

CITY OF HAMPTON

**ENTERPRISE ZONE
PROGRAM**

HOW TO COMPLETE FORM EZ-1

**APPLICATION FOR
LOCAL ENTERPRISE ZONE INCENTIVES**

**Hampton Department of Economic Development
1 Franklin Street, Suite 600
Hampton, Virginia 23669
(757) 727-6237
www.hamptonva.biz**

TABLE OF CONTENTS

DEFINITIONS..... 1

HOW INCENTIVES ARE EARNED BY QUALIFYING BUSINESSES..... 3

QUALIFICATION REQUIREMENTS

 Eligibility..... 4

 Employment Restrictions..... 4

 Qualifying Part-time Employees..... 4

GENERAL PROGRAM GUIDELINES

 Time Limits on Eligibility..... 5

 Time Limits on Receiving Incentives..... 5

 Bankruptcy..... 5

 Prohibition of Re-qualification Due to Reorganization..... 6

 Falling Below Required Thresholds..... 6

 Required Records..... 6

APPLICATION SUBMISSION INSTRUCTIONS..... 6

HOW TO COMPLETE THE QUALIFICATION FORM EZ – 1

 Part I. Background Information..... 7

 Part II. Qualification Information..... 8

 Employment Test..... 8

 Wage Test..... 9

 Part III Qualification Information – Investment Test

 Newly Purchased, Newly Leased, Newly Located Taxable Assets 9

 Part IV. Refund and Grant Calculations..... 10

 Section A. Business License Tax Refund

 Section B. Utility Tax Refund

 Section C. Capital Investment Grant

 Part V. Declaration..... 10

DEFINITIONS

Added capital investment means the net cost increase of taxable personal property during a specified time period within a Hampton-designated Enterprise Zone. This increase can be the result of newly purchased property, newly leased property or property transferred into the City of Hampton from a location outside the City of Hampton.

Base year means the calendar year preceding the first calendar year of qualification a business firm requests Enterprise Zone incentives.

Business means any corporation, partnership, electing small business (subchapter S) corporation, limited liability company, or sole proprietorship authorized to conduct business in the City of Hampton as well as professional organizations and associations whose classification falls under subsector 813910 and 813920 of the North American Industry Classification System (NAICS). The term “business firm” also *does not* include organizations which are exempt from State income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, section 512; nor does it include homeowners associations as defined in the Federal Internal Revenue Code section 528.

Common control means those firms as defined by Internal Revenue Code section 52(b).

Employee of a Zone Establishment means a person who is on the payroll of the firm’s establishment within the Enterprise Zone and is required to report to work in the Enterprise Zone.

Existing business means one that was conducting business within the City of Hampton and existed prior to the establishment of the Enterprise Zone or moves from an existing Hampton location into an Enterprise Zone. An existing business is also one that was not previously conducted in Hampton by such taxpayer who acquires or assumes the trade or business in Hampton and continues its operation.

Federal minimum wage means the minimum wage standard as defined by the United States Department of Labor in the Fair Labor Standards Act, 29 U.S.C. 201 et seq and applies to those paid on an hourly basis. For those permanent full-time employees in salaried positions, the minimum wage is defined as the employee’s annual salary divided by 52 weeks per year divided by 35 hours per week.

Food and beverage establishment means a business whose industry classification falls under subsector 722 Food Services and Drinking Places of the North American Industry Classification System (NAICS).

Full-time employee means a person employed by a business firm located within either the Hampton Urban or Hampton Roads Center Enterprise Zone (not both) who is normally scheduled to work either (i) a minimum of 35 hours per week for the entire normal year of the business firm’s operations, which a normal year must consist of 48 weeks or (ii) a minimum of 35 hours per week for a portion of the taxable year in which the employee was initially hired to work. Seasonal, temporary, leased, or contract labor positions or employees shifted from an existing location in Hampton into the business firm located in the Enterprise Zone shall not qualify.

Local utility taxes shall consist of the City’s tax on purchasers of gas and electric utilities (HCC 37-201 et seq); the tax levied on purchasers of local exchange telephone service, including local mobile telecommunications (HCC 37-214 et seq). Local utility taxes shall not include the tax on telephone service to establish and maintain the E-911 emergency telephone system (HCC 37-224), or the public rights of way use fee (HCC 37-212), or the state and local consumption tax on gas and electric services levied in accordance with Code of Virginia §§58.1-2900 -58.1-2907, or any other taxes not specifically herein named.

Net cost increase is equal to the difference between the applicant's taxable personal property at the beginning of the specified time period and the application date.

New business means one that was not previously conducted within the City of Hampton by such taxpayer and that begins operation in a Hampton-designated Enterprise Zone. A new business is also one created by the establishment of a new facility in addition to one already existing in Hampton.

Newly purchased means taxable personal property purchased after January 1, 2005 and within the time period specified in Sections 2a, 3a and 4a of Hampton Ordinance 1412 and used for the conduct and trade of that business located within a Hampton-designated Enterprise Zone. In the case of an existing business, the purchases shall have had to have been made while conducting a business within a Hampton-designated Enterprise Zone and not prior to relocating within a Hampton-designated Enterprise Zone.

Newly leased means taxable personal property leased after January 1, 2005 and within the time period specified in the Sections 2a, 3a and 4a of Hampton Ordinance 1412 and used for the conduct and trade of that business located within a Hampton-designated Enterprise Zone. In the case of an existing business, the leases shall have had to have been made while conducting a business within a Hampton-designated Enterprise Zone and not prior to a relocation within a Hampton-designated Enterprise Zone. In order for "newly leased" property to be considered qualifying for the purposes of any Enterprise Zone incentives, the applicant must be able to provide proof of either direct payment or indirect payment (through the lessor) of local personal property taxes to the City of Hampton.

Qualified enterprise zone business means an enterprise zone business that has met the qualifications set forth in Hampton Ordinance 1412.

Qualifying year means the calendar year in which the business located in a Hampton Enterprise Zone is seeking to qualify for local incentives provided in Hampton Ordinance 1412.

Taxable for determining the added capital investment means all tangible personal property purchased after January 1, 2005 and within a 12-month period to qualify for a refund of business license and/or utility taxes, or an eighteen month period if qualifying for a capital investment grant.

Taxable does **not include** application software, vehicles, boats, trailers or other motor vehicles licensed by the state for which a city decal is purchased, and real property. In the case of **manufacturing businesses**, taxable also does **not include**: furniture, fixtures, office equipment and computer equipment used in administrative functions and any other tangible personal property not used in the manufacturing process. The Hampton Commissioner of Revenue makes the determination of classification as to what constitutes a manufacturing business.

Property is taxed at its total original cost, which includes all costs incidental to acquiring and placing an asset in use. For manufacturing businesses only, total original cost excludes capitalized interest.

Taxable personal property means property subject to the City of Hampton's business tangible personal property and/or machinery and tools tax as per HCC 37-141 et. seq.

Related party means those as defined by Internal Revenue Code §267(b).

HAMPTON ENTERPRISE ZONE INCENTIVES

The City of Hampton provides three incentives to encourage businesses to expand, relocate, or start-up operations within its Enterprise Zones.

Capital Investment Grant – any manufacturer or office-oriented business located within a Hampton Enterprise Zone that meets the qualification requirements set forth in Section 2a of this Ordinance shall be eligible for a Capital Investment Grant for up to three (3) consecutive calendar years based on the actual business personal property and/or machinery and tools taxes paid to the City of Hampton. Capital Investment Grants shall only apply to taxable personal property that are newly purchased, newly leased, or transferred from outside of the City of Hampton. The maximum benefit to any single business shall be \$50,000 annually.

Business License Tax Refund – any new or existing business, with the exception of food and beverage establishments, located within a Hampton-designated Enterprise Zone that has met the qualification requirements shall be eligible for a refund of business license taxes for up to five (5) consecutive calendar years. The Business License Tax Refund consists of a refund of business license taxes paid in an amount equal to 100% in the first calendar year, 80% in the second calendar year, and 60% in third through the fifth calendar years. The maximum benefit to any single business shall be \$10,000 annually.

Local Utility Tax Refund – any new or existing business, with the exception of food and beverage establishments, located within a Hampton-designated Enterprise Zone that has met the qualification requirements shall be eligible for a refund of local utility taxes for up to five consecutive calendar years. The Local Utility Tax Refund consists of a refund of local utility taxes as defined in the in an amount equal to 100% in the first calendar year, 80% in the second calendar year, and 60% in third through the fifth calendar years. The maximum benefit to any single business annually is determined by its tax liability.

HOW INCENTIVES ARE EARNED BY QUALIFYING BUSINESSES

The refund of business license and local utility taxes are only applicable to the extent of gross receipts derived from qualifying Enterprise activities. In general, a Hampton business must pay its business license annually by March 1st. The tax is based on the business' prior year gross receipts (ex: the 2009 business license tax is based on 2008 gross receipts).

Likewise, the Capital Investment Grant is applicable to taxes paid on qualifying increases in capital investment in business personal property, machinery and tools, and real estate taxes.

- Business personal property taxes and machinery and tools taxes are levied on a calendar year basis. Taxes are based on property physically located in the City of Hampton on January 1st of the calendar year and are payable in two installments (June 5th and December 5th).

No business will receive an incentive unless the business firm has actually paid a tax based on the qualified increased capital investment.

QUALIFICATION REQUIREMENTS

Eligibility - To be eligible to participate in the Hampton Enterprise Zone Program a business firm must be located in a Hampton Enterprise Zone. Please visit our web site at www.hampton.gov/ed to verify your zone address or call (757) 727-6237.

Capital Investment Grant

For an *existing* business to become qualified:

- (i) Increase the number of full-time employees in the Enterprise Zone by 10% and the increase must constitute at least three (3) net new full-time employees within 18 months of making an application to the City of Hampton. The wages paid to the minimum number of new full-time employees shall be equal to twice the federal minimum wage rate; and
- (ii) Make an added capital investment within either the Hampton Urban or Hampton Roads Center Enterprise Zone of at least \$500,000 within an 18-month period, as verified by the Commissioner of Revenue.

For a *new* business to become qualified:

- (iii) Create at least 25 net new full-time employees at the Enterprise Zone location within 18 months of making an application to the City of Hampton and wages paid to each new employee shall be equal to twice the federal minimum wage rate; and
- (iv) Make a \$500,000 minimum added capital investment within the Enterprise Zone in machinery and tools and/or in business personal property within an 18 month period, as verified by the Commissioner of Revenue.

Capital Investment Grants shall be based on the qualifying added capital investment and shall be equal to 100% of the local tangible property tax associated with the qualifying added capital investment with the enterprise zone as verified by the Commissioner of the Revenue for a period of three consecutive calendar years. The maximum benefit to any single business shall be \$50,000 annually.

Business License and Utility Tax Refunds

For an *existing* business to become qualified it must:

- (i) Increase the number of full-time employees in the Enterprise Zone by 10% and the increase must constitute at least three (3) net new full-time employees, whichever is greater, within 12 months of making an application to the City. The wages paid to the minimum number of new full-time employees shall be equal to twice the federal minimum wage rate; and
- (ii) Make an added capital investment within either the Hampton Urban or Hampton Roads Center Enterprise Zone of at least \$50,000 within 12 months of making an application to the City of Hampton, as verified by the Commissioner of Revenue.

For a *new* business to become qualified it must:

- (iii) Hire a minimum of 10 full-time employees within either the Hampton Urban or Hampton Roads Center Enterprise Zone within 12 months of application and the wages paid to the minimum number of new full-time employees shall be equal to twice the federal minimum wage rate; and
- (iv) Make an added capital investment of at least \$100,000 within either the Hampton Urban or Hampton Roads Center Enterprise Zone within 12 months of making an application to the City of Hampton, as verified by the Commissioner of Revenue.

The **Business License Tax Credit** consists of a refund of business license taxes paid in an amount equal to 100% in the first calendar year, 80% in the second calendar year, and 60% in the third through the fifth calendar years. The maximum benefit to any single business shall be \$10,000 annually.

The **Local Utility Tax Credit** consists of a refund of local utility taxes paid in an amount equal to 100% in the first calendar year, 80% in the second calendar year, and 60% in the third through the fifth calendar years. The maximum benefit to any single business is based on the annual taxes paid.

Employment Restrictions

- ◆ Employees must report to work in the Enterprise Zone. This means that the only physical location of the employees' workstation is within the Enterprise Zone.
- ◆ The following positions cannot be included in the calculation of average full-time employment:
 - 1) Seasonal, temporary, leased or contract labor positions;
 - 2) A employee whose job function previously qualified for a credit in connection with a different Enterprise Zone business on behalf of the taxpayer, a related party, or a trade or business under common control (cannot count the same job twice);
 - 3) An employee who was employed by an Enterprise Zone business and the trade or business was purchased by another taxpayer. Although the business has changed ownership, it is considered an existing business with existing employees and the business will have to meet the applicable employment and investment thresholds to qualify for each incentive.

GENERAL PROGRAM GUIDELINES

Limitations and Forfeitures: The following limitations and forfeitures shall apply to the Hampton Enterprise Zone Incentives Program:

- (a) The benefits provided under the Hampton Enterprise Zone Incentive Program are applicable from January 1, 2005 to the statutory expiration of the enterprise zones within the City of Hampton. Any jobs created or investments made prior to January 1, 2005 are not eligible to be used in determining whether a business has met the minimum threshold requirements to become a qualified business.
- (b) A business may only qualify twice for any incentive offered through the Hampton Enterprise Zone Incentive Program.

- (c) A business may not use the same capital investment and jobs to qualify for the Hampton Technology Zone Program.
- (d) If a business qualified for any of the Hampton Enterprise Zone incentives (Capital Investment Grant or refund of business or local utility taxes) and fails to pay the taxes imposed by the City by the due date, it will result in the forfeiture of all Hampton Enterprise Zone Incentives Program grants or refunds until such time as all taxes are paid.
- (e) If the qualified Enterprise Zone business files for bankruptcy during the incentive period this will result in forfeiture of any portion remaining of the grant or refunds.
- (f) If the number of qualifying employees, wages and/or investment falls below the minimum qualifying thresholds stipulated for applicable grants or refunds, the applicable grant or refunds shall be forfeited for that calendar year.

Prohibition on Re-qualification Due to Reorganization of Firm - A business firm may not qualify for the Hampton Enterprise Zone Incentive Program longer than allowed by reorganizing or changing its form in a manner that does not alter the basis of the firm's assets or result in a taxable event.

Required Records: Businesses qualifying for the Hampton Enterprise Zone Incentive Program must keep careful records of the methods used to calculate base year and qualification year employment, wages and capital investment. The records must be kept for a period of up to three years after the last year the business qualified for the Hampton Enterprise Zone Incentive Program. Qualified businesses found not to have adequate documentation regarding employment, wages and/or capital investment may be required to repay Enterprise Zone incentives.

APPLICATION SUBMISSION INSTRUCTIONS

A business firm seeking to obtain the benefits provided under the Hampton Enterprise Zone Incentive Program must make an application for certification as a qualified Enterprise Zone business.

- All applicants will be notified within *60 days* of application submittal deadline as to the amount of incentive(s) they are eligible to receive.
- The Enterprise Zone Administrator and the Commissioner of Revenue will investigate and verify that each applicant is in compliance with the Enterprise Zone qualifications and that all taxes and fees have been paid. The amount of the incentive will be determined upon receipt of all current year tax payments. If a qualified Enterprise Zone business fails to pay in full the taxes imposed by the City of Hampton by the due date, this will result in the forfeiture of the Hampton Enterprise Zone incentive for that year upon a finding by the Administrator that the tax account has been delinquent for 60 days.
- After a business has been certified by the Enterprise Zone Administrator, the business firm must annually submit an application indicating the number of full-time employees employed by the firm, the average number of full-time employees earning twice the federal minimum wage rate, and the amount of capital investment maintained by the business firm during the remaining qualifying years.

- Applications must be signed by an official representative of the business firm authorized to sign on the firm's behalf and must be notarized.
- **QUESTIONS** concerning the Enterprise Zone Program and the application process can be answered by contacting the Hampton Department of Economic Development at **(757) 727-6237**.

Completed applications must be mailed or hand delivered to:

Attn.: Chief Deputy Business Taxes
City of Hampton
Commissioner of Revenue
1 Franklin Street, Suite 101
Hampton, VA 23669

HOW TO COMPLETE THE QUALIFICATION FORM EZ-1

The following are step-by-step instructions for completing the Hampton Enterprise Zone Qualification Form EZ-1. Any questions about this form and the qualification requirements must be directed to the City of Hampton Department of Economic Development at (757) 727-6237.

PART I: BACKGROUND INFORMATION

- Item 1. Place an “X” in the box indicating in which Enterprise Zone the business firm is located.
- Item 2. On the first line enter the Federal employer identification number (FEIN) that is used on the firm’s Federal income tax return. On the second line enter the firm’s Virginia Employment Commission (VEC) identification number that is used when paying the Virginia employment tax on employees as required by Article 2, Chapter 5, Title 60.2 of the Code of Virginia. Both numbers are required.
- Item 3. On the first line enter the legal name of the business firm. On the second line enter the business firm’s trading name. If the trading name is the same as the legal name, enter “same.”
- Item 4. Enter the business firm’s Enterprise Zone street address.
- Item 5. Enter the firm’s principal mailing address. The Enterprise Zone incentive benefits will be sent to this address. If this address is the same as the firm’s street address, enter “same.”
- Item 6. Enter the month and year the business firm began operation at the Enterprise Zone location.
- Item 7. Enter the name of a contact for the business firm, their email address and a daytime telephone number where the contact person can be reached to answer any questions.
- Item 8. Enter the business firm’s Web address, if there is none enter the word “None.”
- Item 9. Enter a “brief” description of the firm’s business activity. If necessary, attach a written description.

PART II: QUALIFICATION INFORMATION, EMPLOYMENT & WAGE TESTS

- Item 1. Enter an X in the box that reflects whether this is a new or an existing business activity in Hampton. Enter the calendar year the business firm is seeking a grant and/or refund of taxes.
- Item 2. Enter an “X” in the box(es) that are relevant to the Enterprise Zone incentive(s) the business firm is requesting. Also enter the 12 month period the business firm is seeking to qualify for a tax refund and/or the 18 month period the firm is qualifying for a Capital Investment Grant.
- Item 3. **Employment Test** – The employment test is used to determine if the firm has met the Program’s minimum threshold employment requirement. Please refer to the employment restrictions beginning on page 4 of this instruction manual before completing this section.

How to Calculate Average Full-time Employment:

Each applicant must calculate the average number of employees it has employed in either the base year and/or qualifying year, depending on whether the firm is a new or existing business.

Note: New business firms qualifying for the first time do not have to calculate base year employment. New firms seeking to qualify for a second time will need to calculate base year employment since they will be treated as an existing business and will need to indicate this on the application.

- 1) Count the number of full-time employees the firm had in each payroll period at its location in the Enterprise Zone during the firm's base year and qualification year. (The base year is the year preceding the first year of qualification a business firm requests Enterprise Zone incentives).
- 2) Total the number of full-time employees for the year.
- 3) Divide the total number of full-time employees for the year by the total number of payroll periods. This will equal the average full-time employment over the year.

The example below shows how a company with 12 payroll periods determined the employment average.

2008 Base Year

Period	1	2	3	4	5	6	7	8	9	10	11	12	Total	Ave.
FTEs	3	4	5	5	6	6	6	6	6	6	6	6	65	5.41

Repeat the steps above for qualifying year.

2009 Qualifying Year

Period	1	2	3	4	5	6	7	8	9	10	11	12	Total	Ave.
FTEs	6	8	10	10	8	10	9	10	12	12	12	12	119	9.92

Item 4. **Wage Test** – The wage test is used to determine if the business firm has met the Program’s minimum wage requirement.

Note: At a minimum, the average number of full-time employees hired after the firm’s base year earning twice the Federal minimum wage rate must be equal to the minimum threshold number of employees needed to qualify for the Program.

How to Calculate Average Full-time Employment Wages:

- 1) Count the number of full-time employees the firm had in each payroll period earning twice the Federal minimum wage rate at its location in the Enterprise Zone during the firm’s base year and qualification year.
- 2) Total the number of full-time employees for each year whose earnings equal twice the Federal minimum wage rate.
- 3) Divide the total number of full-time employees earning twice the Federal minimum wage rate for the year by the total number of payroll periods. This will equal the average full-time employees earning twice the Federal minimum wage rate.

2008 Base Year

Period	1	2	3	4	5	6	7	8	9	10	11	12	Total	Ave.
Twice Fed	5	5	4	4	5	5	5	5	5	5	5	5	58	4.83

Repeat the steps above for qualifying year.

2009 Qualifying Year

Period	1	2	3	4	5	6	7	8	9	10	11	12	Total	Ave.
Twice Fed	6	6	7	7	7	7	8	8	10	10	10	10	96	8

PART III. QUALIFICATION INFORMATION – ADDED CAPITAL INVESTMENT

Information provided in this section of the application is for the Hampton Commissioner of Revenue’s use only and will be kept confidential.

The investment test is used to determine if the business firm has met the Program’s minimum investment requirement. A business firm is required to examine the amount of capital investment it has made within the Enterprise Zone. For the purposes of this Program, added capital investment means the net cost increase of taxable personal property during a specified time period within a Hampton-designated Enterprise Zone. This increase can be the result of newly purchased property, newly leased property or property transferred into the City of Hampton from a location outside the City of Hampton. Please refer to the qualification requirements beginning on page four of this instruction manual for the investment criteria.

The disposal of any capital investment in the qualifying year is entered on line (5). If no capital investment is disposed of in the qualifying year, enter \$0 on line (5) and subtract line (5) from line (4). Total the amount of added capital investment made from the base year through the last year of qualification.

Required Documentation – Businesses qualifying for the Hampton Enterprise Zone Incentive Program must keep careful records of the methods used to calculate base year and qualification year employment, wages and capital investment. The records must be kept for a period of up to three years after the last year the business qualified for the Hampton Enterprise Zone Incentive Program. Qualified businesses found not to have adequate documentation regarding employment, wages and/or capital investment may be required to repay Enterprise Zone incentives.

PART IV. REFUND & GRANT CALCULATIONS

Section A **Business License Tax Refund** – asks the applicant to state the amount of business license tax payments or refunds paid during the qualification period, exclusive of any penalties or interest.

Section B **Utility Tax Refund** – requires the applicant to provide an itemized list of utility taxes paid during the qualification year in the format provided below. The list is to be itemized by month, utility provider, account number, tax type and amount of tax paid. Please provide a total of utility taxes paid for the qualification period.

Month/Year	Utility Provider	Account #	Tax Type	Tax Amount
				\$

Section C **Capital Investment Grant** – requires the applicant to provide an itemized listing of all assets used to calculate net added capital investment in the format provided below. In the case of newly leased property, submit a copy of the lease agreement and any exhibits or attachments thereto sufficient to identify the name and contact information of the leasing company, the beginning lease date, lease terms and description of the assets leased.

Date of Purchase	Date Located in Hampton	Item Description	Original Cost
			\$

Please provide the total of taxes paid on the capital investment made within the Enterprise Zone during the qualification period.

Note: The actual amount of the Capital Investment Grant that is earned by the applicant will be determined by the Commissioner of Revenue.

PART V. DECLARATION

A signature from an authorized representative of the business firm must be obtained and witnessed by a notary public.

You need to keep a copy of the application for the business firm’s records.

Any questions concerning the Enterprise Zone Program or the application process should be directed to the Hampton Department of Economic Development at (757) 727-6237.

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