



EMPIRE ZONE PROGRAM SUNSET FAQ

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Below is a summary of some questions that may arise due to the end of the Empire Zone Designations on June 30, 2010 barring legislation to extend the program. Please be aware that the majority of the benefits under the Empire Zone Program will continue to be available to clients that are already certified. However, there will not be any new applications accepted after June 29, 2010.

New York State's Empire Zone Program was created in 1986 to stimulate economic growth through a variety of State tax incentives designed to attract new businesses to New York State and to enable existing businesses to expand and create more jobs. Since its creation, the Program has gone through numerous revisions which have pulled the program away from its original focus on the State's most distressed communities and in the process driven the costs of the program to unsustainable levels.

That is why the Governor and legislature included in the 2009 – 2010 Executive Budget an early sunset to the Program, set to occur on June 30, 2010. Going forward Empire State Development will focus its energies on a more targeted approach to statewide and regional economic development.

New economic development initiatives proposed in the 2010-2011 Executive Budget recognize the need for economic development programs that maximize our competitiveness while containing costs, focusing on strategic high-growth industries, capitalizing on our historic manufacturing sector and offering transparency to the business community and the public.

Q: What happens when the Empire Zone Program ends June 30?

A: The program will be closed to *new* entrants. Businesses already certified in the Program will continue to receive benefits, but no additional businesses can become certified.

Q: What happens to businesses that are certified in the Empire Zone Program prior to June 30, 2010?

A: Nothing will happen to businesses already in the Program. They will remain in the Program, and continue to be eligible for all the Empire Zone benefits, for the rest of their benefit period as long as they remain in compliance with the law and EZ regulations.

Q: What about the Enhanced Investment Tax Credit? Doesn't that end June 30?

A: Not if the Governor's budget legislation is enacted. The Enhanced ITC would end under current law when the Program sunsets on June 30, 2010. The Governor's budget proposal fixes this problem.

Q: Same with the Enhanced Employment Incentive Credit?

A: Yes. Under current law the Enhanced Employment Incentive Credit would end with the June 30, 2010 sunset. The Governor's budget proposal fixes this problem as well.

Q: To be clear: If my currently certified business places into service new investment AFTER June 30, 2010, I will qualify for the Enhanced ITC?

A: Yes, *provided* the Legislature enacts the language included in the Governor's budget. If your business makes a qualifying investment and you have higher employment than the previous year, then you will be eligible for the Enhanced ITC and Enhanced EIC *if* the Legislature enacts the Governor's budget language.

Q: Does my EZ-certified business need to do anything to maintain benefits after June 30?

A: There is no re-certification and there are no forms to be filed in order to stay in the EZ program. However, to continue to receive benefits your business must continue to stay in compliance with the law and EZ regulations.

Q: Who will I send my Business Annual Reports (BARs) to?

A: There is no change to the requirement that a business submit complete BARs in order to remain certified. Certified businesses must continue to submit complete BARs annually to the local Zone Administrative Boards (ZABs).

Q: What approvals must be completed for a business to become certified in the Program before it sunsets on June 30, 2010?

A: *For businesses within an existing Empire Zone*, the local zone administrative board must approve the application on or before June 29, 2010. *For regionally significant projects*, a local law must be enacted approving the project, followed by the local zone administrative board approving the application on or before June 29, 2010.

Q: Will any new program applications or boundary revisions be accepted following June 30, 2010?

A: No. All applications for business certification must follow the steps above and be approved by the local zone administrative board on or before June 29, 2010; and all zone boundary revisions must be approved locally on or before June 29, 2010.

Q: Following the Program sunset, will there be any ongoing administrative functions or responsibilities to be performed by local administrators?

A: Yes. As there will continue to be thousands of firms in the program still receiving Empire Zone benefits, there will be ongoing administrative functions in terms of monitoring business performance, reporting, and technical assistance. There will be no change in responsibilities between State and local administrators - certified businesses will still be required to submit BARs and ZABs will still be responsible for receiving and processing them.

For further information on how the Sunset programs impacts your status, contact Cory VanDeusen at cvandeusen@lumsdencpa.com or 716-856-3300.



Cory, a principal in our tax department is an experienced tax professional responsible for development and implementation of tax engagement strategies. He devotes his professional time to tax matters in the areas of business development credits such as the Empire Zone and the Renewal Community Zone, compliance, research, transaction structuring and family planning. Cory has experience in all areas of U.S. Federal and New York State Taxation. He has been with Lumsden & McCormick since 2001 and is a graduate of Niagara University. Cory is a member of the American Institute of Certified Public Accountants, New York State Society of Certified Public Accountants, and the Niagara University Accounting Advisory Board. He is Treasurer of Big Brothers, Big Sisters of Niagara County, Inc.