

Keystone Opportunity Zone

Program Guidelines and Application | December 2010



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Section I – General

A. Introduction

The Keystone Opportunity Zone (KOZ) Program is one of the nation’s boldest and most innovative economic and community development programs. This unique program develops a community’s abandoned, unused, underutilized land and buildings into business districts and residential areas that present a well-rounded and well-balanced approach to community revitalization. The Department of Community and Economic Development administers this partnership between state and local government in collaboration with the Department of Revenue (state taxes) and the Department of Labor and Industry (Unemployment Compensation taxes), based on the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act, 73 P.S. §§820.101- 820.1309 (the “Act”) and Senate Bill 1412, which extends and expands the program.

The Keystone Opportunity Zones are designated by the local communities and approved by the State. The Keystone Opportunity Improvement Zones were designated by Executive Order, of the Governor, and approved by the local communities. All Keystone Opportunity Zones provide specific state and local tax benefits. Keystone Opportunity Zones entitle businesses and residents to certain tax benefits when they locate in a Keystone Opportunity Zone. Keystone Opportunity Zones consist of 12 defined areas in 61 counties across Pennsylvania, covering more than 46,000 acres in over 193 sub-zones. Sizes of the KOZs range from under 10 acres to over 500. Along with the remarkable tax advantages, these areas provide close proximity to major interstates, ports, rail lines and international airports.

B. Program Qualifications

1. **Qualified Business:** A business authorized to do business in this Commonwealth which is located or partially located within a subzone, expansion subzone or improvement subzone and is engaged in the active conduct of a trade or business in accordance with the requirements of section 307 of the statute for the taxable year. An agent, broker or representative of a business is not engaged in the active conduct of trade or business for the business. In order to qualify each year for a tax exemption, deduction, abatement or credit under this act, a business shall own or lease real property in a subzone, improvement subzone or expansion subzone from which the business actively conducts a trade, profession or business. The qualified business shall receive certification from the department that the business is located and is in the active conduct of a trade, profession or business, within the subzone, improvement subzone or expansion subzone. The business shall obtain annual renewal of the certification from the department to continue to qualify as a qualified business.
2. **Relocation:** An existing qualified business relocating into a KOZ must demonstrate a significant economic impact that will result from relocation into a KOZ. (See section D)
3. **Recapture:** Any qualified business that has received KOZ benefits and moves out of the zone within the first 5 years may be subject to penalties.
4. **Property Owner Qualifications:** Please be advised that you must apply annually to the Department in order to receive approval for property tax abatement, as required by Section 907 of the Act. If you are found to be noncompliant with any tax or zoning requirements during the calendar year, your KOZ status will be revoked and you may be subject to penalties and/or recapture under the Act.
5. **Resident Qualifications:** Residents must maintain compliance with all state and local tax laws and must reside 184 consecutive days in the KOZ during each tax year.

All KOZ applicants must file an annual application with the Department.

The KOZ Change of Status notification must be submitted, to the Department, if a change takes place.

C. Taxes Eligible To Be Waived

Through credits, waivers and broad-based tax abatements, total taxes on economic activity in Keystone Opportunity Zones are significantly reduced. These benefits affect the following taxes:

State

- Corporate Net Income tax
- Capital Stock and Foreign Franchise tax
- Personal Income tax
- Sales and Use tax (purchases consumed and used by business in the Zone)
- Mutual Thrift Institution tax
- Bank and Trust Company Shares tax
- Insurance Premiums tax

Local

- Earned Income/Net Profits tax
- Business Gross Receipts, Business Occupancy, Business Privilege and Mercantile tax
- Sales and Use tax (county/city; purchases exclusively used and consumed by business in the Keystone Opportunity Zone)
- Property Tax

D. Requirements / Penalties / Deadlines / Definitions

1. Change of Status Notification (Required)

KOZ applicants are required to immediately notify the Department of Community and Economic Development when there is a change in status due to relocation, sale, local non-compliance, closure, death, business name change, parcel number change, address change or any change that may affect benefit status.

2. Existing Pennsylvania Business Relocating to a Keystone Opportunity Zone

Any business that moves from a non-KOZ Pennsylvania location into a KOZ is not eligible to receive the exemptions, deductions, abatements, or credits set forth in the Act unless the business meets at least one of the following:

- a. Increases full-time employment by at least 20% in the first full year of operation within the KOZ or;
- b. Makes a capital investment in the property located within the KOZ equivalent to 10% of the gross revenues of that business in the immediately preceding calendar or fiscal year attributable to the business location or locations that are being relocated to a subzone.
- c. Enters into a lease agreement for property located within the subzone, improvement subzone or expansion subzone for a term at least equivalent to the duration of the subzone and with the aggregate payment under the lease agreement at least equivalent to 5% of the gross revenues of that business in the immediately preceding calendar or fiscal year.

The Department has sole discretion in approving KOZ benefits to relocating businesses, and will look more favorably upon relocations that will result in increases of full-time employment by at least 20% in the first full year of the business's operation within the KOZ.

The Department will also evaluate the level of capital investment made by a relocating business when considering requests for KOZ benefits.

Businesses seeking to qualify for KOZ benefits solely under paragraph 2 (c) above the lease provision, are unlikely to receive approval from the Department unless the denial of KOZ benefits will result in a significant negative economic impact to the commonwealth.

The Department, in consultation with the Department of Revenue, may waive or modify the requirements of this subsection, as appropriate. Relocating businesses must request a modification to the requirements of this subsection within 30 days of receiving their Initial Relocation Notification letter.

Any questions concerning the relocation provisions should be directed to the KOZ Manager at the Department of Community and Economic Development (Attachment I).

3. Compliance

All “qualified businesses” and “persons” must be in full compliance with all state and local tax laws, and building and housing code provisions, in order to claim exemptions, deductions, abatements or credits offered in the Act. The Department of Revenue reserves the right to conduct an audit of an applicant for benefits to ensure full compliance with the Act.

4. Illegal Alien Labor

No person or business receiving a tax exemption, deduction, abatement or credit shall knowingly permit the labor services of an illegal alien in a Keystone Opportunity Zone. A person shall be deemed to have knowingly employed or knowingly permitted the prohibited services if he has active knowledge or has reason to know that such services have been provided.

If the event of a violation, the department or political subdivision awarding the tax exemption, deduction, abatement or credit under this act shall require repayment of the amount of tax exemptions, deductions, abatements and credits received by it for the year or years in which such violation existed.

5. Penalty for violation of the Act

Any party improperly receiving KOZ tax benefits must return all tax benefits received and will be subject to the applicable interest, civil and criminal penalty provisions in the Act.

6. Repayment of Benefits

Any qualified business located within a KOZ and receiving exemptions, deductions, abatements or credits under the Act, which relocates outside of the Zone within the first five years of locating in a zone, may be required to refund all tax benefits received to state and local authorities as provided in the Act.

Any business that fails to meet the relocation obligations set forth in paragraph D.2. above will be subject to revocation of future benefits and repayment of benefits previously received.

7. Deadlines

- The deadline to file a KOZ application is December 31st of the year for which benefits are to be received.
- The deadline for compliance with code violation deficiencies is December 31st of the year for which benefits are to be received.
- The deadline for compliance with tax payment obligations is February 5th of the year following the year for which benefits have been requested.
- Sales tax exemption certificates issued by the Department of Revenue expire on March 31st of each calendar year. To ensure that a sales tax exemption certificate does not lapse, the KOZ Application should be filed no later than January 15th of the calendar year in which the exemption certificate expires.

8. Definitions

- a. **Applicant:** Applicants can be a business/property owner, or resident with an approved KOZ application. An applicant is identified by a KOZ number assignment to an application.
- b. **Business Expansion:** An existing Pennsylvania business whose operations, equipment and employees remain at their present location when the business expands into a KOZ. If any part of the existing business operations, equipment or employees are relocated into the KOZ, the Department will deem such action a relocation.
- c. **Business/Property Owner:** an association, partnership, corporation, sole proprietorship, limited liability corporation or employer.
- d. **Capital Investment:** (i) an undertaking to construct, repair, renovate, improve, equip, furnish, or acquire any building, structure, facility, or physical betterment or improvement; (ii) land; or (iii) furnishing, machinery, apparatus of equipment for building, structure, facility or physical betterment or improvement, the term includes soft costs related to the project.
- e. **Domicile:** the place where a person has a true and fixed home and principal establishment for an indefinite time and to which, whenever absent, that person intends to return. Domicile continues until another place of domicile is established.
- f. **Full-Time Employment:** for the purpose of determining relocation requirements compliance "full-time employment" shall be defined as full-time, permanent employment in the specific industry sector within which the company operates.
- g. **Program Participant:** an approved entity (business/property owner, resident) participating in the KOZ program. The approved entity is identified by how they file with the federal government; an Employer identification number (EIN) for businesses and a social security number (SSN) for residents. A single program participant could submit multiple applications for multiple exemptions.
- h. **Out of State:** A business entity coming from another state that is submitting their initial KOZ application.
- i. **Resident:** A person who is domiciled and resides in an area that is designated a subzone, expansion subzone or improvement subzone.
- j. **Soft Costs:** include items directly related to the completion of the project, e.g. professional services/consultants, architectural fees, engineering fees, inspection fees, insurance, environmental assessment, legal fees, closing costs and contingencies. Soft costs may not exceed 10% of capital investment.
- k. **Start-up:** A business applicant that is a new entity or expansion of an existing entity that is not a relocation.

E. Eligibility for Other Department Programs

Keystone Opportunity Zone benefit recipients may be eligible for other programs administered by the Department of Community and Economic Development. The Department's Single Application for Assistance can be completed to apply for financial assistance from the Department's various funding sources.

The Department encourages you to visit our web site and submit your Single Application for Assistance via on-line submission at www.newPA.com. In addition, you may call the Department's Customer Service Center at 1-800-379-7448, or your local KOZ Regional Coordinator (see attachment II).

Section II – The Application Process

A. General

1. KOZ Applications for completion by applicants that are property owners, businesses and residents and guidelines to assist with the completion of the KOZ Application may be accessed in the following manner;
 - a. **Applications must be completed online.** The guidelines, to assist with the completion of the application may also be viewed online. The Application and Guidelines can be accessed by going to <http://koz.newPA.com>. Your completed application will be electronically submitted to the Department, and your local coordinator.
 - b. All questions marked with an asterisk must be completed on every application.
 - c. If you wish to obtain a copy of the guidelines please contact the Department's Customer Service Center at 1-800-379-7448 or download a copy at <http://koz.newPA.com>
2. Applicants must file an annual application by December 31st of the year for which they are applying for benefits to maintain eligibility for KOZ benefits.

B. Approval Process

1. Applicants must apply on an annual basis to maintain eligibility for KOZ benefits.
2. No qualified business may claim or receive an exemption, deduction, abatement or credit under this act unless that qualified business is in full compliance with all state and local tax laws, ordinances and resolutions.
3. No qualified business may claim or receive an exemption, deduction, abatement or credit under this act if any person or business with a 20% interest or greater interest in that qualified business is not in full compliance with all state and local tax laws, ordinances and resolutions.
4. The Local Coordinator will determine compliance with local taxes and codes and forward the application to the state within 15 business days of receipt of the application, whether or not the applicant is locally compliant.
5. The Department of Community and Economic Development will assign an official KOZ file number to the application and forward the application to the Department of Revenue to determine state tax compliance and to the Department of Labor and Industry for Unemployment Compensation tax compliance.
6. Compliant applications will receive an approval letter from the Department. The approval letter is verification of eligibility to receive KOZ benefits from state and local entities.
7. Non-Compliant applicants will receive a letter from the Department directing the applicant to the appropriate agency to resolve the compliance issue.
8. Applications with Code compliance issues must be compliant by December 31st of the calendar year for which the KOZ benefits are requested.

9. Applications with tax compliance issues must be compliant by February 5th of the calendar year following the calendar year for which non-compliance occurred.
10. Applicants receiving KOZ benefits must report a change in status due to relocation, sale, closure, local non-compliance issues, death, business name change, parcel number change, address change or any change that may affect benefit status on a KOZ Change of Status notification. The Change of Status notification must be completed online by going to <http://koz.newPA.com>.

Attachment I – Contacts

Department of Community & Economic Development (DCED)

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DCED Regional Offices

Northeast

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Oppenheim Building, 3rd Floor
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Northwest

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100 State Street, Suite 205
Erie, PA 16507
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Southwest

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Pittsburgh, PA 15222
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Southeast

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Central

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Department of Revenue (DOR)

Matthew Forti, DCED Liaison / KOZ Coordinator
9th Floor, Strawberry Square
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Department of Revenue (Tax Issues Only)

Office of Chief Counsel
10th Floor, Strawberry Square
Harrisburg, PA 17128-1100
Phone: (717) 787-1440
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E-mail: chzettlemo@state.pa.us

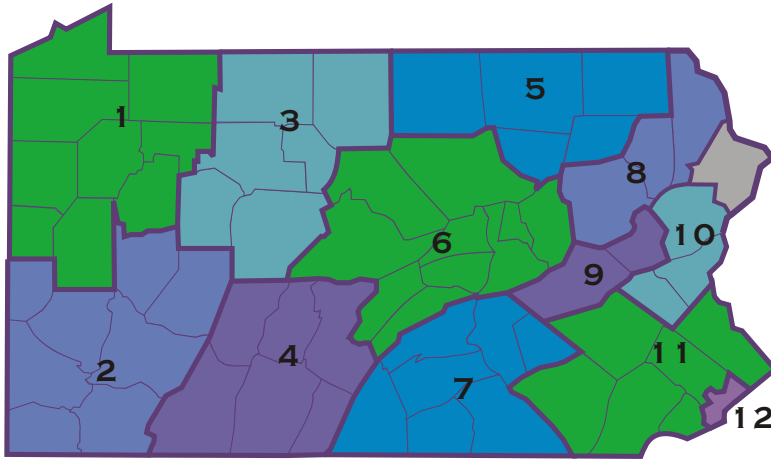
Department of Labor & Industry (L&I)

Room 916 Labor & Industry Building
7th and Forster Street
Harrisburg, PA 17121
Phone: (717) 772-2021
(866) 403-6163 (option 1)
Fax: (717) 787-8373
E-mail: uctides@state.pa.us

Local Tax and Code Issues

Local tax and Government issues should be directed to the appropriate local authority.

Attachment II – KOZ Coordinators



1. Northwest

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 Manager, Business Development
 Northwest Commission
 395 Seneca Street
 P.O. Box 1127
 Oil City, PA 16301
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2. Southwest

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 Southwestern Planning Commission
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3. North Central

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4. Southern Alleghenies

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 Southern Alleghenies Planning
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5. Northern Tier

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 Northern Tier Regional Planning &
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6. Central PA

Jerry Bohinski, Chief
 Economic Development Programs
 SEDA-Council of Governments
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7. South Central

Shaun Donovan
 Economic Development Specialist
 Harrisburg Regional Chamber
 & CREDIC
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 Harrisburg, PA 17110
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8. Lackawanna/Luzerne

Nicole Davis, Zone Coordinator
 Redevelopment Authority
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 Suite #210
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9. Schuylkill/Carbon

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 Schuylkill County Economic
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10. Lehigh Valley

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11. Southeast

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12. City of Philadelphia

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 Philadelphia Department of Commerce
 One Parkway
 1515 Arch Street, 12th Floor
 Philadelphia, PA 19102
 215-683-2021
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vincent.dougherty@phila.gov