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Introduction

This report provides a brief review of the history of Georgia's Job Tax Credit program from its inception in 1990 through 2012. The report is based on a review of material from the Georgia Department of Community Affairs, a review of annual state legislation, and conversations with officials at the Georgia Department of Revenue.

The report is organized as follows. In the next section we briefly describe the Job Tax Credit program as it was first instituted. In the subsequent two sections we summarize the current (as of December 2012) structure of the Job Tax Credit program, and then describe how the program has evolved since 1990.

Initial Job Tax Credit Program

Georgia's Job Tax Credit (JTC) was instituted in 1990, at which time the primary purpose of the program was to increase employment in Georgia's 40 most distressed counties. In 1990, firms were granted a credit of $1,000 per job for up to five years provided that the firm created and maintained at least 10 jobs. Initially, the credit was limited to jobs created in manufacturing, warehousing and distribution, goods processing, and research and development industries. Since 1990, many changes have been made to the program, including the expansion of the program to all counties, increases in the credit amount, and changes in the minimum number of jobs that must be created to be eligible for the credit.

Current Structure and Procedures

Currently, there are four Georgia Code sections that are relevant to the JTC program, OCGA§48-7-40, §48-7-40.1, §48-7-40.15A, and §36-62-5.1. The first two sections, §48-7-40 and §48-7-40.1 reference two separate credits, the Jobs Tax Credit and the tax credit for businesses in less developed areas, respectively. The next two sections, §48-7-40.15A and §36-62-5.1 refer to enhancements to the credits. The following summary of the JTC program, which includes both credits, is drawn from these four Georgia Code sections as of December 2012.

Section 48-7-40

Georgia's 159 counties are grouped into four tiers by the Georgia Department of Community Affairs (DCA) based on economic conditions in the county. Each year, DCA ranks counties according to 1) the highest unemployment rate for the most recent 36 month period; 2) the lowest per capita income for the most recent 36 month period; and 3) the highest percentage of residents living below the poverty level according to the most recent data available. The most distressed county in each category is ranked number one. The three rankings are then combined using equal weights for each factor. DCA divides the counties into four tiers, with Tier 1 encompassing the most economically disadvantaged counties. By Georgia law, the 71 counties with the lowest ranking are to be designated as Tier 1 counties. The next 35, 35, and 18 counties are designated as Tier 2, Tier 3, and Tier 4 counties, respectively. The Commissioner can move a tier 3 county to a tier 2 designation or tier 2 county to a tier 1 designation if the county undergoes a sudden and severe period of economic distress caused by the closing of one or more business enterprises located in such county. The credit amount per job and the minimum number of jobs that have to be created and maintained varies by tier (Table 1).

For all but the counties ranked 1 through 40, only jobs created in certain industries are eligible for a job tax credit. The eligible industries include as of 2012: manufacturing, including but not limited to, alternative energy products for use in solar, wind, battery, bioenergy, biofuel and electric vehicle enterprises; warehousing and distribution; processing; telecommunications; broadcasting; tourism; research and development industries; biomedical manufacturing; and services for the elderly and persons with disabilities. Any business or the headquarters of any such business engaged in these industries are eligible.[1] Retail businesses are explicitly excluded, except in counties ranked as the first through fortieth least developed counties.

[1] A firm may be a group of several business establishments *i.e.,* branch plants. A multi-establishment firm must create the required minimum number of jobs in a particular establishment to qualify for the JTC. In this analysis the term firm refers to the taxed entity and establishment refers to a particular plant. The terms establishment and business establishment are used interchangeably.

The credit can be taken for each year for five years beginning in the year the job was created, if the jobs are maintained.[2] If additional new full-time jobs are created after the firm begins taking a credit, the firm can claim a credit for the new jobs for five years. Unused credits may be carried forward for ten years from the close of the taxable year in which the qualified jobs were established. In tiers 3 and 4 the credit taken in any one taxable year cannot exceed 50 percent of the taxpayer's state income tax liability. A firm in a tier 1 county can take the credit against the enterprise's quarterly or monthly income tax withholding payment.

The number of new full-time jobs is determined by comparing the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year with the corresponding period of the prior taxable year. For a job to qualify for a credit, the average wage of the new jobs created must be above the average wage of the county that has the lowest average wage of any county in the state. In addition, the employer must make health insurance coverage available to the new employees if the firm provides health insurance coverage for other employees.

An existing business enterprise (i.e., one that has been in operation in the state for at least three years) is allowed an additional tax credit of $500 per eligible new full-time employee job in the first year in which the new full-time employee job is created.

The sale, merger, acquisition, or bankruptcy of any business enterprise does not create new eligibility for any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. In general, though, job tax credits cannot be transferred or sold.

The commissioner of economic development can designate a "competitive project", which means the expansion or location of some or all of a business enterprise's operations in this state having significant regional impact but that would have located or expanded outside this state without the tax credits. Firms so designated are allowed to take the credit against income tax withholding payments regardless of tier level.

[2] In tax years prior to 2009, the earliest the credit could be used against income tax liability was the year after the job was created.

Section 48-7-40.1

The JTC program also applies to certain specially designated less developed areas that are smaller than a county. In general, an area consisting of 10 or more contiguous census tracts within a county is designated as a less developed area if it meets the economic conditions of the 71st ranked county or lower. In addition, the commissioner of community affairs can designate four other types of less developed areas, which include:

(1) Any area comprised of ten or more contiguous census tracts which, in the opinion of the commissioner, undergoes a sudden and severe period of economic distress caused by the closing of one or more business enterprises located in such area;

(2) Any area comprised of one or more census tracts adjacent to a federal military installation where pervasive poverty is evidenced by a 15 percent poverty rate or greater as reflected in the most recent decennial census;

(3) Any area comprised of one or more contiguous census tracts which, in the opinion of the commissioner, is or will be adversely impacted by the loss of one or more jobs, businesses, or residences as a result of an airport expansion, including noise buy-outs, or the closing of a business enterprise which, in the opinion of the commissioner of community affairs, results or will result in a sudden and severe period of economic distress; or

(4) Any area which is within or adjacent to one or more contiguous census block groups with a poverty rate of 15 percent or greater as determined from data in the most current United States decennial census, where the area is also included within a state enterprise zone or where a redevelopment plan has been adopted and which, in the opinion of the commissioner displays pervasive poverty, underdevelopment, general distress, and blight.

Businesses located in less developed areas are eligible for a job tax credit if they increase employment by 5 or more jobs. In areas of pervasive poverty (i.e., those described in paragraphs (2) and (4) above) businesses only have to increase employment by two or more jobs in order to be eligible for the credit.

Section 36-62-5.1

Firms that quality for a job tax credit and that are located in a county that is part of a joint economic development authority are allowed an addition $500 tax credit per new job. This tax credit is treated the same as the job tax credit awarded under Georgia code §48-7-40.

Section 48-7-40.15

Business enterprises that meet the qualifications of the Port Tax Credit (§48-7-40.15) and which also qualify for the Jobs Tax Credit under section 40 or section 40.1 are eligible to receive an additional $1,250 annual enhancement to the Jobs Tax Credit.[3]

Changes in JTC Provisions Since 1990

Table 1 shows by year how the number and composition of tiers, the minimum number of jobs that must be created to be eligible, and how the credit amounts have changed. Over the period, the values of the credits have increased, the number of eligible counties has increased, and the minimum number of jobs required to be eligible has decreased.

TABLE 1. JTC AMOUNTS AND MINIMUM JOB CREATION FOR ELIGIBILITY

Tax Year	Tier 1 Counties	Tier 2 Counties	Tier 3 Counties	Tier 4 Counties
1991-1992	Counties: 40 Jobs: 10 Credit: $1000	Tier did not exist	Tier did not exist	Tier did not exist
1993	Counties: 40 Jobs: 10 Credit: $2000	Counties: 40 Jobs: 10 Credit: $1000	Tier did not exist	Tier did not exist
1994-2000	Counties: 53 Jobs: 10 Credit: $2500	Counties: 53 Jobs: 25 Credit: $1500	Counties: 53 Jobs: 50 Credit: $500	Tier did not exist
2001-2011	Counties:71 Jobs: 5 Credit: $3500	Counties:35 Jobs: 10 Credit: $2500	Counties:35 Jobs: 15 Credit: $1250	Counties:18 Jobs: 25 Credit: $750
2012	Counties:71 Jobs: 2 Credit: $3500	Counties:35 Jobs: 10 Credit: $2500	Counties:35 Jobs: 15 Credit: $1250	Counties:18 Jobs: 25 Credit: $750

The following are the other major changes that have been made to the JTC program since 1990. The list is drawn from a review of annual state legislation. The year refers to the date that the provision became effective.

[3] Firms may also qualify for this additional credit by meeting the qualifications specified under the Alternative Port Tax Credit, 48-7-40.15A.

- 1993:
    - The tourism industry became eligible for the JTC.
    - Jobs created by firms in counties ranked 1-40 could be in any industry classification.[4]
- 1994:
    - Jobs created in the headquarters of businesses in allowable industries became eligible for the jobs tax credit.
    - Established the credit for firms in less developed census tracts, consisting of 10 or more contiguous tracts, became eligible for the job tax credit. The initial credit value was $2,000 per job. In 1994, this value was changed retroactive to tax year 1994 to $2,500 per job. In addition, the original law required that 60 percent of all eligible employees live in the less developed area. In 1994, this provision was revised retroactively to tax year 1994 to 30 percent.
- 1995:
    - An additional credit of $500 was allowed as a supplement to the jobs tax credit if the job was created in a county that was part of a joint development authority.
    - The commissioner was given the authority to include as a tier 1 county any tier 2 county that has undergone a sudden period of economic distress brought on by the closing of one or more business enterprises.
- 1996:
    - Jobs created in the headquarters of businesses in allowable industries became eligible for the credit in less developed census tracts.
    - Employment threshold was lowered from 10 jobs to 5 jobs for the less developed census tract credit.
- 1997:
    - The telecommunication industry became eligible for both the jobs tax credit and the tax credit for less developed areas.

[4] This special provision was initially for the period 1993 through 1997, but eventually it was made permanent.

- 1998-2000:
  - No changes
- 2001:
  - The provision limiting the value of the tax credit taken to 50 percent of the firm's tax liability was increased to 100 percent for firms in tiers 1 and 2.
  - A requirement was added to the jobs tax credit that the jobs had to pay a wage that was a certain percentage (which varied by tier) greater than the county average and that health insurance be provided if other employees in the establishment were provided health insurance. Subsequently, the minimum wage requirement was changed so that the wage paid had to exceed the average wage of the county with the lowest average wage in the state. This provision was passed with a retroactive effective date of 2000.
  - Added a requirement to the less developed census tract credit such that the wage must exceed the average wage in the lowest wage county and that the employer must make health insurance coverage available to the employee filing the new job but is not required to contribute to the coverage if the employer does not already contribute to health care for other employees.
  - It was specified that the three factors used to determine the county rankings would be equally weighted; prior to this the code just said the factors were to be considered in the ranking decision.
  - The less developed credit rate was modified so as to be consistent with the jobs tax credit for tier 1 counties.
  - Credits earned in excess of a taxpayer's tax liability under the less developed census tract credit could be taken against income tax withholding.
- 2002-2003:
  - No changes
- 2004:
  - Expanded the definition of eligible census tracts to include those adjacent to a military installation with pervasive poverty and also to include areas with or adjacent to one or more contiguous census block groups with a poverty rate of 20 percent or greater.
  - Allowed any business enterprise located in an area with a poverty rate of 20 percent or greater to claim the less developed area tax credit.

  - Removed the requirement that 30 percent of the new full time jobs claimed under the less developed area tax credit be held by residents of the less developed area.

  - Increased the percentage of the less developed area credit that can be used against the taxpayer's current tax liability from 50 percent to 100 percent.

- 2005:

  - No changes

- 2006:

  - Existing firms qualifying for the Jobs Tax Credit would be eligible for an additional $500 one-time enhancement to their credit value.

- 2007:

  - No changes

- 2008:

  - Expanded the set of qualified industries to include broadcasting for both the jobs tax credit and the less developed census tract credit.

  - Reduced the threshold for inclusion of areas within or adjacent to one or more contiguous census block groups from 20 percent to 15 percent for the purposes of the less developed census tract credit.

  - Reduced the employment threshold from 5 to 2 for the purposes of the less developed census tract credit in areas identified as areas of pervasive poverty.

  - Expanded the definition of qualified census tracts for the purposes of the less developed area tax credit.

- 2009:

  - Both the jobs tax credit and the tax credit for less developed areas were allowed to be taken against the insurance premium tax.

  - Jobs that provide services for the elderly and physically disabled became eligible for the jobs tax credit.

  - Both the jobs tax credit and the less developed area credit were modified such that employers could claim the credit in the year the job was created instead of the following year.

    - Allowed the jobs tax credit to be claimed against withholding in the case of a competitive project in tiers 2, 3 or 4.
    - Required, for both the job tax credit and the less developed area tax credit, that the credit be initially claimed in the 1st year instead of within 3 years.
- 2010-2011:
    - No changes
- 2012:
    - Both the jobs tax credit and the less developed area tax credit were expanded to include enterprises in biomedical manufacturing and in the manufacturing of certain alternative energy products.
    - The jobs tax credit employment threshold for tier 1 was lowered from 5 to 2.

In 1994, the JTC was incorporated into the Georgia Business Expansion Support Act (BEST), which has been amended several times since. The current list of income tax credits provided to businesses can be found in Wheeler (2011).[5]

[5] Wheeler, Laura (2011). "Georgia Tax Credits: Details of the Business and Personal Credits Allowed Against Georgia Income Tax." FRC Report 231, Fiscal Research Center, Andrew Young School of Policy Studies, Georgia State University.

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