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State tax credits and incentives in the CHIPS Act and IRA

Federal initiatives offer significant value at state level

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Introduction

In August of 2022, two important pieces of legislation were signed into law: the Creating Helpful Incentives to Produce Semiconductors Act (CHIPS Act) and the Inflation Reduction Act (IRA). Each of these laws creates opportunity at both the federal and state levels—and can change how companies approach credits and incentives.

Spurring investment

Both the IRA and the CHIPS Act are designed to increase investment in the United States through various federal grants, tax credits, and other incentives. While the opportunities available under the IRA and the CHIPS Act at the federal level are significant, state-level tax grants, discretionary incentives, tax credits, exemptions, and abatements may also be available for the same investment. These state benefits—some current and some newly enacted—may result in significant additional value to projects under either the IRA or CHIPS Act.

The IRA is poised to be one of the most important pieces of climate legislation enacted by Congress.[1] The climate portions of the IRA focus on extending or expanding a number of current incentives while also enacting several new provisions. Some eligible technologies for grants and credits include advanced battery manufacturing, alternative fuel production, electric vehicles (EV) and EV infrastructure, hydrogen, nuclear, solar, wind, biomass, and hydropower.[2]

The CHIPS Act focuses on semiconductor manufacturing and supply chain locating in the United States through several new grants, a tax credit, and other incentives.[3]

The CHIPS Act provides in part:[4]

- An Advanced Manufacturing Investment Tax Credit (AMITC) equal to 25% of the qualified investment for such taxable year with respect to any advanced manufacturing facility of an eligible taxpayer, where construction of such property begins before January 1, 2027. An advanced manufacturing facility means a facility for which the primary purpose is the manufacturing of semiconductors or semiconductor manufacturing equipment.
- The CHIPS for America Fund that, through a competitive grant process, can provide $49.5 billion in funding over five fiscal years to fund investments in facilities and equipment for the fabrication, assembly, testing, advanced packaging, production, or research and

development (R&D) of semiconductors, materials used to manufacture semiconductors, or semiconductor manufacturing equipment.

- The CHIPS for America Workforce and Education Fund, which provides $200 million in loan and loan guarantee funding for workforce development activities, including training and apprenticeships.

Enhancing state tax incentives

Many states have existing grants, credits, and incentives that may be applicable to the type of investments contemplated by the IRA and the CHIPS Act. These programs may include income tax credits; however, unlike most federal credits, they also can include above-the-line benefits such as grants, discretionary state tax incentives, sales tax exemptions, property tax abatements, excise tax refunds, and funding for training and infrastructure improvements. Indeed, discretionary incentives are an important economic development tool used by states to attract the same types of projects that may also be incentivized under the IRA or CHIPS Act. For example, Ohio has publicly announced more than $2 billion of state grants, credits, and incentives to construct a new semiconductor manufacturing plant in Ohio.[5] Tennessee has offered a package of incentives worth more than $800 million for the construction of an EV campus housing EV assembly and EV battery manufacturing,[6] while Michigan has offered a package of incentives worth more than $1 billion for construction of an EV manufacturing facility.[7] All of these discretionary state incentives, tax credits, and grants were in place prior to the passage of the IRA and the CHIPS Act.

Other state programs around the technologies incentivized in the IRA and the CHIPS Act have been applicable for some time as well. Since 1976, Hawaii has offered the Renewable Energy Technologies Income Tax Credit (RETITC), a tax credit for commercial solar and wind installations of up to 35% of the cost of equipment and installation of solar and 20% for wind.[8] Mississippi, since 2010, has offered the Clean Energy Initiative Incentives Program, which provides state tax incentives to companies that manufacture systems or components used to generate clean, renewable, or alternative energy, including nuclear, solar and wind power, and hydrogeneration.[9] The program includes a 10-year exemption from state income and franchise taxes, as well as a sales-and-use tax exemption to establish a plant or expand an existing production facility.[10] Nevada has a Renewable Energy Tax Abatement program that partially abates property tax and sales tax for eligible renewable energy facilities. Nevada has approved more than 50 abatements for projects including solar photovoltaic (PV), solar thermal, biomass, geothermal, and wind, according to the Governor's Office of Energy.[11] The New York State Energy Research and Development Authority (NYSERDA) has implemented the New York Truck Voucher Incentive Program (NYTVIP), which provides vouchers for fleet purchase or lease of medium and heavy-duty zero-emission battery electric or hydrogen fuel cell EVs.[12] For on-road Class 8 trucks, the per-vehicle voucher can be worth up to $185,000; for transit buses, up to $385,000. Oklahoma offers an income tax credit for the purchase of alternative fuel vehicles based on vehicle weight, up to $100,000 for a Class 7 or 8 truck.[13]

New state legislation

In addition to these existing programs, over the past year, possibly in anticipation of passage of federal legislation, many states have adopted legislation specifically addressing some of the technologies covered by the IRA and the CHIPS Act. For example, New York on August 11, 2022, enacted the Green CHIPS program, a series of incentives with up to $10 billion in incentives for semiconductor manufacturing and supply chain projects.[14] Idaho passed the Idaho Semiconductors for America Act in July, contingent on passage of the CHIPS Act or similar federal legislation, which provides a sales-and-use tax exemption on the purchase of qualifying construction and building materials.[15] On August 11, Massachusetts enacted the Driving Clean Energy and Offshore Wind Act, which provides for a 50% investment tax credit for large offshore wind facilities.[16] On September 6, Illinois awarded tax credits for the first time under its Reimagining Electric Vehicles in Illinois (REV Illinois) program equal to 75% of the incremental income tax attributable to new employees for the transition of a facility from manufacturing conventional automotive compressor systems to manufacturing EV compressor systems.[17] Given the breadth of the IRA and the CHIPS Act, many states may enact new legislation in the coming months to attract new investment.

Across the country, there are a number of grants, discretionary incentives, sales tax exemptions, property tax abatements, income tax credits, and training funds available for the type of investments contemplated by the IRA and CHIPS Act. The new incentives available to eligible companies under the IRA and CHIPS Act should spur states to enhance and expand existing programs, as well as enact new ones. Further, many of these programs are discretionary in nature and may involve evaluating multiple sites and jurisdictions; therefore, companies should explore these programs upfront as part of their initial planning process when looking to expand or relocate. Indeed, while contemplating opportunities under the IRA and CHIPS Act, a comprehensive review of state grants, discretionary incentives and tax credits, exemptions, and abatements is important to understand the scope of potential benefits available to companies.

Endnotes

1. See World Resources Institute statement dated August 7, 2022, at https://www.wri.org/news/statement-us-senate-passes-inflation-reduction-act-advancing-historic-climate-legislation; Department of Energy statement dated August 18, 2022, at https://www.energy.gov/articles/doe-projects-monumental-emissions-reduction-inflation-reduction-act.

2. See Inflation Reduction Act of 2022 (P.L. 117-169) at https://www2.deloitte.com/us/en/pages/tax/articles/inflation-reduction-act-2022-clean-energy-incentives.html.

3. See CHIPS Act of 2022 (P.L. 117-167) Division A, Sections 102 to 107; https://www.taxathand.com/article/26705/United-States/2022/Congress-passes-pared-down-CHIPs-bill-with-tax-break-for-semiconductor-makers.

4. CHIPS Act of 2022 (P.L. 117-167) Division A, Sections 102 to 107.

5. Mark Williams, "Ohio incentives for Intel's Licking County chip plant will top $2B, including $600M 'onshoring grant'," *Columbus Dispatc*h, updated March 24, 2022; J. D. Davidson, "Policy group questions incentive packages for Ohio's Intel plant," *Center Square*, August 10, 2022.

6. Corey Davis, "State approves $884M in incentives for Ford Motor Co.'s Blue Oval City project at the Memphis regional megasite," *Memphis Business Journal,* October 20, 2021.

7. Kalea Hall and Breana Noble, "State approves $824M in incentives for GM battery, EV plants," *Detroit News*, January 25, 2022.

8. Hawaii Revised Statute §235-12.5.

9. Mississippi Code §57-113.

10. Ibid.

11. Nevada Revised Statute §701A.300 – 701A.450.

12. New York State Energy Research and Development Authority (NYSERDA), "Truck Voucher Incentive," accessed October 14, 2022.; NYSERDA, "New York Truck Voucher Incentive Program Implementation Manual," February 2020.

13. Oklahoma Statute §68-2357.22.

14. Chapter 494 (S.9467/A. 10507), Laws 2022; New York Economic Development Law sections 352–355.

15. Idaho Code section 63-3622W.

16. Adrijana Buljan, "Massachusetts governor signs 'An Act driving clean energy and offshore wind' into law," *Offshore WIND*, August 12, 2022; Chapter 179 of the Acts of 2022.

17. Michael J. Bologna, "Illinois awards first tax credits under electric car program," *Bloomberg Tax*, September 6, 2022; Illinois HB 1769.