Jurisdictions Extend or Offer Tax Credits to Encourage Sustainable Practices

TAX AND BENEFITS CHALLENGES | MAY 12, 2015

North Carolina

On April 30, 2015, North Carolina Gov. McCrory provided a safe harbor for renewable energy projects by signing HB 372 into law. The safe harbor delays the sunset of the tax credit for projects that are substantially completed by Jan. 1, 2017. The amount of the available tax credit varies by project and entity seeking the credit.

Taxpayers are eligible for the delayed sunset if they do the following:

1. Apply for the extension by Oct. 1, 2015, and include information pertaining to the location and estimated total cost of the project, estimated credit that will be claimed, and total size in the megawatt capacity of the applicable project(s);
2. Pay the application fee of $1,000 per megawatt of capacity (minimum fee of $5,000) by Oct. 1, 2015;
3. Incur at least the minimum percentage of costs of the project on or before Jan. 1, 2016; and
4. Complete at least the minimum percentage of the physical construction of the project on or before Jan. 1, 2016.

For projects with a total size of less than 65 megawatts of direct current capacity, the minimum percentage of incurred costs and partial construction is at least 80 percent. For a project with a total size of 65 megawatts or more of direct current capacity, the minimum percentage of incurred costs and partial construction is at least 50 percent.

District of Columbia

Another way of promoting sustainable practices is through agriculture policy, as lawmakers in the District of Columbia did when they passed the Urban Farming and Food Security Amendment Act of 2014 (the Act). It allows taxpayers to claim a non-refundable tax credit for donations made to a food bank or shelter, and claim real property tax abatement for unimproved property leased for small scale farming.

DCGreens.org, an advocacy group that supports food education, food access, and food policy in Washington, D.C., promoted the Act as a way of encouraging urban farming and food security.

The Act does this in the following ways:

1. Benefits landowners who use their land for agricultural purposes;
2. Increases the availability of land; and
3. Provides tax credits for food donation.

More specifically, the Act offers certain businesses a non-refundable credit of 50 percent, up to $5,000, when they make food commodity donations—farm to food donations—to a food bank or shelter after Jan. 1, 2015. A food commodity is “any vegetables, fruits, grains, mushrooms, honey, herbs, nuts, seeds, and rootstock that are intended to be used as food in its perishable state…”

In addition, when an owner of unimproved land leases it to an unrelated party for the purpose of producing a food commodity through small-scale urban farming, the lessor is entitled to a 50 percent deduction from the real property tax imposed on the portion of the leased property actually used for small-scale farming. Among other conditions:

1. The initial term must be for at least three years;
2. At least 5,000 square feet of the property must be used and cultivated;
3. The entire property subject to the lease must be dedicated to agricultural use; and
4. There may not be any dwellings on the property.

A November 2014 committee report cited several benefits of urban farming that the Act encourages. For example, self-grown and local food is “inherently healthier in that it is not processed or treated with preservatives or other unnatural ingredients.”

Beyond this, locally grown commodities contribute to the green space and beauty of the natural environment, and help consumers appreciate the source of their food. People become “engaged with the earth and food cycle. Besides its poetic beauty, such engagement has important public health implications.”