



MANUFACTURING

ECONOMIC DEVELOPMENT INCENTIVE

2010 - 2011

BUSINESS DEVELOPMENT

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TENNESSEE

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Manufacturer - is one whose principal business is fabricating or processing of tangible personal property for resale.

Franchise Tax

- Tax on the greater of apportioned net worth in Tennessee or book value of real and tangible personal property owned or used in Tennessee
- Tax rate is 25 cents per \$100

Incentives

- Finished goods inventory¹ in excess of \$30 million may be excluded from franchise tax base
- Pollution control equipment is exempt from franchise tax base
- Property under construction and not being utilized is not included in franchise tax base
- Property rented from the industrial development corporation may be valued by capitalizing it on the books
- 2/3 of capital investment for Super Job tax credit is excluded from the franchise tax base in those tax years in which the annual super credit is allowed under Tenn. Code Ann. § 67-4-2109(b)(2)(B).

Excise Tax

- Tax is based on the net earnings of the company derived from the business in Tennessee
- Tax rate is 6.5%

Incentives

- All capital losses claimed in the year incurred
- Net operating losses can be carried forward for 15 years
- Tennessee's Excise Tax is based on the net earnings of the company derived from business in Tennessee as determined by a three factor apportionment formula of property, payroll and sales with sales double-weighted.
- Tennessee does not have a throwback provision – thus the state does not require companies with sales outside of Tennessee that are not apportioned to or taxed by another state to be included in the numerator of sales in Tennessee.

Job Tax Credit

A taxpayer who makes a minimum capital investment of \$500,000 in a qualified business enterprise in a twelve (12) month period qualifies for a job tax credit as follows:

- \$4,500 per net new full-time job in any Tennessee county.²
- \$5,000 per net new full-time job for companies that qualify for the super job tax credit by investing over \$100 million and creating at least 100 net new full-time jobs paying 100% of the average occupational wage.
- The Job Tax Credit may offset up to 50% of the combined franchise and excise tax.³
- Must create 25 net new full-time jobs and increase capital investment⁴ by \$500,000 in a qualified business enterprise⁵ within twelve (12) months of the effective date of the business plan filed with the Department of Revenue, unless in a Tier 2 or Tier 3 county.
- Qualified business enterprises that are in a Tier 2 enhancement county shall have three (3) years in order to

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create the minimum number of 25 jobs necessary to qualify for the Job Tax Credit.

- Qualified businesses in a Tier 3 county shall have five (5) years to create the minimum number of 25 jobs to receive the Job Tax Credit.
- Job Tax Credit for taxpayers investing less than \$1 billion may be carried forward until used, but not more than fifteen (15) years.
- In order to qualify for the Job Tax Credit, the taxpayer must file a business plan⁶ in a manner prescribed by the Commissioner of Revenue. The business plan must describe the investment to be made, the number of jobs the investment will create, the expected dates the jobs will be filled and the effective date of the business plan. Tenn. Code Ann. § 67-4-2109(c)(2)(D) as amended by Tenn. Pub. Chap. No. 530, Public Acts 2009 (effective July 1, 2009).

Enhanced Job Tax Credit for Tier 2 and Tier 3 Enhancement Counties

Tennessee has enacted legislation that allows for an additional tiered Job Tax Credit. This credit was created to promote new industry locations and expansions in the more rural areas of the state. The tiers are based on each Tennessee counties' per capita income, unemployment, and poverty level. Evaluation and analysis of each county is performed each year to determine each Tennessee counties' tiered status. Projects which locate in a Tier 2 or Tier 3 county will be eligible for this additional credit.

- \$4,500 per net new full-time job applied to offset both franchise and excise tax
- Must increase capital investment by \$500,000 in a qualified business enterprise within a twelve (12) month period and create 25 net new full-time jobs during the investment period of three (3) years in a Tier 2 county and five (5) years in a Tier 3 county.
- Tier 2 counties – Enhanced Job Tax Credit of additional \$4,500 per job can offset up to 100% of the total franchise and excise tax liability each year for three (3) years after the investment period with no carry forward.
- Tier 3 counties – Enhanced Job Tax Credit of additional \$4,500 per job can offset up to 100% of the total franchise and excise tax liability each year for five (5) years after the investment period with no carry forward.
- Credit is in addition to the regular Job Tax Credit as set forth above.

Super Job Tax Credit

Tennessee has enacted legislation that provides a job tax super credit (“super credit”) for taxpayers investing in excess of \$100 million in a qualified business enterprise creating 100 or more net new full-time jobs paying at least 100% of the average occupational wage in the state for January of the year in which the job is created.⁷ This super credit may be used to offset up to 100% of a taxpayer's Tennessee franchise and excise tax liability annually beginning with the first tax year after the investment and job creation thresholds have been met. The super credit is taken annually and does not have a carry forward provision.⁸

- The super credit is in addition to the regular Job Tax Credit which will still have the fifteen (15) year carry forward and normal percentage of offset. The only difference is by qualifying for the super credit, the amount of the regular Job Tax Credit increases to \$5,000 per new occupational wage job instead of the regular \$4,500.
- In addition, the super credit allows for the offset of total franchise and excise tax liability to be up to 100% during the time when the super credit is being taken on an annual basis.

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- In addition to the jobs portion of the credit, a company that qualifies for the super credit may exclude 2/3 of its capital investment made during the investment period from its franchise tax base on Schedule G of the franchise and excise tax return during the tax years in which the additional annual credit is actually taken.
- The super credit investment period is three (3) years, but can be expanded to five (5) years for investments of \$100 million or more and to seven (7) years for investments of \$1 billion or more with the approval of the Commissioner of ECD.
- The number of years a company may take the annual super credit of \$5,000 per job is dependent upon the capital investment and number of jobs created as follows:

Capital Investment	Number of Net New Occupational Wage Jobs	Number of Years for Annual Credit
\$100,000,000 or more	100	3
\$250,000,000 or more	250	6
\$500,000,000 or more	500	12
\$1 billion or more	500	20

Super Job Tax Credit for Integrated Suppliers & Integrated Customers

Tennessee currently provides a super credit for qualified businesses that invest over \$1 billion and create 500 new occupational wage jobs. Tenn. Code Ann. § 67-4-2109(c)(2)(H). In order to encourage manufacturers to invest in and locate their facilities in Tennessee and to facilitate the co-location of integrated suppliers and integrated customers on or near a manufacturer's facility legislation was enacted to allow integrated suppliers and integrated customers to qualify for the super credit, as described above, regardless of the investment amount or job creation.

This incentive allows integrated suppliers and integrated customers that locate within a qualified manufacturer's "footprint" with a one time super job tax credit equal to \$5,000 per net new full-time occupational wage job to offset one-half of the integrated supplier's total franchise and excise tax liability with a fifteen (15) year carry-forward plus an additional \$5,000 per job annual credit each year for six (6) years to offset 100% of the integrated supplier's total franchise and excise tax liability with no carry forward.

- "Integrated supplier" means a supplier located within the footprint of a project site, as determined by the Commissioner of ECD and the Commissioner of Revenue that provides goods and services on the project site primarily for a manufacturer that is qualified for the super credit in connection with a required capital investment in excess of \$1 billion. Tenn. Code Ann. § 67-4-2004(23).
- "Integrated customer" means a customer located within the footprint of a project site, as determined by the Commissioner of ECD and Commissioner of Revenue that purchases materials from a manufacturer that is qualified for the super credit in connection with a required capital investment in excess of \$1 billion.

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The materials must be an integral part of the customer's manufacturing process and the customer must be approved for this designation by the Commissioner of ECD and Commissioner of Revenue.

- This new tax credit will be available to all integrated suppliers and integrated customers irrespective of whether they reach the \$250 million investment and 250 qualified job thresholds that are normally associated with this amount of credit.

Industrial Machinery Credit

Tennessee offers manufacturers an Industrial Machinery Credit which may be used to offset up to 50% of the total franchise and excise tax liability. For taxpayers investing less than \$1 billion, any unused credit may be carried forward for up to 15 years.⁹ The credit is for the purchase, third-party installation, and/or repair of qualified industrial machinery as defined in T.C.A. 67-6-102(42).¹⁰ Industrial machinery includes computer equipment and software, including peripheral devices such as printers, external drives, modems and telephone units. For purposes of the 1% credit, the equipment must have been purchased in making the required capital investment for the job tax credit.

The percentage of Industrial Machinery Credit allowed is dependent upon the capital investment made during the investment period¹¹ as follows:

Capital Investment ¹²	Percentage of Credit	Must File a Business Plan
Less than \$100,000,000	1%	No
\$100,000,000	3%	Yes
\$250,000,000	5%	Yes
\$500,000,000	7%	Yes
\$1,000,000,000	10%	Yes

The investment period is three (3) years, but may be expanded to five (5) years for manufacturers investing less than \$1 billion and to seven (7) years for manufacturers investing \$1 billion or more. The Industrial Machinery Credit is available whether the manufacturer is creating jobs or not.

Green Energy Tax Credit for Certified Green Energy Supply Chain Manufacturers and Qualified Campus Affiliates, Integrated Customers and Integrated Suppliers

As part of its comprehensive energy strategy and to encourage certain projects to locate in Tennessee, legislation was enacted to create a "Green Energy Tax Credit" against franchise and excise tax for certified green energy supply chain manufacturers. In 2009 this legislation was amended to extend the Green Energy Tax Credit to taxpayers qualifying as a campus affiliate, integrated customer or integrated supplier to the certified green energy supply chain manufacturer.

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“Certified green energy supply chain manufacturer” means any manufacturer that has made during the investment period a required capital investment in excess of \$250 million in constructing, expanding, or remodeling a facility that is certified by the Commissioner of Revenue, Commissioner of ECD and Commissioner of TDEC, in their sole discretion, to be a facility engaged in manufacturing a product that is necessary for the production of green energy.

“Campus affiliate” means any business within the footprint of a project site, as determined by the Commissioner of Revenue, that (a) directly or indirectly owns a material interest in a manufacturer that qualifies for, or (b) controls, is owned or controlled by or under common control with a manufacturer that qualifies for the super credit with a required capital investment in excess of \$1 billion.

“Integrated customer” means a customer located within the footprint of a project site, as determined by the Commissioner of ECD and Commissioner of Revenue that purchases materials from a manufacturer that is qualified for the super credit in connection with a required capital investment in excess of \$1 billion. The materials must be an integral part of the customer’s manufacturing process and the customer must be approved for this designation by the Commissioner of ECD and Commissioner of Revenue.

“Integrated supplier” means a supplier located within the footprint of a project site, as determined by the Commissioner of ECD and the Commissioner of Revenue, that provides, from a facility located in the footprint of the project site, goods and/or services on the project site primarily for a manufacturer that is qualified for the super credit in connection with a required capital investment in excess of \$1 billion. Tenn. Code Ann. § 67-4-2004(23).

The investment period means a period not to exceed three (3) years from the filing of the business plan related to qualification as a certified green energy supply chain manufacturer. The investment period may be extended by the Commissioner of ECD for a reasonable period, not to exceed two (2) years, for good cause shown.

- The Green Energy Tax Credit is equal to the amount by which the charge for electricity sold to the certified green energy supply chain manufacturer exceeds the charge that would have been made for such total delivered electricity if the maximum certified rate had been applied during the applicable tax year.
- “Maximum certified rate” means a rate expressed as a price per kilowatt hour established by private letter ruling by the Commissioner of Revenue, subject to approval by the Commissioner of ECD and the Commissioner of Finance & Administration.
- Any such maximum certified rate established for a green energy supply chain manufacturer shall also apply to any integrated supplier, integrated customer and campus affiliate.
- TVA shall supply such information as deemed necessary by the Commissioner of Revenue to verify the amount of such credit.
- To the extent the credit exceeds the manufacturer’s franchise and excise tax liability it will be refunded as an overpayment. The amount refunded as an overpayment shall not exceed for any tax year, \$1.5 million for each \$250 million in capital investments made by the green energy supply chain manufacturer.
- To the extent any amount allowed as a credit is not applied to the taxpayer’s liability and is not received by the taxpayer as a refund, such credit may be carried forward in perpetuity.

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Carbon Charge Tax Credit for Certified Green Energy Supply Chain Manufacturers & Campus Affiliates

A certified green energy supply chain manufacturer and any campus affiliates, as defined above, shall be allowed a carbon charge credit, against the sum total franchise and excise tax liability, equal to any carbon tax levied by TVA on a certified supply chain manufacturer's energy bill.

- The credit must be used to offset a qualified taxpayer's Tennessee franchise and excise tax liability. Any credit that can not be benefited during a fiscal year may be refunded to the taxpayer in the form of a cash overpayment.

Property Tax

- No state property tax

Sales and Use Tax¹³

- No sales tax on purchases, installation and repairs of qualified industrial machinery
- No sales tax on raw materials for processing
- No sales tax on pollution control equipment for manufacturers
 - o Application for certification of pollution control equipment is available on the Department of Revenue website: <http://tennessee.gov/Revenue/forms/sales/fl303201.pdf>.
- No sales tax on quality control equipment provided it is used for 100% testing
- Reduced sales tax rates for manufacturers' use of energy fuel and water (1.5% vs. 7%)
 - o No sales tax on energy fuel or water used directly in the process and separately metered.

Sales and Use Tax Credit for Qualified Facility to Support an Emerging Industry

Tennessee law makes a sales and use tax credit available to taxpayers that establish a qualified facility to support an emerging industry in Tennessee. The credit is equal to the amount of sales and use tax paid to Tennessee, less the 0.5% that is earmarked for education, on the sale or use of qualified tangible personal property. Tenn. Code Ann. § 67-6-232.

- "Qualified tangible personal property" means building materials, equipment, furniture and fixtures used exclusively in the qualified facility and purchased or leased during the investment period and computer software used primarily in the qualified facility and purchased or leased during the investment period.
- An emerging industry is one that promotes high-skill, high-wage jobs in high-technology areas, emerging occupations, or clean energy technology,¹⁴ including, but not limited to clean energy technology research and development and installation, as determined by the Commissioner of Revenue and the Commissioner of ECD.
- To be eligible for the credit, the taxpayer must be subject to franchise and excise tax, make a minimum investment of \$100 million in the facility, and create at least 50 high-wage, full-time jobs at the facility that pay at least 150% of the average occupational wage for the month of January in which the full-time employee positions are created.
 - o The minimum investment may include, but is not limited to, the purchase price of an existing building and the cost of building materials, labor, equipment, furniture, fixtures, computer software, parking facilities, and landscaping, but shall not include land or inventory.
 - o "Investment period" means the period beginning one (1) year prior to the start of the construction,

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expansion, or remodeling, and ending three (3) years after substantial completion of the construction, expansion or remodeling of the qualified facility. However, in no event shall the investment period exceed six (6) years.

- If the taxpayer does not maintain at least 50 qualifying jobs or the facility is not used to support an emerging industry for at least 10 years, the taxpayer will be subject to assessment of sales or use tax, penalty, and interest that would have otherwise been due and for which credit was taken, but the amount of the assessment will be prorated based on the period of time that the requirements for the credit were met.

FastTrack

Tennessee has a state funded program called FastTrack. Included in the program is the FastTrack Infrastructure Development Program (FIDP)-[Community generated] and the FastTrack Job Training Assistance Program (FJTAP)-[Company generated].

Under the guidelines of this program the state can make grants to local governments to help them meet the public infrastructure requirements for locating and expanding industries as well as address the training needs of a company. Both programs require application for financial assistance.

FastTrack Infrastructure Development Program (FIDP)

The FastTrack Industrial Development Program is Tennessee's initiative to support the public infrastructure needs of the local community to support expansion or location of industry. Project funding is determined by evaluating each project in terms of capital investment, new jobs created, the types of the created jobs, and the community in which the project locates. Once a targeted funding amount of eligible activity is established, final approval is subject to FIDP funding appropriated by the Tennessee General Assembly and approval by the Department of Economic and Community Development's Loan & Grant Committee. There are state regulations that apply relative to procurement/bidding procedures.

FastTrack Job Training Assistance Program (FJTAP)

The FastTrack Job Training Assistance Program is Tennessee's initiative to support industrial recruitment and expansion through direct training assistance for newly hired employees, employees in upgraded positions, and employees retained through instruction. FJTAP staff assists each individual company to develop customized training plans and to provide funding. Eligibility for FJTAP support and levels of funding for training assistance are determined by:

- The amount of company investment
- The number of new hires
- The types of skills and knowledge that must be obtained by prospective or newly hired employees

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Job Specific Training (Training assistance is targeted to production/technician level individuals.)

- Classroom - formal instruction relating to specific skills presented in a classroom environment
- On-the-Job Training - instruction that focuses on the development of specific skills and knowledge vital to production. Training is provided by company technicians or instructors mutually acceptable to FJTAP and the company.
- Vendor - manufacturer of actual manufacturing equipment or service provider being used by the client may be utilized to deliver specific skills training.
- System Support - instruction associated with plant-wide applications. Instruction may include new methods for increasing mechanization, quality, materials handling, etc.
- Development and Coordination – supports the cost associated with the development of instructional materials and coordination of the overall training program.

Travel

- Supporting the expense of travel for the purpose of training can be considered as a viable option for the training of new hires and especially for persons who will serve as a company instructor.

Job Based Training (JBT)

Program to offer potentially faster reimbursement monies associated with training. Once the project commitment (FastTrack Training grant) is determined and cost per job established, this quick start program may offer the company an accelerated portion of training dollars.

- A position must be filled for at least ninety days in order to qualify for JBT.
- Company must supply payroll records every ninety days to verify employment of position.
- Calculation is made to determine grant cost per job: total grant divided by total number of jobs to be trained.
- Once a position has been filled for at least ninety days (90) the company submits payroll records to ECD and will be reimbursed for 50% of the grant cost per position.
- Once a position has been filled for at least one hundred eighty days (180) days the company submits payroll records and will be reimbursed for the remaining 50% of the grant cost per position.
- Program is based on the position being filled for at least ninety days. It is not specific to the employee but rather the position.

Depending on the number of new jobs to be created during the periods of review, it may be possible for the company to receive the entire training commitment after one hundred eighty days (180) IF the total committed job number is reached.

It is the company's elective to pursue the training commitment in either type of reimbursement method or in a combination thereof. If the commitment is not met in JBT, then direct training can be used for the balance IF the total job commitment is met.

Employee Recruitment and Screening (Provided by Dept. of Labor & Workforce Dev.)

The Tennessee Department of Labor and Workforce Development, Job Service Division, will provide recruitment and screening services. Utilizing the client/company's prepared job specifications, Job Service will

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recruit the number of persons requested by the company. The persons will be screened using the company's specifications. Those persons meeting the specifications will be referred to the company for employment considerations.

Workforce Development

- **Leadership Training** - is directed toward providing supervisors, team leaders, and managers with the interpersonal skills necessary to motivate and lead production workers towards the accomplishment of organizational goals.
- **Team Training** - is provided for manufacturing/production employees where interpersonal communication is important in fostering interdependence, cooperation, commitment, motivation, etc.
- **Instructor Certification** - Certification of company personnel insures the availability of certified instructors not only at startup but also on a long term basis. The weeklong certification seminar provides candidates with the facilitation skills necessary to deliver a wide range of programs.

State Industrial Access Program (SIAP)

Other state assistance can be considered for providing needed transportation improvement for the project. Through the State Industrial Access Program (SIAP), local governments submit their requests on behalf of new industry moving into their communities, which the Department of Transportation reviews to determine the most feasible design. Industrial Revenue Bond Financing Industrial Revenue bond financing is available in Tennessee for both taxable and tax-free situations.

All Tennessee tax and tax-based incentive information herein is for informational purposes only. For more specific information on whether a facility qualifies as a manufacturer and what incentives are potentially available please contact your ECD Business Development Specialist.

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- ¹ Finished goods inventory” means tangible personal property that is: (1) owned by the taxpayer; (2) stored in a facility used primarily for manufacturing, warehousing of distribution of such inventory and (3) held for wholesale or retail sale by the taxpayer, but not sold over the counter at the location where stored.
- ² Legislation effective July 1, 2009 sets the job tax credit for all counties at \$4,500 per new full-time job. For jobs created prior to 2009 in non-economically distressed counties such as Hamilton County, Knox County, Loudon County, Montgomery County, Shelby County and Williamson County the job tax credit was \$2,000 per job. Tier 2 and Tier 3 enhancement counties are entitled to additional enhanced incentives as detailed below. For information on which counties qualify as enhancement see “Tennessee Job Tax Credit Enhancement Counties” map.
- ³ A taxpayer that makes a capital investment in excess of \$1 billion may be allowed to carry forward any unused credit until fully utilized if it is determined by the Commissioner of Revenue and Commissioner of ECD to be in the best interests of the state. Tenn. Code Ann. § 67-4-2009(4)(c) as amended by Tenn. Pub. Chap. No. 530, Public Acts 2009 (effective July 1, 2009).
- ⁴ “Capital investment” means a business investment in real property, tangible personal property, or computer software owned or leased in Tennessee valued in accordance with generally accepted accounting principles.
- ⁵ “Qualified business enterprise” means an enterprise in which the business has made the required capital investment necessary to permit the creation or expansion of manufacturing, warehousing and distribution, processing tangible personal property, research and development, computer services, call centers, headquarters facilities as defined in § 67-6-224(b), or convention or trade show facilities. Tenn. Code Ann. § 67-6-2109(c)(1)(F)(i).
- ⁶ For information on how to obtain the appropriate Job Tax Credit Business Plan forms please contact your local ECD Jobs Development Specialist.
- ⁷ The current Average Occupational Wage data can be found on the website for the Tennessee Department of Labor and Workforce Development - www.state.tn.us/labor-wfd/wages/intro.htm
- ⁸ Taxpayers making a capital investment of \$1 billion in the State of Tennessee may carry forward any unused credits until fully utilized if the Commissioner of Revenue and Commissioner of ECD determine that the allowance of such additional carry forward is in the best interests of the state. Section 1(b)(3)(D) of Tenn. Pub. Chap. No. 530, Public Acts 2009 (effective July 1, 2009) amending Tenn. Code Ann. § 67-4-2109(b)(1)(D) and (b)(2)(B)(vi).
- ⁹ Taxpayers making a capital investment of \$1 billion in the State of Tennessee may carry forward any unused credits until fully utilized if the Commissioner of Revenue and Commissioner of ECD determine that the allowance of such additional carry forward is in the best interests of the state. Section 15 of Tenn. Pub. Chap. No. 530, Public Acts 2009 (effective July 1, 2009).amending Tenn. Code Ann. § 67-4-2009(4)(C).
- ¹⁰ Although exempt from sales and use tax, the Industrial Machinery Credit does not include industrial supplies or raw materials. To claim the Industrial Machinery Credit, the company must file a Schedule T.
- ¹¹ For purposes of the Industrial Machinery Credit the “investment period” means a period not to exceed three (3) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made. The three (3) year period for making the required capital investment may be extended by the Commissioner of ECD for a reasonable period, not to exceed two (2) years for taxpayers investing \$100 million or more and four (4) years for taxpayers investing \$1 billion or more and for good cause shown. Tenn. Code Ann. § 67-4-2009(4)(I)(vi).
- ¹² For purposes of the Industrial Machinery Credit the “capital investment” means an increase of a business

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investment in real or tangible personal property owned in Tennessee and/or leased property in Tennessee valued according to Tenn. Code Ann. § 67-4-2108(a) or (b). A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction. Tenn. Code Ann. § 67-4-2009(4)(I)(v).

¹³ Manufacturer or processor must be registered for a sales and use tax number to apply for exemption on industrial machinery purchases and repairs, and reduced rates on energy fuel and water used. Tenn. Code Ann. §§ 67-6-102(2) & 67-6-206. In addition, the manufacturer must apply for and receive an authorization separate from the sales tax registration in order to qualify for the exemption and reduced rates. Please contact your local ECD Jobs Development Specialist for information on applying for and obtaining an Industrial Machinery Exemption Authorization.

¹⁴ “Clean energy technology” means technology resulting in energy efficiency, technology used to generate energy from biomass, geothermal, hydrogen, hydropower, landfill gas, nuclear, solar and wind sources, and technology that is designed to result in the development of advanced coal through carbon capture and sequestration or otherwise any other manner that significantly reduces CO₂ emissions per unit of energy generated. Tenn. Code Ann. § 67-6-232(b)(1) as amended by SB2318/HB2275 (effective July 1, 2009).