

An Incentives Wish List — What Companies Searching for Their Next Office Location Really Want from an Incentives Package

To be competitive in the site selection process, state and local governments know that they must provide enticing incentive packages that catch a company's eye. After all, there are a lot of options out there when it comes to locating in the United States. As a company looking to establish a new office or expand an existing office, you are looking to maximize your options. So, what is out there for the discerning company searching for its match, and what is on the incentive wish list that companies just can't quite find?

Let's face it: Working in the office isn't what it used to be. Since the Covid-19 pandemic, work from home was introduced to the masses. Office environments have not been the same since. Back-to-work orders issued by numerous employers have resulted in a patchwork of workforce setups across industries, with mandatory returns coming from some sectors and hybrid to fully remote options available with others.

With these changes the modern office project that was searching for a new location 10 years ago is very different from the projects on the prowl in the market now. Often the footprint is smaller, even for headquarters searches.

So, what are companies with office projects in search of incentive-wise from a new home? Here's an office project wish list:

1. Incentives with an *increased focus on job/pay incentives rather than capital investment*. For example, job tax credit variations based on new jobs added to the state. Most job tax credits are structured as income tax credits, likely offering little value to most office projects. Broadening credit applicability to include sales tax could increase utilization for office project furniture, fixture and equipment purchases.
2. Wage-based incentives, such as the company being allowed to *retain state withholding tax*, and ...
3. ... *adaptive remote worker incentive policies* for these wage-based incentives.
4. Withholding grant or remittance reduction with *favorable payment frequency* (i.e. quarterly (South Carolina) vs. annually (North Carolina and most other states).
5. Cash grants *based on job creation* rather than investment.
6. *Refundable (sellable/transferable) income tax credits*. For states without this option currently, new legislation could address the phasing in of these options up to an annual cap to protect state budgets. The ability to use this option could be further limited by new jobs/investment requirements.

How to Find Your Top Wish List Items

Companies with office projects should understand the impact and structure of their investment to incentives and the extent of their need for adaptive remote worker options based on staffing projections.

When considering a location offering meaningful incentives for office projects, companies should consider whether and to what extent investment is required to receive those incentives. If more than nominal investment is required, will the state or locality attribute long-term lease payments or investment caused to be made by the developer or lessor (i.e., build-to-suit arrangements and tenant improvements) to the company? For example, in Arizona, expenses to lease property are considered capital investment for the Qualified Facility tax credit, which targets headquarter projects. North Carolina allows developer building costs to be attributed to the company under its Job Development Investment Grant program, with North Carolina municipalities and counties following suit.

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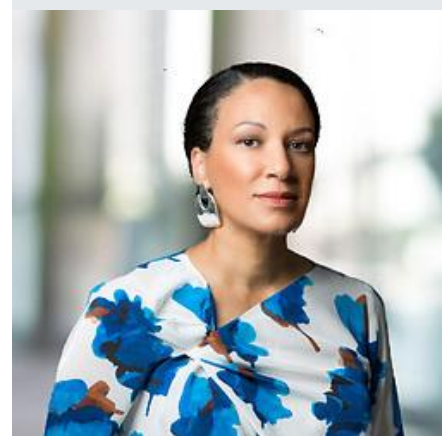
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An Incentives Wish List—(continued)

While many industries utilizing office space have slowly started to increase return to office requirements for employees (particularly companies in the financial sector), it seems clear that at least limited hybrid optionality is here to stay. States, cities and counties embracing adaptive remote worker incentive policies should be top site contenders to allow for maximum staffing flexibility. Therefore, the key for office projects is to find locations that (a) pay incentives for employees based on time worked in the state or locality, b) have minimal in-office requirements for an employee to be considered a full-time employee, and/or (c) allow incentives to be provided for remote workers.

Some examples:

1. South Carolina has a true hybrid and remote work policy for its withholding incentive. The policy allows payment for the days that an employee works in the state and does not pay on the days that an employee works elsewhere.
2. North Carolina allows a percentage (generally less than 34%) of employees to be approved as remote workers eligible for withholding incentives as long as the remote employees work from a North Carolina home office. To be considered a full-time employee, an employee need only report to the office at least four days a month.
3. New Jersey has implemented a tiered approach for four of its incentive programs requiring three days a week in office in urban areas and two days a week in office in suburban areas, the latter assuming certain fee criteria are met.
4. Missouri requires an employee to report in office at least 50% of the time to be considered a full-time employee eligible for incentives.
5. Illinois requires employees to work at the project location at least 14 hours per week to be considered a new or retained employee eligible for incentives.

These are just a few items on the wish list of companies searching for office project locations in the post-Covid work environment. Historically, there have been very few funding mechanisms in place to offset office project costs, particularly at the local level where their greatest opportunity to support generally lies with property tax savings, so creativity and a focus on tailored project needs for this sector are key. Localities authorized and willing to offer local grants based on job creation, rather than property tax savings, for office projects will see an advantage over localities that are unwilling to provide this type of benefit. The key for companies with office projects is to know to ask the locality to try.

Do you have a wish list item for your office project location search? Or have you heard of a state or local incentive to attract office projects that we haven't listed above? If so, please contact Beth Buckner bucknere@mvalaw.com and Beth Friedrich bethfriedrich@mvalaw.com.

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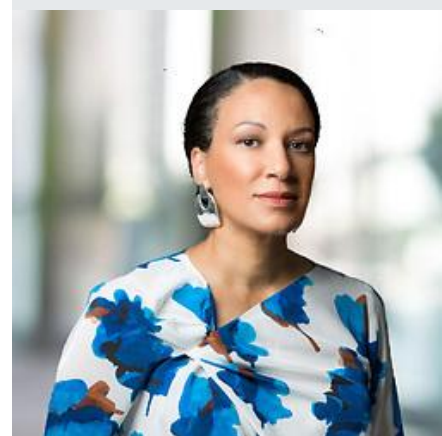
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