

ALABAMA DEPARTMENT OF REVENUE Report of Intent to Invest in Project for Income Tax Capital Credit

This form is to serve as the written statement of intent for a capital credit project in accordance with the provisions of Title 40, Chapter 18, Articles 7 and 9, Code of Alabama 1975. See instructions prior to completing Form INT.

Project entity: FEIN: Address: Telephone No.: () City: State: Zip: Project name: NAICS code:

Project location (if different from above): Project filing status: [] LLC [] C Corporation [] S Corporation [] Partnership [] Estate [] Sole Proprietorship

1a. Type of project: [] Industrial, Warehousing, or Research Activity [] Small Business Addition [] Headquarters Facility [] Data Processing Center [] State Docks [] Renewable Energy Facility [] Research and Development Facility [] Alternative Energy Resources Electricity Production [] Hydropower Electricity Production

1b. Is project located in a Favored Geographic Area? [] Yes [] No

2. Type of trade or business to be conducted at the project (see instructions):

3. Description of project (attach additional sheets if necessary) (see instructions):

4a. Will project be phased? [] Yes [] No

4b. Estimated date project is to be placed in service (if phased, include dates for each phase):

Table with 2 columns: Project costs (Building, Land, Equipment, etc.) and Projected number of new employees, average hourly wage, county location, and contact person.

11. Election for determination of income earned at the project: [] Two Factors (property and payroll) [] Three Factors (property, payroll, and sales) [] Separate Accounting (see instructions)

12a. Has the investing company reduced its employment level in the last two years? [] Yes [] No

12b. Has an investing company in the project closed a facility in Alabama in the last two years? [] Yes [] No If yes, complete the following: Date of closure: No. of employees at the date of closure: Location of facility:

13. Number of current employees employed in Alabama by investing company prior to project:

Allocations of Capital Credit

A complete list of all participants in the project entity entitled to receive the Capital Credit must be provided. (Attach additional sheets if necessary.)

Table with 2 columns for participant information: Name, Address, City, State, Zip, Social Security No. or FEIN, Percentage Allocation of Credit.

Under penalties of perjury, I declare that I am duly authorized to complete this form and that I have listed all the participants of the project entity. I have examined the above statements and to the best of my knowledge and belief they are true, correct, and complete.

Your Signature: Title: Date:

Instructions For Preparing Report of Intent to Invest in Project (Form INT)

General Instructions

Sections 40-18-190 through 40-18-203 and Sections 40-18-240 through 40-18-250, *Code of Alabama 1975* provide for an annual capital credit against Alabama income tax liability or financial institution excise tax liability (for data processing center, headquarters facility, and in-bound call center projects only) generated by or arising out of a qualifying project in the amount of five percent of capital costs for 20 years, beginning in the year the qualifying project is placed in service. This form is to serve as the written statement of intent for a capital credit project in accordance with Section 40-18-191 and 40-18-241. Any project meeting the statutory requirements may qualify for the capital credit provided the Form INT is received by the Department of Revenue prior to placing the project in service (a project that is a phased project must file Form INT prior to placing the first phase in service.) Provided all requirements have been met, the Department will approve the qualifying project and will assign a project number. The project number must be used whenever you are corresponding with the Department about this project. Any project not filing a timely Form INT will not be eligible to qualify for the capital credit. When the actual costs are known and the project is placed in service, Form INT-2 must be filed to report the actual capital investment in a project and to report the date the project is placed in service. Form INT-2 must be filed prior to taking the capital credit.

Pursuant to Section 41-9-202.1, *Code of Alabama 1975*, all projects, with the exception of state docks projects, must include a "Notification Acknowledgement Letter" from the Director of the Alabama Development Office (ADO) with the Form INT. The Form INT can be submitted to the Department of Revenue prior to receiving the "notification acknowledgement letter;" however, the Form INT will not be processed until the Department of Revenue receives the "notification acknowledgement letter." To receive the "notification acknowledgement letter," the company must notify the Alabama Development Office with the following information: a brief description of the project, the amount of capital investment in the project, the number of jobs created by the project, the location of the project, and the date the project will be placed in service. Notification can be made on line at www.ado.alabama.gov or in writing to: Alabama Development Office, Alabama Center for Commerce, Suite 610, 401 Adams Avenue, Montgomery, AL 36104.

If you have any questions pertaining to the administration of this form or related to the capital credit in general, please contact the Alabama Department of Revenue at (334) 242-1175. Mail this completed form to: Alabama Department of Revenue, ATTN: Capital Credit Program Administrator, P.O. Box 327001, Montgomery, AL 36132-7001.

Statutory Requirements For Projects

Industrial, Warehousing or Research Activity Project

A project at which the predominant trade or business activity conducted will constitute industrial, warehousing, or research activity, capital costs which are not less than \$2,000,000, a minimum of 20 jobs for new employees created, and the average hourly wage of all new employees at the project must meet the base wage requirement. A project located in a Favored Geographic Area is subject to a lower capital cost threshold of \$500,000 and a minimum job creation of five (5) jobs for new employees. Industrial, warehousing, or research activity is defined in Section 40-18-190(8) as any trade or business in the 2007 North American Industrial Classification System (NAICS) as: Sectors 31 (except National Industry 311811), 32, and 33, Subsectors 423, 424, 511, and 927, Industry Groups 5417, 5415, and 5182, Industries 11331 and 48691, National Industries 115111, 517110, 541380, and 561422 (in bound call centers only), or any process or treatment facility which recycles, reclaims, or converts materials, which include solids, liquids, or gases, to a reusable product.

Small Business Addition Project

A project at which the predominant trade or business activity conducted will constitute industrial, warehousing, or research activity, capital costs which are not less than \$1,000,000, a minimum of 15 jobs for new employees created, and the average hourly wage of all new employees at the project must meet the base wage requirement. Industrial, warehousing, or research activity is defined in Section 40-18-190(8) as any trade or business in the 2007 North American Industrial Classification System (NAICS) as: Sectors 31 (except National Industry 311811), 32, and 33, Subsectors 423, 424, 511, and 927, Industry Groups 5417, 5415, and 5182, Industries 11331 and 48691, National Industries 115111, 517110, 541380, and 561422 (in bound call centers only), or any process or treatment facility which recycles, reclaims, or converts materials, which include solids, liquids, or gases, to a reusable product. A small business

addition is an addition of any land, building or other improvement, and all real and personal properties deemed necessary or useful in connection therewith, whether or not previously in existence, to be used as a part of any existing facility of a business located in the state that, prior to the date on which the addition is placed in service, had 100 or fewer full-time employees.

Headquarters Facility Project

A project described in the 2007 North American Industrial Classification System (NAICS) National Industry 551114, capital costs which are not less than \$2,000,000, a minimum of 50 jobs for new employees created, and the average hourly wage of all new employees at the project must meet the base wage requirement. Headquarters facility projects do not qualify for Favored Geographic Area status.

Data Processing Center Project

A project at which the predominant trade or business activity conducted will be engaged in the provision of complete processing and specialized reports from data, the provision of automated data processing and data entry services, the provision of an infrastructure for hosting or data processing services, the provision of specialized hosting activities, the provision of application service provisioning, the provision of general time-share mainframe facilities, or some combination of the foregoing, without regard to whether any other activities are conducted at the establishment, capital costs which are not less than \$2,000,000, a minimum of 50 jobs for new employees created, and the average hourly wage of all new employees at the project must meet the base wage requirement. A data processing center located in a Favored Geographic Area qualifies for the lower investment threshold of \$500,000 but must create 50 jobs for new employees.

Research & Development Facility Project

A project at which the predominant trade or business activity conducted will be engaged in conducting original investigations undertaken on a systematic basis to gain new knowledge and/or applying research findings or other scientific knowledge to create new or significantly improved products or processes, capital costs which are not less than \$2,000,000, a minimum of 20 jobs for new employees created, and the average hourly wage of all new employees at the project must meet the base wage requirement. A project located in a Favored Geographic Area is subject to a lower capital cost threshold of \$500,000 and a minimum job creation of five (5) jobs for new employees.

Renewable Energy Facility Project

A project at which the predominant trade or business activity conducted will either 1) produce electricity or natural gas, in whole or in part, from biofuels as such term is defined in Section 2-2-90(c)(2) *Code of Alabama 1975* or from renewable energy resources defined in Section 40-18-1(30) with the exception that hydropower production shall be excluded from such definition; or 2) produce biofuel as such term is defined in Section 2-2-90(c)(2), capital costs which are not less than \$2,000,000, a minimum of 20 jobs for new employees created, and the average hourly wage of all new employees at the project must meet the base wage requirement. A project located in a Favored Geographic Area is subject to a lower capital cost threshold of \$500,000 and a minimum job creation of five (5) jobs for new employees.

Alternative Energy Resources Electricity Production Project

A project owned by a utility described in Section 37-4-1(7)a, *Code of Alabama 1975*, or owned by an investing company which is itself owned by a utility, at which the predominant trade or business activity conducted will be the production of electricity from alternative energy resources as defined in Section 40-18-1(2) *Code of Alabama 1975*, the capital costs of which are not less than \$100,000,000, a minimum of 20 jobs for new employees created, and the average hourly wage of all new employees at the project must meet the base wage requirement. A project that produces electricity from alternative energy resources that is located in a Favored Geographic Area qualifies for the lower job creation requirement of five (5) jobs for new employees but the capital costs must not be less than \$100,000,000.

Hydropower Electricity Production Project

A project owned by a utility described in Section 37-4-1(7)a, or owned by an investing company which is itself owned by a utility, at which the predominant trade or business activity conducted will be the production of electricity from hydropower production as defined in Section 40-18-1(16), the capital costs of which are not less than \$5,000,000, a minimum of 20 jobs for new employees

created, and the average hourly wage of all new employees at the project must meet the base wage requirement. A project that produces electricity from hydropower that is located in a Favored Geographic Area qualifies for the lower job creation requirement of five (5) jobs for new employees but the capital costs must not be less than \$5,000,000.

Alabama State Docks Project

A project with capital costs which are not less than \$8,000,000, and at which the predominant trade or business activity conducted will constitute industrial, warehousing, or research activity as defined in Section 40-18-240(4) as North American Industry Classification System (NAICS) Subsector 493 (Warehousing and Storage), or Industry Number 488320 (Marine Cargo Handling), when the trade or business is conducted on premises in which the Alabama State Port Authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of the Alabama State Port Authority. The state docks project is provided under Section 40-18-240 et seq., *Code of Alabama 1975*. Written approval of the Governor, Finance Director, and Alabama State Port Authority must be included with Form INT for state docks projects as required under Section 40-18-241.

Line By Line Instructions

Project Entity – Enter the name of the entity that will receive the capital credit. The entity qualifying for the capital credit must be the entity meeting the requirements for the capital credit. If the qualifying project is a joint venture, a legal project entity must be created in order for the investing companies to receive the capital credit.

Single Member Limited Liability Companies (“SMLLC”) will be classified as they are classified for federal income tax purposes under the Internal Revenue Service’s (IRS) “check-the-box” regulations. If the investing company is a SMLLC that elects to be treated as a corporation for federal tax purposes, enter the SMLLC as the project entity. If the investing company is a SMLLC that does not “check-the-box” for federal income tax purposes, the SMLLC shall be treated as a disregarded entity for Alabama tax purposes and the parent must be entered as the project entity.

Qualified Subchapter S Subsidiaries (Q-sub) under 26 U.S.C. Section 1361(b)(3) shall be treated as disregarded entities for Alabama income tax purposes. If the investing company is a Q-sub, the parent must be entered as the project entity.

Project Name – If the project is identified internally by a project name, enter the project name. For example, ABC, Inc. is the project entity, but the project is known as Alpha Division. If the project is doing business as (dba), enter the dba name. If the project entity has more than one qualifying project for the capital credit, include a project name that can identify each project. If the qualifying project is a SMLLC treated as a disregarded entity for tax purposes, enter the name of the SMLLC as the project name. If the qualifying project is a Q-sub, enter the name of the Q-sub as the project name.

Address – Enter the mailing address to which all correspondence regarding this project should be sent.

Location of Project – Enter the address where the project will be physically located, if not the same as the above address.

FEIN – Enter the Federal Employer Identification Number.

NAICS Code – If the predominant business activity is a headquarters facility, or an industrial, warehousing or research activity as defined in Section 40-18-190 or a state docks project as defined in Section 40-18-240(4), enter the 2007 North American Industrial Classification System (NAICS) code for project.

Project Filing Status – Check the applicable box.

Line 1a – Check the applicable box. See “Statutory Requirements for the Capital Credit” instructions for project descriptions.

Line 1b – Indicate if the project is located in a Favored Geographic Area. If the project is located in a Favored Geographic Area, the physical address, including county, must be included on application. Please note that a headquarters facility does not have Favored Geographic Area status.

A Favored Geographic Area is defined as either any area designated or created

as an enterprise zone by law or that is governed by the Alabama Enterprise Zone Act, or any Alabama county which is considered to be less developed as determined by Section 40-18-190(6). The Department of Industrial Relations is responsible for determining what counties are considered less developed based on statutory criteria and must re-determine these counties every January 1. A current Favored Geographic Area listing is available on the Department of Revenue’s website at www.revenue.alabama.gov under Tax Incentives. A project that qualifies in a Favored Geographic Area will continue to be a qualified project with Favored Geographic Area status, even if the county later loses its designation as a Favored Geographic Area, as long as the project otherwise remains in compliance with the law.

A project at which the predominant trade or business activity is an industrial, warehousing, or research activity as defined in Section 40-18-190(8), research and development facility, or a renewable energy facility that is located in a Favored Geographic Area can qualify for the capital credit with a lower investment threshold of at least \$500,000 and a minimum of 5 jobs for new employees created. A data processing center located in a Favored Geographic Area may qualify for the lower investment threshold of \$500,000 but must create 50 jobs for new employees. An electricity production project located in a Favored Geographic Area may qualify for the lower job creation of five (5) jobs for new employees but the capital costs must not be less than minimum capital costs as required for the business activity.

Line 2 – Describe the type of trade or business that the project will be engaged in. For projects that do not require a NAICS code, provide a detailed description that will identify the activities as qualifying activities. If the project is a SMLLC or Q-sub, please include this information here. Attach additional sheets if necessary.

Line 3 – Enter a full description of the proposed activities of the project. Please be very detailed in the activities with which the project will be associated. If the project shall be completed in multiple stages (i.e., phases), all phases must be identified in the description of the project. **Indicate if the project consists of new investment at a new site in Alabama, or new investment that will expand the capacity and the number of employees at an existing facility. Attach additional sheets if necessary.**

Line 4a – Indicate if the project will be a phased project for capital credit purposes. This form must be filed with the Department before any phase is placed in service.

Line 4b – Enter the projected date the project will be placed in service. The Form INT will not be processed without the estimated placed in service date(s). If the project shall be completed in multiple stages (i.e., phases), enter the projected dates each phase will be placed in service. Placed in service is defined as the earlier of the date on which either a) the period for depreciation with respect to the project begins; or b) the project begins a specifically designed function for the production of revenue. NOTE: If the project is a phased project, the capital credit will not begin until the last phase is placed in service and any tax liability incurred prior to the last phase being placed in service will not be subject to the credit.

Line 5 – Enter the capital costs estimated for the proposed project. If the project is a phased project, enter the total projected costs of all phases. Capital costs shall not include property previously owned or leased by the investing company or a related party before the commencement of the acquisition, construction, installation or equipping of the qualifying project unless such property was physically located outside the state for a period of at least one year prior to the date on which the qualifying project was placed in service. For other specific inclusions and exclusions of capital costs, see Section 40-18-190(2), Departmental Rule 810-2-7-.01(2)(c), or Section 40-18-240(8).

Line 6 – Total all estimated costs from line 5. The qualifying project must meet the minimum capital investment for the type of project indicated. The capital credit will be determined by the amount of the actual capital costs of the qualifying project, which is reported on Form INT-2.

Line 7 – For all projects except state docks projects, enter the number of new employees expected to be hired at this project.

For headquarters and data processing centers, not less than 50 jobs for new employees must be created. For all projects except for headquarters, data processing centers, small business additions and projects located in favored geographic areas, not less than 20 jobs for new employees must be created. For

small business addition projects, not less than 15 jobs for new employees must be created. For projects located in a Favored Geographic Area (except for headquarters facilities and data processing centers), not less than 5 jobs for new employees must be created.

New employees are those persons who have not previously been employed at the site on which the project is or will be placed in service or have not been employed by the investing company or companies in this state; will be employed full-time as a direct result of the project being placed in service; and will be subject to the personal income tax imposed by Section 40-18-2, *Code of Alabama 1975*, upon commencement of employment at the project. Jobs must be provided beginning with the date which is not later than one (1) year after the project is placed in service and continuing each year thereafter.

Line 8 – For all projects except state docks projects, enter the projected average hourly wage of the new employees of the project. Section 40-18-193(a) requires the average wages for all new employees at the qualifying project be not less than the base wage requirement by the date which is not later than one year after the project is placed in service and during each year throughout the life of the credit. Section 40-18-190(1) establishes the base wage requirement for new employees at the project.

For projects located in favored geographic areas, the average hourly wage of all new employees at the project must be the lesser of \$12 per hour, indexed annually as provided in Section 25-5-68, *Code of Alabama 1975*, or the average hourly wage of the county where the qualifying project is located.

For all other projects, the average hourly wage of all new employees at the project must be the lesser of \$15 per hour, indexed annually as provided in Section 25-5-68, or the average hourly wage of the county where the qualifying project is located.

A current County Wage listing is available on the Department of Revenue's website at www.revenue.alabama.gov under Tax Incentives.

There is an exception for direct processors of agriculture food products. These wages shall be determined by the local labor market rate. Contact the ADOR Office of Economic Development (334-242-1175) for more information.

Line 9 – Enter the county where the project is located.

Line 10 – Enter the name of the person to be contacted if additional information is needed regarding the capital credit and to whom all correspondence for the capital credit will be sent. Include a telephone number if different from the number indicated on the top of the application.

Line 11 – Check the box to designate which accounting method to be used to determine how the project income will be determined. After the Form INT has been filed indicating which method is to be used, the Alabama Department of Revenue will initiate an agreement outlining the method of accounting designated to be used at the project. This agreement shall serve as the written agreement required by Section 40-18-192 and Section 40-18-242. **Please Note:** An executed accounting practices agreement must be in place prior to taking the capital credit.

Two Factor Method – This method to be used only where the project has sales from the project's operation principally to affiliated or related persons or has no sales of its own (or cannot be identified/tracked with the project), or if the project is a headquarters facility. The project entity will apportion the total amount of its Alabama taxable apportionable income, before the related federal income tax deduction, to the project by multiplying the income by a fraction, the numerator of which is the project's property factor plus the project's payroll factor, and the divisor of which is two (2). If any factor is not used in the production of business income, it shall be eliminated and the divisor reduced accordingly.

Three Factor Method – This method is to be used where the project has sales

from the project's operations principally to unaffiliated or unrelated persons. The project entity will apportion the total amount of its Alabama taxable apportionable income, before the related federal income tax deduction, to the project by multiplying the income by a fraction, the numerator of which is the project's property factor plus the project's payroll factor plus the project's sales factor, and the divisor of which is three (3). If any factor is not used in the production of business income, it shall be eliminated and the divisor reduced accordingly.

Separate Accounting Method – This method is to be used when the prior two methods do not effectuate an equitable determination of income generated by or arising out of the qualifying project, in a fair and equitable manner. The project entity may request, or the Department may require, such income to be calculated using a separate accounting method. The project entity will determine the total amount of the qualifying project's income, including the related federal income tax deduction, allocable to the project by using a separate accounting method, agreed upon by the Department. Such separate accounting method will require the accounting and related records to be maintained in a manner showing the project's separate income and operations in Alabama and utilize "arm's length" pricing to the sales of goods or services between the Project and either affiliated legal entities or other accounting units in the Corporation. Please note the project entity must be prepared to substantiate reason for separate accounting and provide a detailed working example of method to be used.

Line 12a – Check the applicable box. If an investing company reduces its level of employment at an existing facility in this state and within two years following the reduction in its level of employment places a qualifying project in service, only the number of employees in excess of the number of employees who worked at the existing facility prior to the reduction in employment shall be deemed to be new employees for purposes of meeting the employee requirements as described in Section 40-18-190 et seq.

Line 12b – If an investing company has closed a facility in Alabama in the last two years, list the date of the closure for the facility, the number of employees at the facility on the date of closure, and the location of the facility. If an investing company closes an existing facility in this state and within two (2) years following the closing places a qualifying project in service, only the number of employees who worked at the existing facility at the time of the closure shall be treated as new employees for the purposes of meeting the employee requirements as described in Section 40-18-190 et seq.

Line 13 – Enter the current number of employees of the project entity. This number shall be used in assisting in the determination of whether a project meets the new employee qualification requirements of the capital credit. For an investing company to qualify for a small business addition, an entity must have 100 or fewer employees. Additionally, projects may not include employees previously or currently employed at the site or employed elsewhere in the state by the investing company as new employees for purposes of the capital credit.

Allocations of Capital Credit – List all participants of the project entity entitled to receive the capital credit. For example, if the project entity is a C corporation, enter the name of the C corporation; if the project entity is an LLC, enter the name of all its members; if the project entity is a partnership, enter the name of all its partners. Additionally, include the entities' addresses, social security numbers or federal identification numbers, and percentages of credit allocated to each entity. This list will serve as the agreement between the Alabama Department of Revenue and the investing company or companies specifying the allocation and treatment of the capital credit provided by Section 40-18-190 et seq. and Section 40-18-240 et seq. The capital credit shall be allocated among shareholders, partners, members, owners, or beneficiaries of the investing company or companies entitled to the capital credit based on their distributive share, whether or not distributed, of the project's Alabama taxable apportionable income.

Attach additional sheets if necessary. Additional forms, including an Allocations of Capital Credit Schedule, can be downloaded off of the Alabama Department of Revenue's website at www.revenue.alabama.gov under Tax Incentives.