

Frequently Asked Questions About Local Agency Military Base Recovery Area (LAMBRA) Tax Incentives



2002 **Local Agency Military Base Recovery Area Deduction and Credit Summary** CALIFORNIA FORM **3807**

Attach to your California tax return.

Name(s) as shown on return _____

A. Check the appropriate box for your entity type:
 Individual Estate Trust C corporation S corporation
 Exempt organization Limited liability company Limited liability partnership

B. Enter the name of the Local Agency Military Base Recovery Area (LAMBRA) business: _____

C. Enter the address (actual location) where the LAMBRA business is conducted: _____

D. Enter the name of the LAMBRA in which the business and/or investment activity is located: _____

E. Principal Business Activity Code number of the LAMBRA business _____
for the six-digit number from the Codes for Principal Business Activity.

F. _____
number of employees included in the computation of the hiring credit, if claimed
employees included in the computation of the hiring credit, if claimed

_____ business in a LAMBRA for two years.

1a
1

Frequently Asked Questions About Local Agency Military Base Recovery Area (LAMBRA) Tax Incentives

What is a LAMBRA?

A LAMBRA is an area located in California that is designated as such by the California Technology, Trade and Commerce Agency. LAMBRA's are established to stimulate growth and development in areas that experience military base closures. Taxpayers investing, operating, or located within a LAMBRA may qualify for special tax incentives.

There are currently eight LAMBRA's: Southern California International Airport, Castle Air Force Base, Mare Island Naval Base, San Bernardino International Airport and Trade Center, Alameda Naval Air Station, Mather Field/McClellan Park, Liberty Station, and Tustin Marine Corps Air Station.

Tax incentives are not available until an area receives final designation from the California Technology, Trade and Commerce Agency.

How do I know if I am located in a LAMBRA?

To verify whether your business is located within a LAMBRA, you can contact the California Technology, Trade & Commerce Agency at:

ENTERPRISE ZONE PROGRAMS
CALIFORNIA TECHNOLOGY, TRADE AND COMMERCE
AGENCY

1102 'Q' STREET SUITE 6000
SACRAMENTO CA 95814

Telephone (916) 324-8211
FAX: (916) 322-3524

Internet Website: www.commerce.ca.gov

What are the available LAMBRA tax incentives and who is qualified to take those incentives?

Four tax incentives are available to taxpayers that invest in or operate a trade or business located within a LAMBRA. The tax incentives are the:

- Hiring credit
- Sales or use tax credit
- Business expense deduction
- Net operating loss (NOL) deduction

For information about each tax incentive, get the *Local Agency Military Base Recovery Area Business Booklet* (FTB 3807 Booklet) or the *Guidelines for Businesses Claiming Economic Development Area Tax Incentives* (FTB Pub. 1158).

How do I claim the LAMBRA tax incentives?

Use the *Local Agency Military Base Recovery Area Deduction and Credit Summary* (FTB 3807), located in the *Local Agency Military Base Recovery Area Business Booklet* (FTB 3807 Booklet). File this form with your California tax return to claim the LAMBRA tax incentives. For those tax incentives that require an election, the election is also made on this form.

The *hiring credit* and the *sales or use tax credit* do not require an election, and can be claimed on either an original or an amended return. If you claim either of these credits, you cannot take another credit for the same wages or property.

Make your election to claim the *business expense deduction* on the original return for the year you place the property in service. You cannot make the election on an amended return, and you can only revoke the election with the written consent of the Franchise Tax Board.

Make your election to claim the LAMBRA *NOL deduction* on the original return for the year you incur the NOL. You cannot make the election on an amended return, and you can only revoke the election with the written consent of the Franchise Tax Board.

Do I have to include the form FTB 3807 with my tax return?

Yes. The Franchise Tax Board summarizes the information on this form and provides the information to the California Legislature or the California Technology, Trade and Commerce Agency. The information may be used to evaluate the usefulness of the incentives, to improve the program, or to make future decisions about continuation of the program.

Which employees qualify me for the hiring credit?

For taxable or income years beginning on or after January 1, 1999, you may qualify for the hiring credit if you hire an employee after an area has been officially designated as a LAMBRA. A qualified employee must be:

- **A civilian or military employee of a base or former base who was displaced as a result of a federal base closure act, or**
 - **Anyone who immediately before starting work for the employer was any of the following:**
 1. A person who has been determined eligible for services under the federal Job Training Partnership Act (JTPA);
 2. A person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN);
 3. An economically disadvantaged individual age 16 years or older;
 4. A qualified dislocated worker;
 5. A person who is enrolled in or has completed a state rehabilitation plan;
-

6. A service-connected disabled veteran;
7. A veteran of the Vietnam era;
8. A veteran who recently separated from military service;
9. An ex-offender;
10. A recipient of:
 - Federal Supplemental Security Income (SSI) benefits;
 - Aid to Families with Dependent Children (AFDC);
 - Food stamps; or
 - State and local general assistance; or
11. A Native American.

Please note: In addition, in order to be a qualified employee:

- At least 90 percent of the employee's work must be directly related to the conduct of the taxpayer's trade or business activity located in the LAMBRA, **and**
- At least 50 percent of the employee's work must be performed inside the boundaries of the LAMBRA.

To determine which employees qualify you for the hiring credit for taxable or income years beginning *before* January 1, 1999, get the *Local Agency Military Base Recovery Area Business Booklet* (FTB 3807 Booklet) or the *Guidelines for Businesses Claiming Economic Development Area Tax Incentives* (FTB Pub. 1158) for the year in question.

How long must an employee work for a taxpayer to avoid the recapture rules of the hiring credit?

Recapture of the hiring credit is required if the employee is terminated before the later of:

1. The first 270 days of employment (whether or not consecutive); or
2. Ninety (90) days of employment plus 270 calendar days.

A "day of employment" includes any day the employee was paid to work, regardless of whether the employee actually worked (including paid holidays, sick days, and vacation days). Exceptions to the recapture rules are discussed in the *Local Agency Military Base Recovery Area Business Booklet* (FTB 3807 Booklet) and the *Guidelines for Businesses Claiming Economic Development Area Tax Incentives* (FTB Pub. 1158).

Is the carryover of the net operating loss (NOL) deduction to future years limited?

Yes. A LAMBRA NOL may be carried forward to each taxable year that ends before the LAMBRA expiration date, or for 15 years, if longer. In addition, if your business operates both within and outside the LAMBRA or is part of a unitary group, you must determine your LAMBRA NOL deduction by using the LAMBRA apportionment formula. The carryover deduction can offset only business income attributed to the LAMBRA. See the *Local Agency Military Base Recovery Area Business Booklet* (FTB 3807 Booklet).

May I take the sales or use tax credit if the property purchased was exempt from sales or use tax when purchased?

No. The sales or use tax credit is only allowed for sales or use tax actually paid or incurred on the purchase of qualified property. If the property was exempt from sales or use tax at the time of purchase, no sales or use tax was paid or incurred.

Do leases qualify for the business expense deduction or the sales or use tax credit?

Yes. If the property is acquired through a leasing arrangement that constitutes a financial (conditional sales) contract, the property may qualify for the business expense deduction, the sales or use tax credit, or both.

To determine whether the lease qualifies as a financial (conditional sales) contract, refer to IRS Revenue Ruling 55-540, 1955-2 C.B. 39, and FTB Legal Ruling 94-2, March 23, 1994.

What is the maximum amount of LAMBRA credits I may take in any one year?

The total of all LAMBRA credits that may be taken in any taxable year may not exceed the lesser of the tax limitation or the:

- "net tax" limitation for individuals, or
- "tax" limitation for corporations.

California Revenue and Taxation Code sections 17039 and 23036 define "net tax" and "tax" respectively.

What are the "area income" or "area tax" limitations on the LAMBRA tax incentives?

The maximum amount of LAMBRA credits that may be used each year is limited to the tax on your business income attributed to the LAMBRA. Determine the amount of such tax by considering ALL your business activities conducted in the LAMBRA. The total LAMBRA credit is the combined amount of the current year's hiring credit and sales or use tax credit, and any prior year carryovers of these credits.

The LAMBRA NOL is limited to the LAMBRA business loss. The LAMBRA NOL *deduction* is limited to the LAMBRA income.

To determine "area income," taxpayers must add the business income or loss from all of the trade or business activities they conduct in the LAMBRA. Exclude nonbusiness income from the calculation. For taxable years beginning on or after January 1, 1998, taxpayers that operate within and outside of a LAMBRA must figure the total business income or loss apportioned to the LAMBRA by use of a property and payroll apportionment factor. For individual taxpayers with wages earned from a business located within and outside a LAMBRA, determine total LAMBRA business income or loss by adding income or loss attributed to LAMBRA activities.

The *Local Agency Military Base Recovery Area Business*

Booklet (FTB 3807 Booklet) provides the Income or Loss Worksheet for individuals.

The “area tax” is determined on this “area income” as if this amount was the taxpayer’s total income or loss for the year.

How are LAMBRA tax incentives claimed when passed through to partners, shareholders, or members?

The “area tax” or “area income” limitations apply at the individual level as well as the pass-through entity level. Individuals must determine their LAMBRA business income from ALL business activities they conduct in the LAMBRA to determine the amount of LAMBRA credits they can claim in the current year. To determine the individual LAMBRA income from pass-through investments, the apportionment factor determined at the pass-through entity level is applied to the distributive share of the individual investor’s income or loss. For example, if partnership A operates 80 percent in the LAMBRA and the partner’s distributive share of partnership income is \$100,000, the individual’s LAMBRA income from this activity is \$80,000. Wages paid by the pass-through entity also are considered business income and are apportioned to the LAMBRA based on the percentage of services performed within the LAMBRA.

What is the “net job increase” requirement?

To qualify for the LAMBRA tax incentives, a business must have a net increase of one or more jobs within the first two taxable years of commencing business within a LAMBRA. Taxpayers engaged in operations within a LAMBRA are allowed to utilize the designated LAMBRA business tax incentives beginning in the first year of operation in the LAMBRA even though they have not yet fulfilled the net increase in jobs requirement. However, if after the end of the second taxable year of operations within the LAMBRA, a taxpayer does not fulfill the net increase in jobs requirement, all LAMBRA business tax incentives claimed in prior years must be recaptured. See the *Local Agency Military Base Recovery Area Business Booklet* (FTB 3807 Booklet).

How do I compute the “net increase” in jobs for the LAMBRA?

To determine the yearly net increase in jobs, subtract the total number of full-time employees in California (defined as 2,000 paid hours per employee per year) prior to starting business in the LAMBRA, from the number of full-time employees in California in the second year after commencing operation in the LAMBRA. The total number of full-time employees for each is determined as:

- The total number of hours worked in California by hourly wage employees (not to exceed 2,000 hours per employee) divided by 2,000, and
- The total number of months worked in California by salaried employees divided by 12.

If your business has a net increase in jobs for the first two taxable years after commencing business operations in the LAMBRA, you must also employ one or more full-time employees within the LAMBRA in each of these years.

For this purpose, the number of full-time employees for each year is determined as:

- The total number of hours worked in the LAMBRA by hourly employees (not to exceed 2,000 hours per employee) divided by 2,000, and
- The total number of months worked in the LAMBRA by salaried employees divided by 12.

Refer to the *Local Agency Military Base Recovery Area Business Booklet* (FTB 3807 Booklet) for an example of this calculation.

RELATED FTB FORMS AND PUBLICATIONS

Guidelines for Businesses Claiming Economic Development Area Tax Incentives (FTB Pub. 1158)

Local Agency Military Base Recovery Area Business Booklet (FTB 3807 Booklet)

Economic Development Areas Manual on our Website at: www.ftb.ca.gov

Where To Get Forms and Publications

By Internet – You can download, view and print California tax forms and publications from our Website at: www.ftb.ca.gov

By Phone – Use our automated toll-free service. Call (800) 338-0505 and follow the recorded instructions. Please allow up to 3 weeks to receive your order.

Assistance for persons with disabilities: We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments please call TTY/TDD (800) 822-6268.

By Mail – Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307