

LAW UPDATE

Ruskin Moscou Faltischek has significant expertise in many areas of economic development, including:

- Taxable and non-taxable below-market IDA bond financings
- "Straight lease" IDA transactions with property, sales and mortgage tax relief
- Zoning changes, variances, subdivisions and other land use relief allowing construction of otherwise prohibited projects

Eric C. Rubenstein is a partner at Ruskin Moscou Faltischek, P.C., where he is chair of the firm's Real Estate Department and a member of the firm's Environmental Practice Group. Mr. Rubenstein successfully manages a diverse real estate transactional practice with specific emphasis on sophisticated mortgage financing, commercial leasing, acquisitions and sales. He can be reached at 516-663-6513 or erubenstein@rmfpc.com.

Edward A. Ambrosino serves as counsel to Ruskin Moscou Faltischek, P.C., where he is a member of the firm's Real Estate Department and Municipal and Regulatory Affairs Department. Currently, Mr. Ambrosino serves as Councilman to the 2nd Councilmanic District of the Town of Hempstead. He can be reached at 516-663-6675 or eambrosino@rmfpc.com.

Empire Zone Comes to Nassau County: Taking Advantage of the Opportunities

By Eric C. Rubenstein and Edward A. Ambrosino, Esqs.



Eric C. Rubenstein

In January 2006, New York State approved the establishment of three new Empire Zones in Chinatown, upstate Livingston and Nassau County. The introduction of the Empire Zone in Nassau County came after tireless efforts of local government officials, specifically Senator Dean Skelos, New York State Senate Deputy Majority Leader, who is also of counsel to our firm. Our clients have taken advantage of substantial Empire Zone benefits in Suffolk County, New York City and elsewhere; now these valuable financial incentives are available in Nassau.



Edward A. Ambrosino

Where is the Nassau County Empire Zone?

The newly created Nassau County Empire Zone will include ten communities, mainly in the Town of Hempstead, including Elmont, Roosevelt, Inwood and Westbury, as well as in Bethpage, New Cassel and Glen Cove. Please contact us for a detailed map identifying the precise boundaries of the Empire Zone.

What are the Empire Zone Benefits?

The purpose of the Empire Zone program is to give qualifying companies the opportunity to operate on an almost "tax-free" basis for up to 10 years, with additional savings available on a declining basis in years 11 through 15. Benefits include sales tax exemption, real property tax credits and business tax credits.

A qualifying business is known as a Qualifying Empire Zone Enterprise (QEZE). In order to be eligible for QEZE status, a business must (i) be located within an Empire Zone (although under certain conditions, qualifying businesses may be located outside designated areas if approved by the Empire Zone Designation Board); (ii) meet certification criteria codified in Article 18-B of the General Municipal Law and in Title 5 of the New York Compilation of Rules and Regulations; and (iii) annually meet an employment test during a range of years known as the Business Tax Benefit Period (Benefit Period). Empire Zone benefits include:

Real Estate/Municipal Law Update is a publication for distribution without charge to our clients and friends. It is not intended to provide legal advice, which can be given only after consideration of the facts of a specific situation.



RUSKIN MOSCOU FALTISCHEK P.C.

Smart Counsel. Straight Talk.

- **Credit for Real Property Taxes.** The amount of the real property tax credit is equal to the product of an employment increase factor multiplied by the amount of real property taxes paid (or qualifying PILOT payments under an IDA financing). The credit is available for 15 years but is phased out by an annual 20% decrease in years 11 through 15. The maximum amount of the credit can be claimed each year, but cannot exceed the greater of (a) the product of \$10,000 multiplied by the employment increase factor or (b) a capital investment limitation in the real property located in the Empire Zone attributable to construction and build-out costs. Other limitations apply as well.
- **Income Tax Reduction Credit.** A QEZE is allowed a tax credit based on the QEZE's "economic presence" in the Zone. In essence, economic presence is a factor of the number of jobs created in the Zone. This credit is available for 15 years and, similarly, is phased out by an annual 20% decrease in each of years 11 through 15. Other limitations apply.
- **QEZE Sales Tax Exemptions.** QEZE's are granted a 10-year exemption from State sales tax on purchases of goods and services (including utility services and owned vehicles) used predominantly in the Zone.
- **Wage Tax Credit (WTC).** This credit is available for up to five consecutive years for companies hiring full-time employees in newly created jobs. For employees who are defined by the New York State Tax Law as "economically-disadvantaged persons," the credit equals \$3,000 per year. For all other new hires, the credit is \$1,500 per year.
- **EZ Investment Tax and Employment Incentives Credit (ITC-EIC).** Businesses that create new jobs and make new investments in production, property and equipment may qualify for tax credits of up to 19% of the company's eligible investment.
- **New Business Refund.** Businesses new to New York State are entitled to a 50% cash refund of unused WTC and ITC-EIC amounts. Other businesses may carry forward unused credits indefinitely.
- **Utility Rate Savings.** Special reduced electric and gas rates may be available through investor-owned utilities in New York State. Businesses that locate or expand their operations in an EZ may receive significantly reduced rates.
- **Zone Capital Credit.** A 25% tax credit against personal or corporate income taxes is available to entities that (i) contribute or purchase shares in a Zone capital corporation; (ii) make a direct equity investment in a certified Zone business; or (iii) contribute to an approved community development project within a Zone.
- **Real Property Tax Abatement.** EZs may offer tax abatements from an increased assessment, with the abatement value based on improvements to real property for up to ten years. This holds true for up to seven years at 100%, decreasing over the last three years of the exemption.

How to Make it Work for You

Businesses looking to relocate or expand in Nassau County should seriously consider the new Empire Zone as a potential site. Legal and accounting professionals should be consulted to determine eligibility under the program and the maximum benefits available.



Smart Counsel. Straight Talk.

East Tower, 15th Floor
 1425 Reckson Plaza, Uniondale, NY 11556-1425
 New York City ▼ Uniondale ▼ Hauppauge
 516.663.6600 ▼ www.rmfp.com