


Anchin Alert

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Anchin, Block & Anchin LLP
Accountants and Advisors



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Empire Zone Participants Must File BARs to Avoid Decertification

Participants in the New York State Empire Zone Program will soon receive 2010 Business Annual Reports (BAR) from their local zones. The timely and accurate completion of the form is required in order to maintain Empire Zone certification and related benefits. **Failure to complete and submit the BAR will result in decertification and loss of benefits.**

Even if you did not receive benefits last year or your benefits have started to “phase out,” filing BARs is still required and in some circumstances can cause a trap for the unwary if not filed.

Businesses certified prior to April 1, 2008, if qualified, receive benefits of 100% for the first 10 years they are certified and 80% in year 11, 60% in year 12, 40% in year 13 and 20% in year 14. These benefits may become too small and cause the business to not file the BAR or refrain from taking the benefits as they are not considered worth the administrative time required. Not filing for these reasons may make sense if the business or its shareholders or partners in an S-corporation or partnership have utilized all their benefits in past years.

If there is not enough New York State tax against which to utilize all the benefits, the state allows you to carry forward these benefits **indefinitely** with no expiration on use. Business can effectively “bank” credits for future use, potentially on the sale of the company or another large transaction that generates income.

However, the “trap” is that decertification for any reason causes these unlimited credit carryforwards to expire after 7 years. And as noted above, decertification can result simply by not filing the BARs. As such, as long as your business or owners have carryforward credits, the BARs should be filed to avoid decertification.

The Economic Development Services Group at Anchin, Block & Anchin, LLP is available to assist you with accessing all of the benefits to which you are entitled. Please call Richard Stieglitz, Paul Gevertzman, or Ricky Wolbrom at 212-840-3456 should you have any questions or need assistance with your benefits and the BAR forms.