

CREDITS FOR GROWING BUSINESSES (ARTICLE 3J CREDITS)

In July, 2006, the NC General Assembly passed legislation ([House Bill 2170](#)) that created a new tax credit program, Article 3J Credits. Article 3J provides three types of tax credits to eligible taxpayers that undertake qualifying activities in North Carolina: 1) Credit for Creating Jobs, 2) Credit for Investing in Business Property, and 3) Credit for Investment in Real Property (tier 1 only). These credits may be combined to offset up to 50% of the taxpayer's state income and franchise tax liability, and unused credits may be carried forward for up to five years (15-year carry-forwards apply to the Credit for Investing in Real Property and 20-year carry-forwards exist for taxpayers that invest at least \$150 million over a two-year period).

Article 3J Credits should not be confused with William S. Lee Credits. Although these tax credit programs are similar, they are not the same. Article 3J is not a revision to the Lee Act; it replaces the Lee Act. The distinction is subtle, but significant.

In general terms, Lee Credits are repealed for business activities that occur on or after January 1, 2007 and Article 3J Credits take effect for taxable years beginning on or after January 1, 2007.

County Tier Designations (§143B-437.08)

The Department of Commerce annually ranks the state's 100 counties based on economic well-being and assigns a tier designation to each. The 40 most distressed counties are designated as tier 1, the next 40 are tier 2, and the 20 least distressed are tier 3. This tier system is incorporated into various state programs, including Article 3J Credits, to encourage economic activity in the less prosperous areas of the state.

Urban Progress Zones (UPZ) and Agrarian Growth Zones (AGZ)
Municipalities with a population of at least 10,000 have the ability to define qualifying areas of poverty as Urban Progress Zones. Counties that do not have a municipality with a population of at least 10,000, have the ability to define qualifying areas of poverty as Agrarian Growth Zones. Projects located within these zones receive enhanced Article 3J Credits.

Eligibility (§105-129.83)

To qualify for Article 3J Credits, the following eligibility requirements must be met:

1. The primary activity at the business establishment must be an eligible type of business, which includes:
 - aircraft maintenance and repair; air courier services hub; company headquarters that creates at least 75 new headquarters jobs; customer service call centers; electronic shopping and mail order houses; information technology and services; manufacturing; motorsports facility; motorsports racing team; research and development; warehousing; and wholesale trade.
2. The average wage of all full-time workers employed by the taxpayer at the establishment during the taxable year must meet or exceed the applicable wage standard of the county in which the establishment is located. Note: There is no wage standard for taxpayers located in a tier one county.
3. The taxpayer must offer qualifying health insurance for all full-time positions at the establishment and pay at least fifty percent (50%) of employee premiums.

4. The taxpayer must not have received any significant environmental violations with the North Carolina Department of Environment and Natural Resources within the prior five years.
5. The taxpayer must not have received any "willful" or "failure to abate" serious OSHA violations at the establishment within the prior three years.
6. The taxpayer may not have overdue taxes.

Credit for Creating Jobs (§105-129.87)

Eligible taxpayers that meet a minimum threshold of new full-time jobs created during the taxable year may claim a credit for each new job created. The credit is taken in equal installments over four years following the year the jobs are created. The job threshold and the credit amount per job are determined by the tier designation of the county in which the jobs are created.

	County Tier Designation			UPZ/AGZ
	1	2	3	
Job Threshold	5	10	15	5
Credit per Job	\$12,500	\$5,000	\$750	+ \$1,000*

** If the job is filled by a resident of the zone or a long-term unemployed worker, add an additional \$2,000.*

Credit for Investing in Business Property (§105-129.88)

Eligible taxpayers may claim a credit based on a percentage of the cost of capitalized tangible personal property that is placed in service during the taxable year, in excess of an applicable threshold. This credit is taken in equal installments over four years, beginning the year after the property is first placed in service. The credit percentage and threshold are based on the tier designation of the county where the property is placed in service.

	County Tier Designation			UPZ/AGZ
	1	2	3	
Threshold	\$0	\$1million	\$2million	\$0
Credit %	7%	5%	3.5%	7%

Credit for Investment in Real Property (§105-129.89)

Eligible taxpayers that invest at least \$10 million in real property within a three-year period and create at least 200 new jobs within two years at an establishment located in a tier 1 county are allowed a credit equal to 30% of the eligible real property investment. This credit is taken in equal installments over seven years, beginning the year after the property is used in an eligible business. To qualify for this credit, the taxpayer must obtain a written determination from the Department of Commerce.

This summary is not meant to be exhaustive. Taxpayers should review the Article 3J statutes prior to claiming credits. Taxpayers that are uncertain about their eligibility or ineligibility to claim credits after reviewing the Article 3J statutes should consult with the Department of Revenue. No application is required to claim Article 3J credits.