

810-3-71-.03 Job Development Fee. Upon the issuance by the Authority of its Project Obligations for the purpose of financing a Project for an Approved Company:

(1) The Approved Company may impose a Job Development Fee only on the new employees hired by the Approved Company for a Project. The term "new employees" includes only those individuals who (i) have not previously been employed by the Approved Company in Alabama; (ii) will be employed at the project site; and (iii) will be subject to the personal income tax imposed by Section 40-18-2 of the Code upon commencement of employment at the site. An Approved Company may assess and withhold a Job Development Fee from a new employee only during the time such employee is employed at the project site. Accordingly, an Approved Company may not continue to assess and withhold a Job Development Fee from an employee who is no longer employed at the project site.

(2) The Job Development Fee assessed by an Approved Company and withheld from the gross wages of new employees shall be based solely on the wages paid to such employees by the Approved Company. The Job Development Fee withheld from a new employee's wages shall be limited to an amount no greater than the tax that would otherwise be withheld from such employee's wages pursuant to the provisions of subsections (a) through (d) of Section 40-18-71 of the Code but for the imposition of the Job Development Fee. Any tax withheld pursuant to subsection (e) of Section 40-18-71 of the Code is not a Job Development Fee within the meaning of Section 41-10-44.8(b) of the Code and must be remitted by the Approved Company in accordance with the provisions of Section 40-18-74 of the Code.

(3) Pursuant to Section 41-10-44.8(a), the aggregate Job Development Fee withheld in a given year by an Approved Company from the wages paid to employees at a Project shall not exceed the difference between (1) the sum of the debt service payments made during such year by the Approved Company pursuant to the terms of a Financing Agreement (as that item is defined in Section 41-10-44.2); and (2) the sum of the corporate income tax credits claimed by the Approved Company on its state corporate income tax return for such year pursuant to Section 41-10-44.8(a)(1) and 41-10-44.9.

(4) In determining the aggregate Job Development Fee which may be withheld from an employee's wages in a given year, an Approved Company:

(a) shall apply the limitation in section (3) above on a calendar year basis. Accordingly, if an Approved Company's tax year does not correspond to the calendar year, both the corporate income tax credit and the debt service payments will be prorated to the calendar year;

(b) shall base its computation of the aggregate Job Development Fee which it may withhold from employees wages on an estimate of its state corporate income tax liability for such year;

(c) shall determine the actual amount of the aggregate Job Development Fee which it was entitled to withhold within 90 days of the close of the most recent tax year in which a corporate income tax credit was claimed pursuant to Section 41-10-44.8 or 41-10-44.9.

(d) shall, if the aggregate Job Development Fee withheld exceeds the maximum allowable pursuant to the limitation of section (3) above, remit the excess Job Development Fee, plus appropriate interest in accordance with Section 40-1-44, to the Department by the due date of the company's next corporate income tax return (without regard to extensions).

(e) shall not be entitled to any adjustment of its aggregate Job Development Fee if the amount of such fee is less than the maximum allowable pursuant to the limitation of section (3) above. Taxes withheld and remitted to the Department by an Approved Company pursuant to Section 40-18-74 may not be later claimed as Job Development Fees.

(5) Upon notification by the State Industrial Development Authority that an employer has been authorized to withhold a Job Development Fee, the Department shall issue such employer a withholding tax coupon booklet containing forms and instructions for reporting the Job Development Fee and Alabama income tax withheld. This booklet shall also contain instructions for reconciling an employer's yearly withholding amount when a Job Development Fee and/or Alabama income tax has been withheld.

(6) Employers who are authorized to withhold a Job Development Fee are subject to the same filing requirements as employers described in Section 40-18-74. All monthly, quarterly and annual returns must be filed by appropriate due dates. In addition to the requirements described in Section 40-18-74, employers who withhold a Job Development Fee will submit with each monthly, quarterly and annual return a listing of employees from whose wages a Job Development Fee was withheld. This listing shall include the following information:

- (a) Employer's name;
- (b) Employer's Alabama withholding tax account number;
- (c) Employee's name;
- (d) Employee's Social Security number; and
- (e) Amount withheld from employee's wages as a Job Development Fee.

(7) Pursuant to Section 41-10-44.8(c), if an Approved Company fails to achieve the level of capital investment or employment anticipated at the time the State Industrial Development Authority agreed to finance the Project, the Department may, after notice and hearing, prospectively reduce or suspend all or part of the Job

Development Fee inducement allowed in (1) above until such time as the anticipated capital investment and employment levels are met.

Authors: Ewell Berry, Ann F. Winborne and Neal Hearn

Authority: §40-18-71 and Act 93-852

History: Filed with LRS May 13, 1994. Certification filed with LRS August 26, 1994, effective date September 30, 1994.