

2011 Tax Credit & Incentive Compliance Update

Federal & State Program Changes

An ADP Webcast
Wednesday, February 23
11 am Eastern Time



Housekeeping Items

- This is one of a number of **complimentary webinars** that ADP offers to tax and finance professionals each year.
- Today's webinar will last for **60 minutes**, ending at 12pm Eastern time.
- The last 10 minutes of today's program have been reserved for **Q&A**.
- You can download a **PDF copy of today's slides right now**, in case you'd like to take notes.
- We will launch a **brief survey** at the conclusion of today's webinar.

About ADP

Experts in automating corporate business processes



The view from New York's Times Square in December, 2008, when ADP debuted on the NASDAQ.

- Listed on NASDAQ: ADP
- Fortune 300 company
- Experts in automating business processes such as payroll, HR benefits administration, and helping nearly 6000 companies maximize their capture of **tax credits and business incentives**
- 60 years of experience
- Revenues of \$9 Billion
- Solid Financials: AAA credit rating from both Moody's and Standard & Poor's

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- Are you planning to apply for CPE credit for attending today's webinar?
 - A. Yes
 - B. No
 - C. Not Applicable

NASBA (National Association of State Boards of Accountancy) requirements for receiving CPE Credit:

- Log in from same e-mail address that you used to register
- Stay for the full hour
- Answer 3 out of 4 polling questions
- Answer the required survey questions



Agenda

- Introductions
- Tax Credits & Incentives Overview
- 2011 Key State Compliance Topics
 - California Enterprise Zone
 - Strategies for Your Business in Challenging Economic Environment
 - Additional State Programs Changes
 - 2011 Federal Compliance Topics
- Wrap-up
- Q&A



Today's Panel



Kerstin Nemec

ADP Tax Credit Services
Senior Director, Tax Practices

Kerstin is Senior Director with ADP Tax Credit Services in Dallas, Texas. She has over 18 years experience in the tax credit and finance industry. Prior to joining ADP, she was the National Partner in charge of a Big 4 tax credit & incentives practice.



Pat Herrera

ADP Tax Credit Services
Director, Southeast Regional
Practice

Pat is Director in the Southeast Region with over 18 years of experience in State Tax Credit administration and processing, public accounting experience, and tax research. She published articles in both the June 2010 and July 2010 issues of Journal of Multistate Taxation and Incentives. Pat holds a Masters of Taxation from Seton Hall University and is a licensed CPA in the state of New Jersey.

Today's Panel



Pete Isberg

ADP Government Affairs
Vice President

Pete Isberg is Vice President of Government Affairs for ADP, with over 28 years of experience in managing legislative and regulatory affairs. He covers employment tax and related policy matters with the IRS, SSA, USDOL, state and local tax authorities, state workforce agencies; for example, working with congressional tax-writing committees and the U.S. Treasury Department to develop the “payroll tax holiday” concept that became the HIRE Act in March 2010.

He holds an MBA in Finance from California State Polytechnic University, Pomona.



Charles Asensio

ADP Government Relations
Vice President

Charles is part of the ADP Government Relations team and has worked with government affairs for over 25 years. His focus is federal legislation that impacts ADP's products and services, and stays current on tax credit and incentive related issues in Bills coming before both chambers of Congress in Washington DC. Before joining ADP, Charles worked with the U.S. Department of Labor, Employment & Training Administration in Region III & IV for several years.

Overview: Tax Credits Today

- Tax credits are a tool used by all levels of government to help focus economic activity and benefits
 - Population segments
 - Geographic areas
 - Industry focus
 - Investment drivers

- Today's economic and budget realities are setting in and forcing compliance changes which can impact your business

Example: Enterprise/Opportunity Zones

Desired Benefits for Government

- Assist urban renewal
- Rural development
- Drive job growth
- Attract investment
- Develop a specific type of industry

Resulting Benefits for Companies

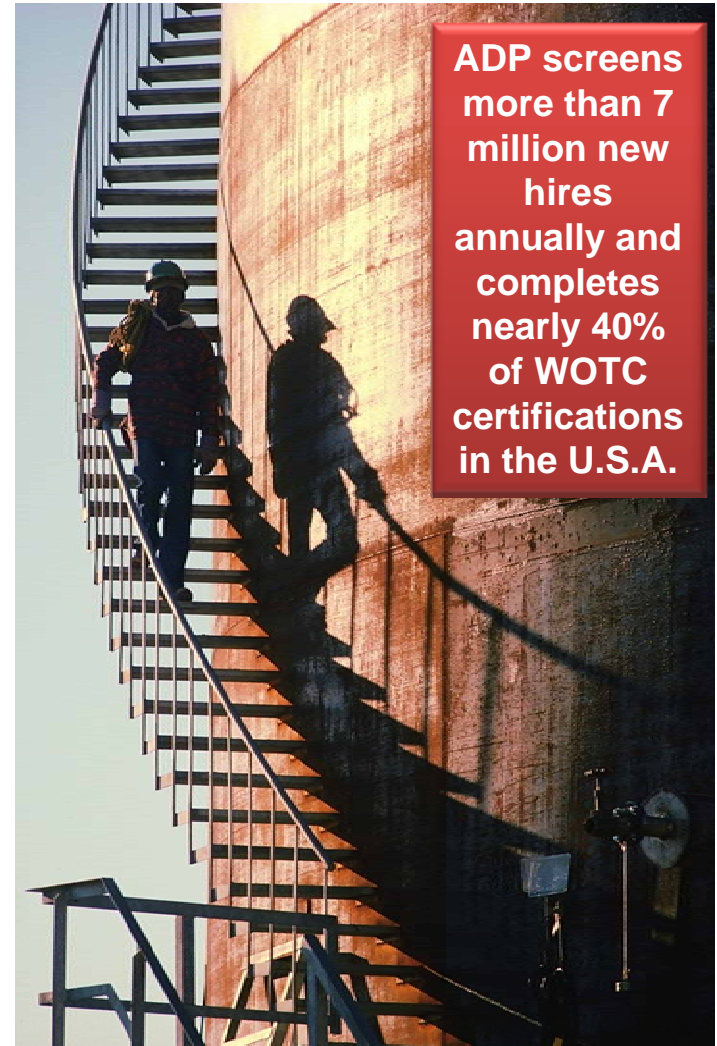
- Credits for capital investments
- Credits for hiring local workforce
- Additional green or other credits

Overview: Federal Employment Tax Credits

■ Federal Programs

- Work Opportunity Tax Credit (includes Welfare-to-Work)
- Federal Empowerment Zone
- Federal Indian Employment Credit

■ Work Opportunity Tax Credit (WOTC)



Overview: Additional Federal Credit Opportunities

- **Federal Empowerment Zones**
 - Employees that live & work in the EZ are eligible
 - Annual credit of up to \$3,000 per eligible employee
 - 80 zones are designated over 45 different states
 - 3-year retroactive capability

- **Federal Indian Employment Credit (IEC)**
 - Employee (or spouse) must be enrolled in a tribe
 - Employee must live on “or near” an Indian territory
 - Credit up to \$4,000 annually per eligible employee
 - 3-year retroactive capability



Polling Question #1

- How familiar are you with Federal WOTC or credits and incentives in your state, or in another state that your company in which your company does business?
 - A. We screen new hires for WOTC, but don't use state credits
 - B. We use state credits & incentives – but don't have a WOTC program
 - C. We take advantage of both federal and state credits
 - D. We currently don't capture any credits
 - E. Don't know



State Credits Overview & Legislative Changes



Enterprise Zone - History

- Enterprise Zones go by different names, but the concept is used in countries around the world
 - Used in the U.S. on both the state and federal levels
 - Used extensively by Margaret Thatcher in the late 1970's and 1980's in the UK

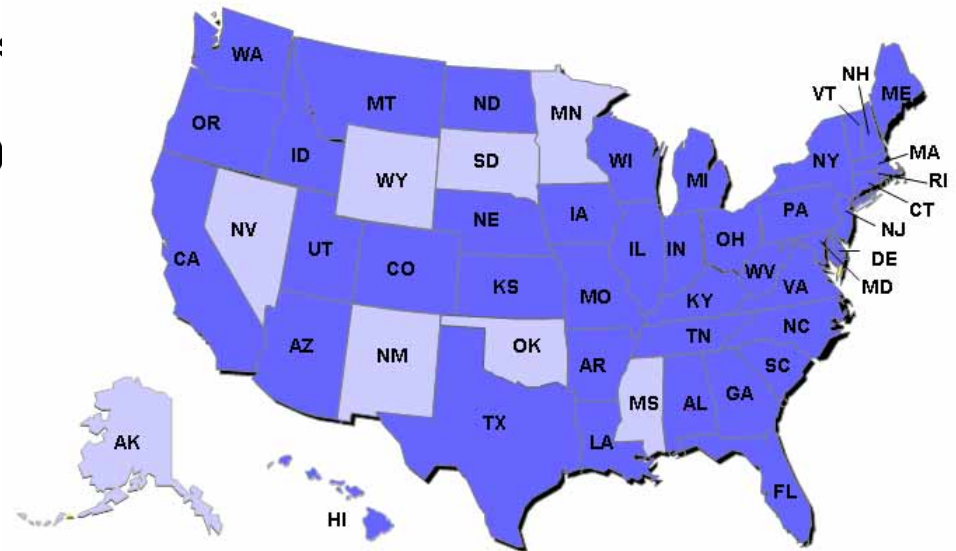
- In the U.S. an early focus was urban renewal
 - "Urban Employment Opportunities Development Act of 1967." (S. 2088) (113 Cong. Rec. 18443-18457, July 12, 1967) introduced by Robert F. Kennedy to provide tax credits in return for investment and job-creation in blighted urban areas, but was never passed and enacted

- In 1979, New York Reps. Jack Kemp and Robert Garcia teamed up to bring up new federal legislation

- In 1981, Louisiana was the first state to enact this legislation at a state level, with numerous other states enacting Enterprise Zones in the following few years

State Enterprise Zone Incentive Basics

- **Broad Potential Opportunity**
 - Opportunities in states from coast-to-coast
 - Job creation, investment, property tax exemptions and sales and use tax rebate:
- **Common Qualification Criteria (Employees)**
 - Work full time (for some types)
 - Majority of their work time in the zone
 - Remain in the qualifying position for a certain length of time
 - Live in the zone (for some types)
- **Different Types of Value**
 - Job creation benefits = usually a percentage of wages of new employees in the zone
 - Investment credits = usually a percentage of the total amount of investment in the zone



Legend
Opportunities

Polling Question #2

- What are the key drivers for creating Enterprise Zones and who are the expected beneficiaries?
 - A. Governments drive them to try and increase economic activity
 - B. Businesses benefit financially from leveraging the zones
 - C. Local residents benefit from new jobs in their area
 - D. All of the above
 - E. Don't know



State Budgets Under Fire

- All across the U.S., states and municipalities have budget concerns and being forced to make hard choices to reduce expenses
 - Some states view tax credits and incentives as an expensive item and debate whether or not they bring the intended benefits, or are just giveaways to business
 - Some states view tax credits and incentives as a way to generate the type of economic activity that is necessary to raise tax revenues and help fill the budget hole
- Trying to manage compliance across all states is difficult for businesses in a normal year – in 2011 with most states debating large scale changes it is especially difficult
 - ADP has compliance team members across the country to help you manage that change and keep your program in compliance

Learn from Past Credit Changes

■ New York Empire Zone

• What Changed

- In 2010, the Excelsior Jobs Credit replaced the Empire Zone Wage Tax Credit

Empire Zone Wage Tax Credit

- \$3,000 per qualified employee per year for 5 years
- Work in designated zone
- No cap – annual expenditures in excess of \$500M

Excelsior Jobs Credit

- \$5,000 per new job created
- Work in designated zone and targeted industry
- Annual program expenditures capped at \$250M

• Strategy in Hindsight

- Should have become certified for the program
 - benefits for certified employers continue past expiration
 - unused credit carried forward indefinitely

■ Colorado Enterprise Zone

• What Changed

- In 2010, Kit Carson and Chaffee Counties were removed from the Enhanced Rural Enterprise Zone eligible list, which provides an additional \$2,000 of credit per new job

• Strategy in Hindsight

- Should have applied for certification and maximized credit captured before change occurred
- Should have applied for five years of extended benefits for all known job creation plans

California Enterprise Zone (“CAEZ”) Program

Hiring Credit Basics:

- 42 Enterprise Zone designations – economically distressed areas of the state where the business must operate
- Encourage hiring those who are at a disadvantage when seeking employment (i.e. ex-offenders) or who merit preference in hiring (i.e. veterans)
- Hiring credit equals a percentage of “qualified wages” paid to eligible employees – total credit can be worth over \$37,000 per employee
- Excess credit may be carried forward indefinitely until exhausted

California Enterprise Zone Program: Current Challenge

- Repeal or Reform ... Either way, we must prepare to make adjustments
- Governor Jerry Brown's Budget Proposal
 - **Eliminate the Enterprise Zone Program** – 2010 tax year is the last to generate and use credit
 - Enterprise Zone Program “inoperative” for tax years beginning on or after January 1, 2011 – cannot generate any more credit
 - Prevent carry-forward of unused credits into tax years beginning on or after January 1, 2011 – cannot utilize any more credit
- Current Reform Proposal
 - 2011 AB 231 - Limit TEA eligibility
- Recent Reform Proposal
 - 2010 SB 974 – 1) Eliminate TEA category & 2) Impose application deadline

Factors that Create a Challenging Legislative Climate

■ Internal Factors

- Incentive's success at meeting stated program goals
 - **CAEZ:** Conflicting policy papers on whether the incentive actually improves employment, poverty, economy, etc.
- Business incentives cost money
 - **CAEZ:** Is this a cost-effective way to stimulate hiring?

■ External Factors

- Financial concerns
 - **CAEZ:** California has a budget deficit of \$28 billion
- Public Opinion
 - **CAEZ:** California is cutting many of its social and educational programs – can it continue to forego tax revenue from “big business”?
- Business Considerations
 - **CAEZ:** California is one of the least friendly places to do business

Strategy: Stay up-to-date on all news and activity concerning the incentive

How Is the Legislature Challenging the Incentive?

- Eliminate the Incentive
 - **CAEZ:** Budget pressure makes elimination a recurring concern
 - Currently, Governor Jerry Brown proposes cutting the CAEZ program in its entirety as part of his plan to balance California's budget
- Alter the Incentive
 - **CAEZ:** Change or eliminate eligibility categories
 - 2011 AB 231, 2010 SB 974, and 2009 AB 2476
 - **CAEZ:** Impose application deadlines
 - 2010 SB 974
 - **CAEZ:** Increase the cost of accessing the incentive
 - 2010 SB 856
- Alter the Incentives Landscape
 - In the past year, proposed legislation has included 1) imposing a 7 year lifespan on all incentives, 2) increasing corporate transparency through reporting requirements, 3) eliminating ability to assign credits, 4) reducing utilization by eliminating single sales factor, and 5) creating a competing hiring incentive that targets ex-felons

Strategy: Maximize past and present opportunities while the incentive remains intact

- *Improve screening, document all categories, leverage WOTC platform, seek retro opportunities to carry forward*

Be Aware of Other Challenges

- Tax Audits
 - CAEZ: The Franchise Tax Board's ("FTB") increased scrutiny of the incentive is related to legislative and financial pressure
- Influence of other Parties
 - CAEZ: Legislative Analyst Office ("LAO") targeting the incentive as a revenue source
 - CAEZ: Competing studies on effectiveness of the program
 - Public Policy Institute of California
 - University of Southern California
 - California Budget Project
 - CAEZ: Other States recruiting CA businesses to relocate
 - CAEZ: Labor Organizations lobbying against the program

Strategy: Adjust practices before the legislature creates the changes

Strategy Recap

■ Strategy Recap

- Monitor all news and activity concerning the incentive
- Adjust practices before legislation changes the incentive
- Maximize credit potential while the potential is there

■ Additional Opportunity

- Generate credit through every avenue and for every year, even if it means excess credit will be carried forward into future tax years
- Drive expansion of the incentive program at the local and state level
- Create awareness of the incentive's benefit to generate public opinion in its favor
 - **CAEZ**: The Enterprise Zone program creates jobs, drives investment, and stimulates the economy. It is California's primary incentive to attract and retain businesses.

Polling Question #3

- What strategies is your company pursuing to help mitigate the impact of changes on your credit and incentive capture?
 - A. Nothing
 - B. Monitoring news on key programs, but no concrete steps taken
 - C. Internal team assessing business practices and necessary changes
 - D. Rely on outsource partner like ADP to provide updates and manage changes
 - E. Don't know



Other State Credit and Incentive Notes



Pat Herrera
ADP Tax Credit Services
Director, Southeast Regional Practice



Georgia Jobs Credit – Opportunity Zones

■ Key Program Features

- Program in effect since 1989
- Rewards taxpayers for the creation of full time jobs
- State ranks all counties each year into Tiers with each tier requiring different levels of job increases for eligibility and credit amounts
- Bonus Credits are available if the facility is also in a Joint Development Authority and to businesses which increase port traffic through Georgia ports and a special \$500 bonus for a new job created between 2006 and 2011
- In most cases utilization of credits is limited to either 50% or 100% of the corporate income tax liability. For taxpayers in the tier 1 counties and less developed census tract areas, an election may be made to take excess credits against withholding tax payments

Georgia Jobs Credit – Opportunity Zones

■ Recent Changes

- 2009 – the tax credit may be claimed in the year of job creation
- 2009 – recapture applies if jobs are lost
- 2009 and 2010 – significant number of Opportunity Zones and Military Zones are designated
 - All business activity qualifies
 - The job creation threshold is lowered to 2 full-time jobs
 - Credit is equal to \$3,500 per net new full-time job
 - Allows for offset of 100% of the corporate income tax liability
 - Allows for offset of excess credit against the withholding tax liability
 - Requires local application

Louisiana Enterprise Zone

■ Key Program Features

- Program allows for a Jobs Credit of \$2,500 per net new full-time or part-time positions as well as an investment credit that can be monetized as either a refundable tax credit or a refund of sales and use taxes
- 35% of new hires must be individuals from one of the following four targeted groups:
 - Qualified Residency (generally, residents of a state enterprise zone)
 - Receiving public assistance (unemployment does *not* qualify)
 - Lacking “basic skills”
 - Designated “challenged” groups – e.g., physically challenged, ex-felons, etc.
- Eligible projects need NOT be located within a Louisiana Enterprise Zone, or involve capital expenditures
- **Advance planning is required!** An “**Advance Notification**” form must be filed prior to the beginning of the project or before hiring has begun

Louisiana Enterprise Zone

■ Recent Changes

- New rules – issued and effective for any Advance Notification filed on or after 1/20/2011
- Only full-time employees will be eligible to meet the initial job creation requirement
- Participant must meet the 35% workforce certification requirement annually
- Baseline employment changed to the median number of employees during the four months prior to the “contract effective date”
- Administrative changes – ECRs are now due annually on 5/31

New Jersey BRRAG Program Amended

■ Recent Changes

- Governor Christie signed the bill into law on January 6, 2011
- Credit amount continues to be set at \$1,500 for each relocated or retained full-time job – but, now credits may increase by multiples of up to six times the credit amount depending on the number of new jobs in excess of 250
- In addition to the existing bonus credit equal to 50% of the original credit to any business that locates more than 2,000 full-time employees, there is a new bonus credit equal to 50% of the original credit to any business that makes a capital investment in an amount that is at least twice that of the value of the credits granted
- No more than \$20 million in tax credits may be applied in any fiscal year and the total credits that any single business may apply in a fiscal year is capped at \$10 million
- **Advance planning is required!** An agreement with the NJ Economic Development Authority must be negotiated in order to be eligible for this program

Wisconsin – 2010 Economic Development Tax Credit

■ **Jobs Credit**

- Awarded for the creation of full-time positions that pay at least \$10.88 per hour
- Businesses must create the jobs within 3 years and maintain those jobs for an additional two years
- Tax credits are released each year in proportion to the number of new jobs created
- Credits can range from \$3,000 for a position that has a wage of at least 150% of the federal minimum wage up to \$7,000 for a position that pays in excess of 250% of the federal minimum wage

■ **Investment Credit**

- For companies making a significant capital investment – the lesser of at least \$10,000 per job created/maintained or \$1 million
- Credit can be up to 3% of the cost of eligible equipment and 5% of the eligible cost of real property

■ **Advance planning is required!**

- Project requires approval by the WI Department of Commerce

Wisconsin – New Incentives for Job Creation

■ **Two new incentives – Effective 1/1/2011**

● **Relocated Business Credit**

- The corporation must not have been operating in Wisconsin in either of the two taxable years
- A two-year credit which completely offsets any tax liability
- Taxpayer must move 51% of its workforce payroll or at least \$200,000 of wages into Wisconsin

■ **Job Creation Deduction**

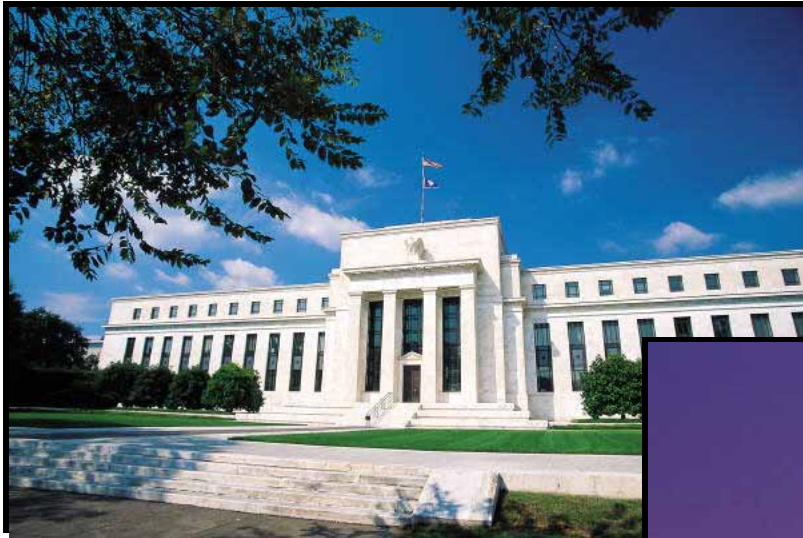
- Equal to the number of new full-time equivalent employees times \$4,000 for a business with gross receipts up to \$5 million or multiplied by \$2,000 per employee added if the gross receipts exceed \$5 million
- Increase is determined by subtracting the average employee count from quarterly unemployment insurance reports of the prior year from the current year's average

Polling Question #4

- What concerns you most about tax credit and incentive compliance during 2011?
 - A. Federal WOTC program changes
 - B. Other Federal program changes
 - C. Key state changes
 - D. Municipal and county level changes
 - E. Don't know



2011 Federal Compliance Changes



Charles Asensio
ADP Government Relations
Vice President



Congressional Action in 2010

- Jobs drove most of the new programs enacted by Congress in 2009-2010
- Expansion of Federal WOTC categories to 12
 - Unemployed Veterans
 - Disconnected Youth
- HIRE Act Legislation
 - Employer FICA Payroll Holiday
- Lame Duck Session:
 - Results of the November election
 - Budget deficits
 - Unemployment Levels
 - Bush Tax Cuts & Estate Tax legislation

2010 Tax Bill

- During the Lame Duck session – legislative compromises moved quickly through the final days of the 111th Congress
 - Renewals for popular programs were pushed – but not all made the cut
 - Katrina WOTC credits
 - All of the 2010 new WOTC categories
 - Federal Renewal & Enterprise Community programs
 - Employer FICA Payroll Holiday HIRE Act
 - Federal EZ and Indian Employment Credit (IEC) renewed
 - Employee FICA Payroll Holiday enacted
 - Compromises made to get the bill passed
 - Estate Tax Legislation
 - President Obama signed it into law on December 17, 2010
 - Key provisions take effect in 2011

2011 Congressional Outlook

- New 112th Congress sworn in – with a new Republican controlled House
- Early in the session anticipated a limited tax bill
 - Ways & Means and Senate Finance
 - Cost cutting measures
 - All Tax Extenders under review
- Outlook for key programs up for 2011 renewal
 - WOTC program
 - Cost benefit analysis
 - Empowerment Zones & Enterprise Communities
 - Renewal Communities
 - Veteran & Disconnected Youth



Outlook for Other Federal Initiatives in 2011

- A number of other key initiatives that may affect your business on the Congressional Agenda in 2011:
 - Immigration Reform
 - On the front burner
 - Jobs
 - Impact on the 2012 Elections
 - Corporate Tax Reform
 - Leading the legislative to do list
 - International & Economic Impact
 - Healthcare Reform Provisions



Questions & Answers



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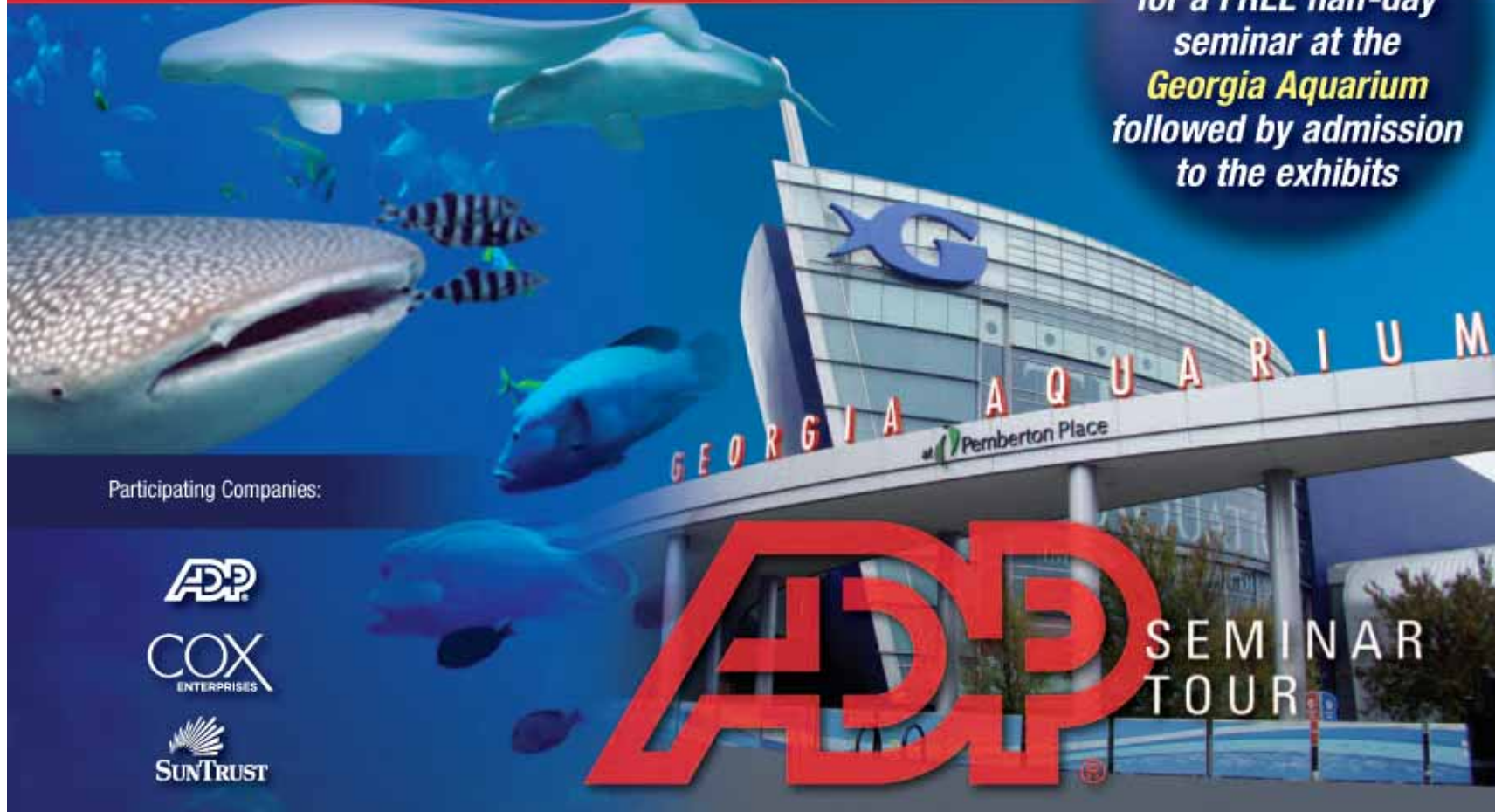


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