

AIRPORT LAND DEVELOPMENT ZONE

Program Guidelines
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Section I – General

A. Introduction

Act 53 of 2022 amended the Tax Reform Code of 1971 by adding Article XIX-H (72 P.S. §§ 8901-H–8904-H) to allow airports within this commonwealth to submit plans for an Airport Development Zone (“ALDZ”) to create new jobs and accelerate development activity on land and in vacant buildings owned by airports.

Pennsylvania commercial and non-commercial airports have a surplus of vacant, underutilized land in need of revitalization. The ALDZ program is an incentive-based tax credit program to foster redevelopment of these underutilized sites owned by airports, providing new revenue sources to the airport.

Upon approval by the Department of Community and Economic Development (“DCED”), employers in an ALDZ may earn a tax credit of up to \$2,100 for each full-time employee in the Zone. These tax credits may be earned in any tax year for up to ten years during the period between July 1, 2022 and June 30, 2041 and may be assigned, sold, or used to offset the businesses’ qualified tax liability.

Section II – Eligibility

A. Eligible Sites

1. For a Commercial service airport:

- a. Real property with area of no more than 300 acres;
- b. With no permanent vertical structures affixed or buildings with businesses located in the structures as of December 31, 2021; and
- c. Owned by a publicly owned airport with at least 2,500 annual enplanements and scheduled air carrier service, including a public use airport in a fourth-class county (“Commercial service airport”), or leased or ground leased to a third party while continuing to be owned by a commercial service airport for the duration of the program.
- d. The total acres for all commercial service airports in the program may not exceed 2,000 acres.

2. For a Non-commercial service airport:

- a. Real property with area of no more than 50 acres;
- b. With no permanent vertical structures affixed or vacant buildings with businesses located in the structures as of December 31, 2021; and
- c. Owned by an airport that is publicly or privately owned, open to the public, with less than 2,500 annual enplanements and without scheduled air carrier service (“Noncommercial service airport”) or leased or ground leased to a third party while continuing to be owned by a noncommercial service airport for the duration of the program.
- d. The total acres for all noncommercial service airports in the program may not exceed 2,000 acres.

B. Eligible Airport Land Development Zone Employers

To be eligible to participate in the ALDZ program, the applicant must meet the following criteria:

1. Must be an ALDZ employer, which includes a person or an entity subject to Personal Income Tax, Corporate Net Income Tax, Bank and Trust Shares Company Tax, Title Insurance Companies Shares Tax or Mutual Thrift Institutions Tax. An ALDZ employer includes a pass-through entity, which is defined as an entity taxed as a partnership or a Pennsylvania S corporation pursuant to the Commonwealth's Personal Income Tax.
2. Must be located within an ALDZ.
3. Employ one or more employees at a designated ALDZ site. To be eligible, the employee must:
 - a. Be directly employed by an ALDZ employer, or its predecessor, after July 8, 2022.
 - b. Be directly employed for at least 35 hours per week by an ALDZ employer.
 - c. Spend at least 90% of the time working at the ALDZ location.
4. Must be in compliance with the laws and regulations of the Commonwealth of Pennsylvania, to the satisfaction of the Department. Failure to achieve state tax compliance during the review period will result in the denial of the certification.
 - a. State Tax Compliance requires the applicant to have filed all required state tax reports and returns for all applicable taxable years and paid any balance of state tax due as determined at settlement or assessment by the Department of Revenue, unless the tax due is under appeal at the time the finding was made by the Department of Revenue.
 - b. The two issues for determination are entity tax compliance and ownership tax compliance for entity owners with a 20% or greater share of ownership.
 - c. The state tax clearance form for tax credit and economic development programs can be accessed here: revenue.pa.gov/taxcredits

Exclusions: An employer engaged in construction improvements in an ALDZ is not eligible.

C. Award Calculation

1. The amount of tax credits the ALDZ employer may earn in a single tax year is \$2,100 for each Full Time Equivalent Employee (FTE) in excess of the number of FTEs employed by the ALDZ employer in Pennsylvania prior to January 1, 2021.
2. A Full Time Equivalent Employee (FTE) is defined as the whole number of employees, rounded down, that equals the sum of the following:
 - a. The total paid hours, including paid time off and family leave under the Family and Medical Leave Act of 1993, of all an ALDZ employer's employees classified as nonexempt during the ALDZ employer's tax year divided by 2000; and
 - b. The total number arrived at by adding, for each exempt employee scheduled to work at least 35 hours per week, the fraction equal to the portion of the year the exempt employee was paid by the ALDZ employer.
 - c. Employees are classified as exempt or non-exempt under the Fair Labor Standards Act of 1938.

3. This calculation excludes employees previously employed by an affiliate and employees previously employed by the ALDZ employer outside of an Airport Land Development Zone.
4. An Affiliate is defined as follows:
 - a. An entity which is part of the same “Affiliated Group,” as defined in Section 1504(a) of the Internal Revenue Code of 1986, as an ALDZ employer; or
 - b. An entity that would be part of the same “Affiliated Group” except that the entity or the ALDZ employer is not a corporation.

D. Use, Sale, Assignment, and Transfer of Tax Credits

A tax credit approved in accordance with these guidelines must first be applied against the taxpayer’s own tax liability under the Personal Income Tax, Corporate Net Income Tax, Bank and Trust Shares Company Tax, Title Insurance Companies Shares Tax or Mutual Thrift Institutions Tax, excluding any tax withheld by an employer under Article III of the Tax Reform Code of 1971.

The unpaid tax liability must be satisfied before any portion of the credit can be carried forward to satisfy the tax liabilities for future years or be sold or passed through. Prior year credits will be applied on a “first in first out” basis until all tax liabilities are satisfied. Restricted credits will be applied before any cash payments for the taxable year during which the tax credit is approved.

1. To claim the tax credit, a copy of the tax credit certificate and claim form must be provided to the PA Department of Revenue, Office of Economic Development.
2. The tax credit provided by this article may be carried over and applied to succeeding taxable years for not more than ten taxable years following the first taxable year for which the credit was approved.
3. The tax credit may not be carried back or be used to obtain a refund.
4. Use of the credit may not to exceed 100% of the qualified tax liability for the taxable year.
5. Pass-through entities, may elect to pass through all or part of the credit to the shareholders, members or partners.
 - a. The pro-rata share of credit for each shareholder, member or partner of a pass-through entity will be compared to the Department of Revenue’s records regarding percentage of ownership as provided on the Partner/Member/Shareholder Directory of the pass-through entity’s PA20S/PA-65. Credit use may not exceed 100% of the shareholder, member or partner’s qualified tax liability for the taxable year.
6. The taxpayer, upon application to and approval by DCED may sell or assign, in whole or in part, unused credits.
 - a. The recipient may utilize the credits to offset up to 75 percent of its own tax liability for any qualified tax liability in the year of the sale approval or thereafter.
 - b. At the time of the application for approval to sell or assign tax credits, the taxpayer selling or assigning the credits should be prepared to identify the specific tax credits to be sold or assigned (issue date, amounts, etc.), provide information identifying the buyer to the satisfaction of DCED and the Department of Revenue, and disclose the selling price of the tax credits being sold or assigned.
 - c. The date of receipt of the Sale/Assignment application form by DCED will be used to determine the official date of approval for the sale or assignment of the tax credits. Faxed or emailed applications will be considered received on the date of the fax receipt or the date the email is sent.

7. Before an application to sell or assign tax credits will be approved;
 - a. The Department of Revenue must find that the seller has filed all required state tax reports and returns for all applicable tax years and paid any balance of state tax due as determined at settlement, assessment, or determination by the Department of Revenue.
8. If a taxpayer selling tax credits is selling credits to more than one buyer, a separate application should be submitted to DCED for approval to assign credits for each separate buyer of tax credits.
9. Tax credits may only be sold or assigned once. Once a sale or assignment is approved, it is final, and the seller's or assignor's right to claim the credit is terminated. Buyers may not resell or reassign tax credits.
10. The recipient of all or a portion of a tax credit shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The recipient may not carry back or obtain a refund of or sell or assign the tax credit.

E. Monitoring, Reporting and Recapture

1. The ALDZ employer must agree to maintain operations related to the ALDZ tax credits in this commonwealth for a period of 5 years from the date the company first submits a ALDZ tax credit certificate to the Department of Revenue.
 - A company which does not maintain operations in the ALDZ for 5 years, shall be required to refund to the Commonwealth the total amount of credits granted.

Exception: If it is determined that a company's operations were not maintained or the new jobs were not created because of circumstances beyond the company's control, DCED may waive this provision. Circumstances include natural disasters, unforeseen industry trends or a loss of a major supplier or market

2. When applying for ALDZ benefits, an applicant is authorizing DCED to request access to, and review of, the applicant's and its affiliates' state tax returns. Authorized representatives of the applicant with full authority to waive confidentiality under Pennsylvania law will sign off on the release of tax information by the Department of Revenue.
3. If a taxpayer engages in fraud or intentional misrepresentation of information required, DCED or the Department of Revenue, may:
 - Recapture all or a portion of the tax credit.
 - Deem ineligible the applicant or taxpayer from future tax credits.
 - Impose other penalties as specified in the Tax Reform Code.

Section III – Program Limitations

1. Eligible employers may earn the ALDZ tax credit in any tax year for up to 10 years during the period beginning July 1, 2022 and ending June 30, 2041.
2. The ALDZ employer may not claim this credit along with benefits under the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone or Keystone Opportunity Improvement Zone Act.

Section IV – The Application Process

A. Application Process for Airport Land Development Zone Designation

1. To obtain this certification, applicants must submit an ALDZ Plan requesting ALDZ designation that includes the following information:
 - a. A legal description of each parcel included in the ALDZ;
 - b. Identification number of each parcel included in the ALDZ;
 - c. Acreage of each parcel included in the ALDZ;
 - d. Certification by an airport that any building in the ALDZ was vacant and any parcel in the ALDZ had no permanent vertical structures affixed to the parcel on or after December 31, 2021 (see Appendix A);
 - e. The most recent 5010 Data Airport Master Record;
 - f. A map and diagram of each parcel included in the plan; and
 - g. A statement on the airport's status:
 - i. publicly or privately owned airport;
 - ii. commercial or non-commercial airport; and
 - iii. number of annual enplanements.

Per the Federal Aviation Administration, enplanement is defined as “a domestic, territorial or international revenue passenger enplaned in the States in scheduled or nonscheduled service on aircraft in intrastate, interstate, or foreign commerce.”

2. DCED will review the information with the Department of Revenue.
3. Upon approval of a successful application, DCED will issue the applicant a letter designating the parcel(s) within the ALDZ.
4. Requests for ALDZ designation should be submitted electronically to:

PA Department of Community & Economic Development
Innovation & Development Zones Office
ATTN: Tara L. Santore
tsantore@pa.gov

For specific questions on this program contact the Innovation & Development Zones Office in DCED at 717-346-0327.

B. Application & Approval Process for ALDZ Tax Credits

1. ALDZ employers applying for the ALDZ tax credits must apply to DCED and the Department of Revenue, submitting the ALDZ employer's qualification for a tax credit by February 15 for tax credits earned during a taxable year ending in the prior calendar year. The application shall contain the following:
 - a. The name, address and taxpayer identification number of the ALDZ employer.

- b. Verification that the employer is located in a ALDZ, by submitting an item from any one of the following four categories:
 - i. Proof of a real property interest in the zone, such as a lease or sub-lease;
 - ii. A copy of a business license, certificate or permit issued by the local government where the zone is located;
 - iii. Proof of payment of business privilege tax for conducting business at a location in the zone; or
 - iv. Proof of withholding of local services tax for all employees working in the zone.

If the employer is not the lessee of the real property interest in the zone, then in addition to (2), (3) or (4) above, it must also submit a copy of the contract with the holder of the real property interest to provide business services, employees or operations in the zone.

All such documentation, except for publicly available records, may be redacted so that the submitting entity can protect sensitive business information.

- c. An electronic file prepared for the Department of Revenue containing:
 - The names, addresses and Social Security numbers of each employee for which the credit is claimed.
 - Verification that each employee identified for tax credit, spent at least 90% of the employee's working time for the ALDZ employer at the employer's ALDZ location.
 - Any other information required on the ALDZ calculation spreadsheet or requested by the Department of Revenue.
 - d. Any other information required by DCED.
2. To qualify for the credit, the Department of Revenue must certify that the ALDZ employer is current with all tax liabilities.
 3. Upon approval of a successful application, DCED will send an award letter and claim form to the applicant for the ALDZ tax credit by May 15th containing the following information:
 - a. The amount of the ALDZ tax credit and the time period over which it may be claimed; and
 - b. A statement that the applicant intends to maintain its operation in the commonwealth for five years from the date the applicant first claimed the ALDZ tax credit.
 4. Applicant shall present award letter and claim form to the Department of Revenue when filing its taxes.
 5. Applicants must apply through DCED's Electronic Single Application for Assistance following the below process:
 - a. Log into ESA: dced.pa.gov/singleapp
 - b. Enter your "Keystone Login username" and whatever your password is.
 - c. Make sure that you **UPDATE** your **USER SETTINGS** prior to beginning your application. The *Apply* button is triggered by your FEIN inside of the user settings.
 - d. Project Name: Whatever is familiar to you
 - e. Do you need help? *Select NO*
 - f. Click on "*Begin New Application*"

- g. Program Name, enter key word: *ALDZ*
- h. Click *Search*
- i. Scroll down until you see the program name and the blue underlined **APPLY** button to the right
- j. Click on *APPLY*
- k. Fill out the application fields that have red diamonds next to them, *do not worry about the ones that don't.*
- l. Once all fields are filled out, the Certification Page (Red ribbon, last link) will ask you to check a few boxes and sign your name as having entered the application information.
- m. Click *Submit Application*
- n. The Signature page will appear and it will show you a 12-digit application ID number. It will be 202309XXXXXX. *This is how you know you've successfully submitted the application.*

For specific questions on this program contact the Innovation & Development Zones Office in DCED at 717-346-0327.

C. Supplemental Information for the Single Application for Assistance

In addition to completing the [DCED Electronic Single Application for Assistance](#), the following supplemental information must be submitted by February 15th of the year in which the tax credit application is being made:

1. A description of the business activity being conducted in the ALDZ.
2. Electronic file containing the ALDZ calculation spreadsheet to the Department of Revenue.
3. A description of the investment (including amount) that the business has undertaken in the year for which the tax credit is being requested.

D. ALDZ Designation Change Process

1. After an ALDZ plan has been approved by DCED, an airport may change the approved designation by any of the following:
 - a. Subdividing a parcel;
 - b. Changing the legal description of a parcel;
 - c. Moving the ALDZ designation to another qualifying parcel owned by the airport; or
 - d. Making physical changes to a vacant building in the ALDZ by adding to the building's size or reducing the building's size after the plan has been approved.
2. For an airport to make any change to an approved designation, the airport must notify DCED and the Department of Revenue by submitting a revised plan. The revised plan must comply with the qualifications as outlined for the original ALDZ plan.
3. DCED shall issue a document confirming the changes to the airport's designation.

Section V – Penalties

A company which receives Airport Land Development Zone tax credits and fails to substantially maintain the operations related to the Airport Land Development Zone tax credits in this Commonwealth for a period of five years from the date the company first submits an Airport Land Development Zone tax credit certificate to the Department of Revenue shall be required to refund to the Commonwealth the total amount of credits granted.

Appendix A – Parcel Affidavit

COMMONWEALTH OF PENNSYLVANIA :
:
COUNTY OF _____ :

The undersigned, being duly sworn, deposes and says:

1. I am the _____ of _____,
a _____ (the "Company");
2. The Company is requesting Airport Land Development Zone (ALDZ) designation for the site located at _____, _____ County, Pennsylvania
being further described as Parcel number(s) _____ (the "Site");
3. The Site had no permanent vertical structures affixed to it on or after December 31, 2021;
4. This Affidavit has been given by the undersigned, individually and on behalf of the Company, to the Department of Community and Economic Development for the purpose of inducing the Department to designate the Site as an Airport Land Development Zone in order for the Company to be eligible to apply for Airport Land Development Zone Tax Credits, and the undersigned expressly recognizes and acknowledges that this Affidavit is being relied on by the commonwealth in connection with such;
5. Under penalties of perjury, I declare that the information contained in this Affidavit and any accompanying documentation is, to the best of my knowledge, true, correct and complete as of the date hereof.

Signature

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY
OF _____

Notary Public

MY COMMISSION EXPIRES: