

New Alberta Investment Tax Credits – Great for Business or Bureaucrats?

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As the new Alberta Investor Tax Credit (AITC) and Capital Investment Tax Credit (CITC) were making their way through the Alberta Legislature, I wrote an article for the Canadian Tax Foundation which appeared in the January 2017 issue of "[Tax for the Owner Manager](#)". Bill 30, which contains the two credits, became law on December 9, 2016. The draft legislation discussed in my article was only cosmetically changed with four amendments accepted at the end of November.

Briefly – the AITC is a 30% tax credit for share investments made in small Alberta corporate businesses between April 14, 2016 and December 31, 2019 that are "substantially engaged (at least 50%) in proprietary technology research, development or commercialization, interactive digital media development, video postproduction, digital animation or tourism." The tax credit is granted on a first come, first served basis and the overall cap is \$90 million. The maximum credit for an individual will be \$60,000 per year and the credit may be refundable, otherwise it carries forward for four years. There's no maximum annual credit for corporate investors, the credit is nonrefundable and carries forward for four years.

The refundability provision in the legislation is contained in subsection 35.01(3) of the *Alberta Personal Income Tax Act* and reads as follows:

The Provincial Minister *may* pay to an individual the amount, if any, by which the amount of the deduction under subsection (2) [*i.e., the amount of credit needed to eliminate the Alberta income tax liability*] exceeds the amount of tax otherwise payable under this Act in that taxation year up to a maximum of \$60,000. [*italics and wording in square brackets are my emphasis*]

I don't even know how to interpret this. In every other refundable tax credit situation I have encountered in my career the tax credit is either refundable or it isn't. I have never seen a tax credit in which the revenue minister has the discretion to refund it or not.

The CITC is a 10% nonrefundable tax credit of up to \$5 million for Alberta corporations involved in manufacturing, processing or tourism infrastructure with a minimum capital investment of \$1 million, which must be spent within two years of the date of the Conditional Approval Letter (see item 2 below in the discussion of the CITC mechanics). The application process is a beauty contest in which applications are received in tranches and then the government gets to decide who will get the credit. The maximum credits issued under this program will be \$70 million.

The procedures for receiving these credits were released in January 2017. The real winners appear to be the bureaucrats who will be hired to administer these programs. Surprised? Me neither.

The AITC credits will work as follows. I'll put a frown emoticon (😞) next to every step that involves interaction with a government employee:

1. Create a user account through the online application portal starting January 16, 2017;
2. Register as a Venture Capital Corporation (VCC) or Eligible Business Corporation (EBC); 😞 The government will evaluate your application and, if approved, will let you know within 30 days of approval. The instructions even say that “program staff will thoroughly evaluate applications to ensure they meet eligibility requirements.” 😞 Good thing everyone has been put on notice that this won’t be the run of the mill DMV-type application stamp of approval.
3. Apply for approval to raise additional equity capital. 😞 Once you have been approved in Step 2, you are required to submit an application to the government to ask for permission to raise additional equity capital.
4. Raise equity capital.
5. Apply for Tax Credit Certificates. 😞 Once you raise the equity capital, you are required to go back to the government by completing and submitting a “Share Purchase Information Form” to apply for Tax Credit Certificates on behalf of investors.
6. Delivery of Tax Credit Certificates. The Tax Credit Certificates will be issued starting in January 2018. Once received, you’ll be responsible for distributing them to your investors.

By now, the weaknesses of this program for Alberta business should be painfully obvious – heavy bureaucratic involvement in the process, government discretion to refund or not, government selection of eligible businesses and industries, and short sunset of the program. All of these issues lead to a program that is unlikely to attract any new business to Alberta given the well-established and continuing programs in other provinces such as British Columbia.

The CITC credits will work in a similar manner. I’ll use the same convention (😞) as above:

1. Create a user account through the online application portal starting January 16, 2017;
2. Fill out and submit an application for Conditional Approval. 😞 Applications must be submitted during one of four 30 day intake periods. The first one takes place between January 16 – February 15, 2017. You will also be required to submit a Proposed Investment Plan Form and an Economic Impact Assessment Form which are available through the online portal. 😞 The government will then review your application and if they like your business, investment plan and economic impact they’ll issue a Conditional Approval Letter.
3. Reporting on Progress. 😞 In order to keep those new government employees busy, you must provide a progress report every 180 days from the date of the Conditional Approval Letter until the investment is complete. This criterion is a little hard to understand because the government doesn’t have to pay out any funds until a) the investment is made and b) the company generates a tax liability in excess of the credit (see 5 below). Oh right. What was I thinking?
4. Apply for the Tax Credit Certificate. 😞 Once the Eligible Qualified Property has been purchased and is available for use, you must submit an application for the Tax Credit Certificate. As part of this process you will be required to submit an updated status report of the Approved Investment Plan as well as an updated Economic Impact Assessment. 😞 Nice, very Soviet.
5. Receiving the Tax Credit. 😞 If you complete the investment and comply with the myriad of applications and reporting outlined in steps 2-4 above, you’ll receive a Tax Credit Certificate once the government employees complete their review. The Tax Credit Certificate isn’t money. It entitles you to claim the tax credit on your corporate tax return and once you have a tax liability in Alberta, you can use the credit to offset all or a portion of that liability.

Similar to the AITC, the CITC program is fraught with bureaucracy, is short term in nature, is not refundable (leaving the applicant out of pocket for its investment until sufficient profitability is reached to generate an offsetting Alberta tax liability), is overly prescriptive and full of unnecessary reporting steps.

The real winners under these two tax credit programs appear to be the government employees who will be hired to administer the programs. While the use of investment tax credits can often be good to stimulate economic investment, the AITC and CITC programs developed by the the Alberta government are a textbook example of the creation of a program that is overly bureaucratic, ridiculously uncertain (the sign of a good tax system is certainty) and condescending. Apparently the Alberta government knows better than the marketplace which investments are worthy of a credit and which ones are not. Very disappointing.