino at (559) 621-8426 or kelly.trevino@fresno.gov to have your contact information added to our list of tax professionals who are educated on the Empowerment Zone tax incentives. In addition, we will be asking you to provide us with periodic information on businesses that are taking advantage of these incentives. We look forward to hearing from you.*