



# California Competes Tax Credit FAQ

## General

### **1. What is the California Competes Tax Credit?**

The California Competes Tax Credit is an income tax credit available to businesses that want to locate in California or stay and grow in California. Tax credit agreements will be negotiated by GO-Biz and approved by a statutorily created "California Competes Tax Credit Committee," consisting of the State Treasurer, the Director of the Department of Finance, the Director of GO-Biz, and one appointee each by the Speaker of the Assembly and Senate Committee on Rules.

### **2. How much in tax credits will be available each year?**

The tentative amount of credits that can be allocated by GO-Biz is as follows:

- \$151.1 million in fiscal year 2014/15
- \$200 million in each fiscal year 2015/16 through 2017-18.

### **3. Can any business apply for the California Competes Tax Credit? Is the credit restricted to only certain industries or locations in California?**

Any business can apply for the California Competes Tax Credit. The credit is available statewide to all industries. However, while there are no geographic or sector-specific restrictions, the purpose of the California Competes Tax Credit is to attract and retain high-value employers in California in industries with high economic multipliers and that provide their employees good wages and benefits.

### **4. Is there a fee to apply for the California Competes Tax Credit?**

No, there is no fee to apply for the credit.

### **5. Will small businesses be able to apply for the credit?**

Yes, not only are small businesses able to apply for the credit, 25 percent of the total credits available each year are specifically reserved for small businesses (gross receipts, less returns and allowances, of greater than \$0 but less than \$2 million in the business' prior tax year).

**6. What is the maximum ratio that will move my application to the Phase II evaluation process?**

Because the California Competes Tax Credit is based on a competitive application process, the maximum ratio for an application to move into Phase II is not set and can vary during each application period. For example, during the one application period in the 2013-14 Fiscal Year, the cutoff for small businesses to move into Phase II was .0925 while the cutoff for businesses other than small businesses was .0184.

## **Application Mechanics**

**1. When and how can businesses apply for the California Competes Tax Credit?**

Applications for the California Competes Tax Credit are accepted at [www.calcompetes.ca.gov](http://www.calcompetes.ca.gov) during the application periods specified in the "Notice California Competes Tax Credit" located at [www.business.ca.gov/CalCompetes.aspx](http://www.business.ca.gov/CalCompetes.aspx).

**2. How long will the process take from application to award?**

The process takes approximately 90 days which includes the period when applications will be reviewed and presented to the California Competes Tax Credit Committee for approval.

**3. If not awarded a credit, can a business reapply that same fiscal year?**

Applicants not awarded a credit during an application period can update and resubmit their application in the next application period within the same fiscal year. Applicants not awarded a credit by the end of the fiscal year will need to create a new application in order to reapply in the next fiscal year.

**4. Can a business that receives an award apply and receive another award in a subsequent year if it creates more jobs and competes well according to the formula?**

Yes, businesses are not limited to the number of times they can apply or the number of times they can be awarded tax credits.

**5. If I receive reimbursements, rebates, tax credits or other incentives related to the compensation I pay my new full-time employees, must I make an adjustment when computing the "Aggregate Employee Compensation" for my California Competes Tax Credit application?**

No, no adjustment is necessary. However, you will need to list and describe such incentives in the "Incentives and Programs" section of the California Competes Tax Credit application.

**6. Is the “Aggregate Employee Compensation” the total salary for all existing employees and the employees projected to be hired?**

No. In short, the Aggregate Employee Compensation is an estimate of the total projected salaries of the net increase in full-time employees to be employed in California by a business over a period of up to 5 tax years.

**7. Is the \$2 million threshold to determine whether I am a “small business” only based on gross receipts attributable to my business’s gross receipts in California?**

No, a business’s worldwide gross receipts are used to determine if the business is considered a “small business”.

**8. If I am a sole proprietor and own multiple “Schedule C” businesses, do I need to add the gross receipts of all those businesses to determine whether my business is a “small business” for the California Competes Tax Credit?**

No. Only use the gross receipts of the “Schedule C” business that will be doing the activity (hiring and or investing) that is the basis for the award of the California Competes Tax Credit.

**9. How do I determine if I am a “small business” if my tax filing is included in a combined report filed with the Franchise Tax Board?**

If a taxpayer is included in a combined report (whether required or allowed) for purposes of determining whether that taxpayer is a “small business,” the aggregate worldwide gross receipts of all taxpayers in the combined report would be used.

**10. If my tax year is on a fiscal year basis and I haven’t started my 2014 tax year yet, may I apply for the California Competes Tax Credit?**

The California Competes Tax Credit is only applicable for tax years beginning on or after January 1, 2014. Please wait until your 2013 tax year has ended to apply for the California Competes Tax Credit.

## **Evaluation Factors**

**1. What factors will GO-Biz consider when reviewing applications for the credit?**

The amount of the credit will be based on the following factors:

- The number of jobs the business will create or retain in this state.
- The compensation paid or proposed to be paid by the business to its employees, including wages, benefits, and fringe benefits.
- The amount of investment in this state by the business.
- The extent of unemployment or poverty where the business is located.

- The incentives available to the business in this state, including incentives from the state, local government, and other entities.
- The incentives available to the business in other states.
- The duration of the business' proposed project and the duration the business commits to remain in this state.
- The overall economic impact in this state of the business.
- The strategic importance of the business to the state, region, or locality.
- The opportunity for future growth and expansion in this state by the business.
- The extent to which the anticipated benefit to the state exceeds the projected benefit to the business from the tax credit.

**2. Will new or emerging industry/sectors be considered during the evaluation?**

Yes, this will be taken into consideration during the Phase II evaluation.

**3. Are other grants/incentives included in Phase I evaluation?**

No, these are not taken into consideration until Phase II. However, including other grants/incentives does not necessarily negatively impact an applicant. It is a useful tool for GO- Biz to identify if the applicant may be able to take advantage of other grants/incentives. Applicants will also be asked as part of the application if they would like for a GO-Biz business specialist to contact them about other incentives of which they might not be aware that could benefit their project or business.

**4. Will letters of support from local governments be a part of the process?**

Yes, although not required, letters of support will be taken into consideration during Phase II of the application process. Applicants will be invited to upload supporting documents after being notified of their application being forwarded to Phase II.

**5. Is a business required to have site control to be eligible for tax credits? For example, if a company is looking to start a business in California, must they have already signed a property lease or property purchase agreement?**

Businesses that apply for the tax credit are not required to have an existing signed lease or purchase agreement; but, applicants should have an idea of the general location in California because this will be taken into account during the Phase II evaluation. The applicant should also be able to demonstrate the finance mechanism(s) it has secured or will use to secure its facility(ies).

## **Evaluation Process**

**1. Is the phase one formula detailed in the regulations?**

Yes, please go to [www.business.ca.gov/CalCompetes.aspx](http://www.business.ca.gov/CalCompetes.aspx) for a copy of the regulations.

**2. What is the difference between the Phase I evaluation and the Phase II evaluation?**

The Phase I evaluation is a quantitative analysis in which the credit amount requested is compared to the hiring and investment commitments of each applicant. This “ratio” is automatically calculated based on the applicant’s credit request divided by the sum of its aggregate investment and aggregate employee compensation. Phase II brings into consideration a variety of qualitative factors, including local unemployment and poverty, competing incentives, economic impact, and industry outlook.

**3. Are there any exemptions to the Phase I calculation which would allow an application to be considered in Phase II?**

Yes, GO-Biz may move an application to Phase II if the owner, president, chief executive officer, chief financial officer or other equivalent person of the applicant certifies to GO- Biz that absent award of the credit the applicant’s project will occur in another state or the applicant will terminate or relocate all or a portion of its employees to another state.

## **Tax Credit Mechanics**

**1. What types of taxes can the California Competes Tax Credit offset?**

The California Competes Tax Credit only applies to income tax owed to the Franchise Tax Board. The credit is non-refundable. If the credit allowed exceeds the tax due, the excess may be carried over to reduce the tax in the following year, and the succeeding five years if necessary, until exhausted.

**2. Is there a minimum credit amount that a business may request?**

Yes, the minimum amount a business can request is \$20,000.

**3. If I am awarded a California Competes Tax Credit, when can I claim it on my tax return?**

Each negotiated and approved tax credit agreement will specify the terms and conditions of when the tax credit may be claimed.

**4. If I am awarded the California Competes Tax Credit, may I assign it to an affiliated corporation?**

The normal credit assignment rules under Revenue and Taxation Code section 23663 apply.

**5. What happens if an S-Corp is awarded the California Competes Tax Credit?**

One-third of the California Competes Tax Credit may be utilized by an S-Corp to offset the tax on net income at the S-Corporation level. The remaining two-thirds of the credit is disregarded and may not be used as a carryover for the S-Corp. However, the full amount of the California Competes Tax Credit is also passed through to the S-Corp’s shareholders.

## **Employment Requirements**

### **1. Is there a minimum number of jobs that must be created?**

There is no minimum number of jobs that must be created. However, the credit will be awarded on a competitive basis. Note that applications from small businesses will be compared to the applications from other small businesses.

### **2. What is considered a full-time employee for the California Competes Tax Credit?**

A full-time employee is defined as an individual that is paid wages for services in this state of not less than an average of 35 hours per week.

### **3. Can new part-time employees be combined to fulfill the new full-time employee requirements?**

No, new part-time employees do not qualify and will not be counted towards the employment requirement, even partially. For example, two new part-time hires does not equal one new full-time hire for the purpose of fulfilling the credit requirements.

## **Privacy**

### **1. Is a California Competes Tax Credit application subject to a public records request?**

GO-Biz is subject to the California Public Records Act (PRA) (Government Code section 6250 et. seq.). Technically, the applications could be subject to a PRA, but GO-Biz will work to protect the information by excluding proprietary information, financial information and trade secret type information. GO-Biz will also apply the balancing test to protect the information, as needed. GO-Biz will notify an applicant in the event their data is requested and will work with the applicant to protect the data, to the extent GO-Biz can. With that said, GO-Biz will enter into agreements with the most competitive applicants and will make recommendations to the California Competes Tax Credit Committee to award the credit to such taxpayers. In addition, the law requires GO-Biz to post on our website the following information:

- (A) The name of each taxpayer allocated a credit
- (B) The estimated amount of the investment by each taxpayer
- (C) The estimated number of jobs created or retained
- (D) The amount of the credit allocated to the taxpayer
- (E) The amount of the credit recaptured from the taxpayer, if applicable

## **Additional Economic Development Initiatives**

### **1. Is the California Competes Credit the only component of Governor Brown's Economic Development Initiative?**

No, in addition to the California Competes Credit, the Governor's Economic Development Initiative (GEDI) provides a partial sales tax exemption and a hiring credit that will be administered by the Board of Equalization and the Franchise Tax Board respectively. More information on the partial sales tax exemption and the hiring credit can be found here:

[http://www.boe.ca.gov/sutax/manufacturing\\_exemptions.htm](http://www.boe.ca.gov/sutax/manufacturing_exemptions.htm) and here:

[https://www.ftb.ca.gov/online/New\\_Employment\\_Credit\\_Reservation/index.shtml](https://www.ftb.ca.gov/online/New_Employment_Credit_Reservation/index.shtml)