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S 2. COMPUTER MANUFACTURING TAX INCENTIVES. *TO PROVIDE A TAX CREDIT FOR CERTAIN MAJOR COMPUTER MANUFACTURING FACILITIES AND TO ENHANCE CERTAIN EXISTING TAX INCENTIVES FOR THOSE FACILITIES*. Enacts new art. 3G, GS Ch. 105, to establish tax credits for major computer manufacturing facilities, as defined in GS 105-164.14 and new GS 105-129.61(2). Provides the following credits against the corporate franchise and income taxes for a taxpayer certified as eligible by the Sec'y of Commerce: (1) for 2005 taxable year, a credit of $10 million if the taxpayer, either directly or through a related entity, has invested at least $25 million in private funds to construct a manufacturing facility in NC; (2) for 2006 through 2009, the maximum amount of credit is $10 million, and the amount of credit is determined by multiplying the employment level adjustment factor (the lesser of one and the number derived by dividing the taxpayer's increased employment level for the year by the following applicable target levels: 2006-600, 2007-1,000, 2008-1,100, 2009-1,500) by the lesser of $10 million and the product of the unit output of the facility and the applicable production factor (for 2006, this factor is $15, for all other years it is $6.25); (3) for 2010 through 2014, the maximum credit is $15 million if the taxpayer in any year has attained an increased employment level of 1,500, otherwise the maximum amount is $10 million; (3) for 2015 through 2019, the maximum amount of the credit is $20 million if the taxpayer in any years has attained an increased employment level of 2,500; otherwise the maximum is $15 million if an increased employment level of at least 1,500, or $10 million if not. If the taxpayer fails to attain an increased employment level of at least 1,200, either directly or in conjunction with its strategic partners and related entities, within 5 years after beginning construction of the facility with respect to which a credit is claimed or the taxpayer fails to invest at least $100 million in private funds to construct a computer manufacturing and distribution facility over a 5-year period, the taxpayer may not take any further credits under the article with respect to that facility. Failure to attain an increased employment level of 1,200 within 5 years or to invest at least $100 million to construct the facility does not result in forfeiture of credits already taken unless the taxpayer supplied false information in obtaining its certification of eligibility.

Act defines "increased employment level" as total number of new full-time jobs and new permanent part-time jobs converted into full-time equivalences created by the taxpayer at the facility with respect to which the credit is claimed, either directly or indirectly through a related entity or strategic partner, as of Dec. 31 as compared to the employment level of the taxpayer as of Dec. 31 in the year in which the taxpayer begins construction of the facility or as of the date the Sec'y makes a written determination of eligibility; jobs transferred from one area of the state to another are not considered new jobs. "Related entity" is defined as an entity for which the taxpayer possesses directly or indirectly at least 80% of the control and value. "Strategic partner" is defined as business that is engaged in activities at the facility that directly contributes to the manufacture and distribution of computers and computer peripherals and with whom the taxpayer has contracted to provide those activities at the facility in direct support of its manufacturing and distribution activities.

Among the eligibility requirements for the tax credits provided by the article are the following: (1) Sec'y of Commerce makes a written determination that the taxpayer has or is expected to have an increased employment level at the facility of at least 1,200 within 5 years after the time that the facility is first used as a computer manufacturing and distribution facility and that the taxpayer, either directly or indirectly through a related entity or strategic partner, has invested or is expected to invest at least $100 million in private funds to construct a computer manufacturing and distribution facility over a 5-year period; (2) the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level provide health insurance for all of the full-time jobs at the facility with respect to which the credit is claimed each year it claims a credit or carryforward of a credit; an entity provides health insurance if it pays at least 50% of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to GS 58-50-125; (3) as of the last day of the taxable year for which a credit or carryforward is claimed the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level have no pending administrative, civil, or criminal enforcement actions based on alleged significant violations of any program implemented by an agency of the Dep't of Environment and Natural Resources, and have had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last 5 years; (4) as of the last day of the taxable year for which a credit or carryforward is claimed the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level have no citations under the Occupational Safety and Health Act at the facility with respect to which the credit is claimed that have become a final order within the past 3 years for willful serious violations or for failing to abate serious violations; (5) as of the last day of the taxable year for which a credit or carryforward is claimed the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level have no overdue tax debts that have not been satisfied or otherwise resolved.

New art. 3G sunsets for business activities occurring in taxable years beginning on or after Jan. 1, 2020.

Effective for business activities occurring on and after Nov. 1, 2004, and taxable years beginning or after Jan. 1, 2005, amends GS 105-129.4 (Bill Lee Act) to provide that a taxpayer who is otherwise eligible for a tax credit under art. 3A, GS Ch. 105, and also under new art. 3G is eligible for the following major computer facility enhancements: (1) the wage standard requirement does not apply to the activities of the taxpayer at the major computer facility; (2) for the credit for creating jobs under GS 105-129.8, the amount of the credit is increased by $4,000 per job for jobs at the major computer facility; (3) for the credit for investment in machinery and equipment under GS 105-129.9, the applicable percentage is 7% and the applicable threshold is $0.00 regardless of the enterprise tier designation of the county in which the major computer facility is located; (4) for the credit for worker training under GS 105-129.11, the maximum amount of the credit per worker trained is $1,000 regardless of the enterprise tier designation of the county in which the major computer facility is located; (5) for the credit for substantial investment in other property under GS 105-129.12A, the taxpayer is eligible for the credit regardless of the enterprise tier designation of the county in which the major computer facility is located.

Effective Jan. 1, 2005, amends GS 105-164.14(j)(2) (sales and use tax refunds) to provide that in the case of a computer manufacturing facility, the owner may invest funds either directly or indirectly through a related entity or strategic partner, and –164.14(j)(3) to provide that the manufacturing of computer peripheral equipment is covered only if the manufacture or assembly of the equipment occurs at a facility or campus at which the taxpayer also manufactures or assembles electronic computers.

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