

CHAPTER Res 2500

RULES FOR THE ER- Z BUSINESS TAX CREDIT PROGRAM

Statutory Authority: RSA 162-N:8

PART Res 2501 PURPOSE AND SCOPE

Res 2501.01 Purpose of the ER-Z Business Tax Credit Program.

(a) The purpose of the ER- Z Business Tax Credit Program is to allow the creation of ER-Z zones and provide tax incentives for ER-Z projects which are available to qualifying new and existing businesses in the state.

(b) The program encourages ER-Z projects that meet certain state economic objectives, such as stimulating economic redevelopment, expanding the commercial and industrial base, creating new jobs, reducing sprawl, and increasing tax revenue.

(c) The primary goal of the program is to increase the quality of ER-Z projects which will contribute to the economic vitality of the state.

Source. #8108, eff 7-1-04

Res 2501.02 Scope.

These rules shall apply to all ER-Z projects for which a business tax credit is requested. Projects meeting the criteria set forth by Res 2500 shall be eligible for a tax credit to be used against the Business Profits Tax and Business Enterprise Tax for up to 100% of the investment.

Source. #8108, eff 7-1-04

PART Res 2502 DEFINITIONS

Res 2502.01 "ER-Z" means "Economic Revitalization zone" or "ER-Z" as defined in RSA 162-N:1, namely "a zone designated by the commissioner of resources and economic development as a ER-Z in accordance with the provisions of this chapter."

Source. #8108, eff 7-1-04

Res 2502.02 "Local governing body" means "local governing body" as defined in RSA 672:6, namely "in addition to any other appropriate title:

- I. Board of selectmen in a town;
- II. City council or board of aldermen in a city;
- III. Village district commissioners in a village district; or
- IV. County commissioners in a county in which there are located unincorporated towns or unorganized places."

Source. #8108, eff 7-1-04

Res 2502.03

"Brownfields site" means "brownfields" as defined by RSA 147-F:3, II, namely "properties which have been contaminated, subject to the limitations of RSA 147-F:4, II."

Source. #8108, eff 7-1-04

PART Res 2503

ER-Z DESIGNATION

Res 2503.01

Eligibility. Any local governing body that has a primary objective of promoting sites for industrial and business location and expansion or for encouraging job growth shall be eligible for ER-Z designation under this program.

Local governing bodies shall meet the ER-Z designation requirements set forth in Res 2503.02.

Source. #8108, eff 7-1-04

Res 2503.02

ER-Z Designation Requirements. A local governing body shall request an ER-Z designation for an eligible site from the commissioner prior to any taxpayer applying for tax credit project certification under this program.

Such local governing body shall apply for and receive ER-Z designation by completing and submitting Form ERZ-1, as described in Res 2503.03.

Source. #8108, eff 7-1-04

Res 2503.03 Form ERZ-1, Economic Revitalization Zone Designation Form.

(a) A local governing body requesting ER-Z designation shall supply on Form ERZ-1 the following information:

- (1) Name, address and telephone number of the local governing body;
 - (2) Name and title of the contact person; and
 - (3) Name of area or site to be designated a ER-Z zone.
- (b) All information shall be typewritten.
- (c) The local governing body shall provide evidence of the following:

(1) The area has been certified as being a brownfields site;

OR

(2) The area has at least one of the following characteristics:

- a.** The population of the municipality or municipalities in which the zone is located shows a decrease, according to the most recent federal census;
- b.** At least 51 percent of the households in the census tract or tracts in which the zone is located have incomes of less than 80 percent of the median income of households in the state, as reported by the United States Department of Housing and Urban Development and the New Hampshire department of employment security, bureau of economic and labor market Information;
- c.** At least 20 percent of households in the census tract or tracts in which the zone is located have a median income below the federal poverty level, as reported by the United States Department of Housing and Urban Development and the New Hampshire department of employment security, bureau of economic and labor market information;
- d.** The zone contains either:
 - 1.** Unused or underutilized industrial parks; or
 - 2.** Vacant land, or structures previously used for industrial, commercial, or retail purposes but currently not so used due to demolition, age, obsolescence, deterioration, relocation of the former occupants operations, or cessation of operation resulting from unfavorable economic conditions either generally or in a specific economic sector;

and

(3) Designation of the zone as a ER-Z zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the zone.

(d) The contact person representing the local governing body shall sign and date the form.

(e) The local governing body shall mail or hand-deliver the completed form to:

Department of Resources and Economic Development
Division of Economic Development
Program Administrator
172 Pembroke Road
PO Box 1856
Concord, NH 03302-1856

Source. #8108, eff 7-1-04

Res 2503.04

Failure to Comply. Failure to provide any of the information for designation shall result in denial of a ER-Z zone designation unless corrections are made within 10 days of notification of any missing information by the commissioner.

Source. #8108, eff 7-1-04

Res 2503.05

Notification of ER-Z Designation.

(a) The commissioner shall approve a request for a ER-Z designation if the information provided by the local governing body pursuant to Res 2503.03(c)(1), (2) and (3) is true.

(b) If the commissioner approves a request for ER-Z designation, the commissioner shall forward the local governing body a letter of certification within 30 days after receipt of the request.

(c) If the commissioner does not approve a request for ER-Z designation pursuant to (a) above, the commissioner shall notify the local governing body in writing of the specific reasons for denial within 30 days after receipt of the request.

Source. #8108, eff 7-1-04

PART Res 2504

ER-Z PROJECT TAX CREDIT INFORMATION

Res 2504.01

ER-Z Project Tax Credit Term. Tax credits shall be available to the taxpayer only for tax liabilities arising during the 5 consecutive tax periods including and following the date of certification by the commissioner.

Res 2504.02

Project Review. The commissioner shall review projects for tax credit certification on an as-received basis.

Source. #8108, eff 7-1-04

Res 2504.03

Projects Submitted. All projects for tax credit certification shall be submitted not more than 60 days prior or less than 30 days before the end of the taxpayer's tax filing period.

Source. #8108, eff 7-1-04

Res 2504.04

Burden of Proof. The burden of proof for the delivery of materials shall be the responsibility of the taxpayer requesting tax credit certification for a project.

Source. #8108, eff 7-1-04

Res 2504.05

Acceptable ER-Z Projects. Tax credit certification may be given by the commissioner for a project that expands the commercial or industrial base of the state, creates new jobs in the state, and meets at least one of the following criteria:

(a) Creates a facility which is determined to entail significant investment in real and/or personal property, other than inventory at a location where the business has not previously operated, such as doubling of pre-facility assessed value;

(b) Makes expenditures to add buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least 50 percent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation;

(c) Makes expenditures to alter or repair a facility that equal at least 50 percent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation; or

(d) Makes expenditures to alter or repair a vacant facility equal to at least 20 percent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

Source. #8108, eff 7-1-04

Res 2504.06

Project Conditions. The commissioner shall impose conditions on a project as necessary to assure continued project compliance.

Source. #8108, eff 7-1-04

PART Res 2505 APPLYING FOR ER-Z ZONE TAX CREDIT CERTIFICATION

Res 2505.01

Eligibility. Any taxpayer that has a project in compliance with Res 2504.05 within a designated ER-Z shall be eligible for tax credit certification under this program. Taxpayer's shall meet the certification requirements set forth in Res 2505.02.

Source. #8108, eff 7-1-04

Res 2505.02

Tax Credit Certification Required. A taxpayer requesting an ER-Z project tax credit that has an approved project in compliance with Res 2504.05 shall be certified as eligible by the commissioner. Such taxpayer shall apply for and receive certification by completing and submitting Form ERZ-2, as described in Res 2505.03.

Source. #8108, eff 7-1-04

Res 2505.03

Tax Credit Certification Form.

(a) A taxpayer applying for an ER-Z tax credit certification shall supply on Form ERZ-2 the following information:

- (1) Name, address and telephone number of the taxpayer;
 - (2) Location of the ER-Z project eligible for the credit;
 - (3) Detailed description of the project;
 - (4) Quantity of jobs to be created, occupational type and compensation;
 - (5) Duration of the project; and
 - (6) Documentation indicating the taxpayer's investment in the project.
- (b) All information shall be typewritten.
- (c) The taxpayer shall include a copy of the ER-Z designation letter of certification issued to the local governing body.
- (d) The taxpayer shall:
- (1) Sign and date the form; and
 - (2) Certify by his or her signature to guarantee the project pursuant to Res 2506.01.
- (e) The taxpayer shall include an application fee of \$100.00. If paying by check or money order, the fee shall be made payable to treasurer, state of New Hampshire.
- (f) The taxpayer shall mail or hand-deliver the original and 2 copies of the application and all attachments to:

Department of Resources and Economic Development
Division of Economic Development
Program Administrator
172 Pembroke Road
PO Box 1856
Concord, NH 03302-1856

Source. #8108, eff 7-1-04

Res 2505.04

Failure to Comply. Failure to provide any of the information for certification shall result in denial of a ER-Z tax credit unless corrections are made within 10 days of notification of any missing information by the commissioner.

Source. #8108, eff 7-1-04

Res 2505.05

Notification of ER-Z Tax Credit Certification.

(a) The commissioner shall approve a request for tax credit certification if it is an acceptable project as provided by Res 2504.05 and it has complied with the requirements of Res 2505.03. Notification by the commissioner shall be made within 30 days after receipt of the request.

(b) If the commissioner approves a project for tax credit certification pursuant to (a) above, the commissioner shall:

- (1) Forward the taxpayer one completely executed copy of the Form ERZ-2 specifying any conditions that have been put on the project; and
- (2) Forward the commissioner of revenue administration one completely executed copy of the Form ERZ-2.

(c) If the commissioner does not approve a project for tax credit certification pursuant to (a) above, the commissioner shall notify the taxpayer in writing of the specific reasons for denial.

Source. #8108, eff 7-1-04

PART Res 2506

PROJECT GUARANTEE

(a) Following certification of a project tax credit, it shall be the responsibility of the taxpayer to guarantee that all elements of the project are completed.

(b) If a taxpayer fails to complete a project, the taxpayer shall forfeit remaining credits which were part of the project tax credit certified by the commissioner.

Source. #8108, eff 7-1-04

PART Res 2507

REPORTING

Final Report Required. A final report shall be filed by the taxpayer within 90 days of the completion of the project detailing their activities including the total of all investments used to complete the project.

Source. #8108, eff 7-1-04

PART Res 2508

INFORMATION

The public may obtain information regarding the ER-Z business tax credit program by contacting the division of economic development as described in Res 103.01.

Source. #8108, eff 7-1-04

Specific State or Federal Statutes or Regulations which the Rule is intended to implement

RSA 162-N:1-9	RSA 162-N:8, II
RSA 162-N:1	RSA 672:6
RSA 147-F:3, II	RSA 162-N:2, I
RSA 162-N:2, I and II	RSA 162-N:8, I
RSA 162-N:7	RSA 162-N:8, II
RSA 162-N:1	RSA 162-N:8, II
RSA 162-N:4	RSA 162-N:8, II and III
RSA 162-N:4, I(g)	RSA 162-N:8, II
RSA 91-A:4	

Provision of the Proposed Rule

Res 2501.01	Res 2501.02
Res 2502.01	Res 2502.02
Res 2502.03	Res 2503.01 through Res 2503.05
Res 2504.01	Res 2504.02 through Res 2504.04
Res 2504.05	Res 2504.06
Res 2505.01 through Res 2505.05	Res 2506.01
Res 2507.01	Res 2508.01

APPENDIX