Major Changes Coming to Ohio's Job Retention Tax Credit

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On July 18, 2019, Governor DeWine signed into law House Bill 166 (HB 166), the Ohio biennial operating budget bill. HB 166 contains major changes to Ohio's Job Retention Tax Credit (JRTC). These changes will become effective October 17, 2019.

The JRTC is one of the major credits offered by the Ohio Development Services Agency through the Ohio Tax Credit Authority. This nonrefundable tax credit is granted at the discretion of the authority to eligible Ohio businesses that submit capital investment project applications to the authority for their review and approval.

Prior to the enactment of HB 166, there were very few businesses eligible for the JRTC because of the significant capital investment requirement. Under the former JRTC statute, an "Eligible Business," had to meet both (i) an employment or payroll threshold, and (ii) a capital investment threshold. With respect to the former, it had to employ at least 500 full-time equivalent employees or have an annual payroll of at least $35 million. With respect to the latter, it had to make or cause to be made payments of $50 million, if engaged at the site primarily as a manufacturer, or $25 million, if engaged at the site primarily in significant corporate administrative functions, in the aggregate for the capital investment project at the site during a period of three consecutive calendar years.

Now, pursuant to the enactment of HB 166, more businesses, particularly manufacturing businesses, will be able to take advantage of this credit because the changes enacted created a broader definition for "Eligible Business." If a business is engaged at the site primarily as a manufacturer, the business no longer has an employment or payroll threshold; it just has to make or cause to be made payments for the capital investment project at the site during a period of three consecutive calendar years in an amount that in the aggregate equals or exceeds the lesser of (i) $50 million, or (ii) 5% of the net book value of all tangible property used at the site as of the last day of the three-year period in which capital investment payments are made. If a business is engaged at the site primarily in significant corporate administrative functions, the business must satisfy two requirements: (i) be located in a foreign trade zone, employ at least 500 full-time equivalent employees, ***or*** have an annual payroll of at least $35 million; ***and*** (ii) make or cause to be made payments of $25 million in the aggregate for the capital investment project at the site during a period of three consecutive calendar years.

Vorys encourages you to contact your Vorys attorney with any questions you may have. For questions on incentives matters, please contact: Scott Ziance, 614.464.8287, sjziance@vorys.com, or Chris Knezevic, 614.464.5627, cjknezevic@vorys.com.