

Laws of Attraction

to a list that includes Toyota, Schwab and Nestlé, we can add Tesla. California couldn't compete with the tax breaks, regulatory easing and other incentives Nevada offered and lost the bidding war for Tesla's so-called gigafactory, which would have created some 6,500 new jobs in California. Tesla's decision underscored Gov. Brown and the state Legislature's continued struggle to lure corporations to establish or expand operations in California.

It also dealt another blow to a state still woozy from the lingering effects of the recession. While many areas of California have recovered, a number of communities aren't there yet. According to the U.S. Bureau of Labor Statistics, California—with a 7.4 percent unemployment rate as of July—ranks 44th worst in the nation.

Businesses are also feeling the pinch as many lack sufficient access to capital and find themselves having to spend time and money complying with the often complex requirements of doing business in the state.

But the news isn't all bad. California continues to seek ways to draw in businesses and strengthen its jobs picture. One of the key tools it has introduced to help it do so is the California Competes Tax Credit (CCTC).

Opportunity Knocks

Part of the Governor's Office of Business and Economic Development (GO-Biz), this initiative consists of an awarded credit that offsets California state income or franchise tax. It's designed to help businesses continue or expand their operations in the state and encourage out-of-state businesses to move to California.

The credit is available to any size company in any industry, with no boundary restrictions anywhere within California. Each fiscal year through 2017–18, the CCTC Committee will have up to \$200 million to award.

The CCTC is an agreement negotiated by applicants or their representatives with GO-Biz. It's then approved or rejected by the CCTC Committee, which includes the state



treasurer, the director of the Department of Finance, the director of GO-Biz, a person appointed by the California Senate and a person appointed by the California Assembly. The latter two appointees cannot be members of the Senate or Assembly.

Of the aggregate amount of tax credits available each fiscal year, 25 percent is reserved for small businesses. For the purposes of the credit, a small business is defined as one that had less than \$2 million in gross income in the prior year. Any credit amount not awarded during the application period will carry over to the next application period.

The GO-Biz director will announce the application periods before each new fiscal year. There may be more than one period in any fiscal year so that the available tax credits aren't immediately exhausted.

Once the application period has been determined, an announcement will be posted to the GO-Biz website (business.ca.gov) before the scheduled CCTC Committee meeting. The announcement will state the:

- Application period;
- Deadline to submit applications for each application period;

Tesla Pulls the Plug, but California Still Competing for Business

- Dates when the committee will hold meetings to approve or reject applications;
- Amount of credit available during each application period;
- Rescheduling of committee meetings; and
- Amendments to any previously announced application periods, to deadlines for submitting applications, or to the amount of credit available.

The application process involves a two-phase review. The first phase takes a high-level look at your business:

- What do you do?
- Are you a small business (that is, did you have less than \$2 million in gross receipts last year)?
- What is your proposed project and does it involve retaining, expanding or relocating your business in California?
- What will your investment be?
- How many employees do you have?
- What is the employees' compensation?
- Where is the business located or where will it be located?
- Will you leave California if you're not considered for this credit?

Information on up to 50 items may be sought in phase one; this data will be used to score applicants by their cost-benefit ratio.

Phase two asks to see further details from the most competitive applicants, including:

- How many existing employees will retain their jobs as a result of this proposed project?
- What's the strategic importance of your project to California?
- Will there be opportunities for growth or expansion in the future?

Following the application review process, GO-Biz will contact selected applicants to negotiate the terms and conditions of their tax credit agreement.

Next Steps

For the 2014–15 fiscal year, GO-Biz has allocated \$105 million (plus any unallocated funds from the previous application period)

to be awarded during the remaining two application periods: \$75 million from Jan. 5-Feb. 2, and \$30 million from March 9-April 6.

The review process is competitive and can be complex, so reaching out to an accounting firm that specializes in California tax credits and incentives is important if you're serious about taking advantage of the CCTC. You can gain valuable insight from advisers who have helped other companies qualify for the credit and who monitor the legislature to stay informed about proposed changes to the credit and additional allocation amounts.

However, make sure the accounting firm charges either a flat rate or hourly fee for its CCTC-related services, since contingency fees may disqualify your application.

Advisers should also be able to provide:

- Guidance on your overall application package;
- Recommendations for improving selection criteria;
- Help reviewing and evaluating available documentation;
- Advice on the level of risk associated with any published information;
- A computation based on the quantitative selection criteria;
- Alternative options to the quantitative selection, if needed;

- Advice on subjective selection criteria;
- Evaluation of sites selected for potential California investment;
- Research on other state incentives, if needed;
- Assistance responding to any follow-up requests by GO-Biz;
- Negotiations on terms and conditions of the agreement, credit computation, terms of credit use and terms of recapture;
- Representation for your business before the CCTC Committee, GO-Biz and the Franchise Tax Board as needed; and
- Assistance to your management team, attorneys and site selection team.

The CCTC may not be the silver bullet for California's ability to attract jobs to the state, but neither is it something to overlook. It offers a valuable and significant incentive to businesses in a wide range of industries that want to either keep and expand operations in the Golden State or move them here. It may not have been quite enough for Tesla, but it might be just right for you. 

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wantmore?

Utilizing Federal and California Tax Incentive Credits

As a trusted adviser, it is a CPA's job to help their clients utilize valuable federal and California tax incentives and credits. The CalCPA Education Foundation is offering a live course and webcast that will review the incentive and credit qualification process, factors affecting how incentives and credits can be used, and will help you ensure that the incentives and credits claimed by your clients are protected during an audit.

- **Dec. 8, 8:30 a.m.– 4:30 p.m.**
San Francisco
www.calcpa.org/TaxCreditsCourse
- **Dec. 8, 8:30 a.m.–4:30 p.m.**
Webcast
www.calcpa.org/TaxCreditsCourseWebcast