

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 343 Session of
1995

INTRODUCED BY GEORGE, COY, TRELLO, STEELMAN, THOMAS, FAIRCHILD,
STABACK, CORRIGAN, PESCI, FICHTER, L. I. COHEN, LAUGHLIN AND
READSHAW, JANUARY 26, 1995

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 26, 1995

AN ACT

1 Amending the act of July 28, 1988 (P.L.556, No.101), entitled
2 "An act providing for planning for the processing and
3 disposal of municipal waste; requiring counties to submit
4 plans for municipal waste management systems within their
5 boundaries; authorizing grants to counties and municipalities
6 for planning, resource recovery and recycling; imposing and
7 collecting fees; establishing certain rights for host
8 municipalities; requiring municipalities to implement
9 recycling programs; requiring Commonwealth agencies to
10 procure recycled materials; imposing duties; granting powers
11 to counties and municipalities; authorizing the Environmental
12 Quality Board to adopt regulations; authorizing the
13 Department of Environmental Resources to implement this act;
14 providing remedies; prescribing penalties; establishing a
15 fund; and making repeals," providing for certain corporate
16 tax credits for machinery and equipment utilizing recycled
17 materials.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The act of July 28, 1988 (P.L.556, No.101), known
21 as the Municipal Waste Planning, Recycling and Waste Reduction
22 Act, is amended by adding a chapter to read:

23 CHAPTER 10

24 TAX CREDIT FOR CERTAIN EQUIPMENT

1 Section 1001. Definitions.

2 The following words and phrases when used in this chapter
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Base year." The income year immediately preceding the
6 income year for which the credit allowed by this section is
7 claimed.

8 "Finished product." A marketable product or component
9 thereof that has an economic value to a consumer and is ready to
10 be used without the requirement of further alteration of its
11 form.

12 "Postconsumer waste." Only those products generated within
13 this Commonwealth by a business or consumer which have served
14 their intended end uses and would normally be disposed of as
15 solid waste, having completed their life cycle as a consumer
16 item.

17 "Qualified property." Machinery or equipment located within
18 this Commonwealth, which is used by the taxpayer exclusively to
19 manufacture finished products composed of at least 50% secondary
20 waste material with at least 10% of which is composed of
21 postconsumer waste generated from within this Commonwealth. The
22 term may include manufacturing equipment which utilizes 100%
23 secondary waste, including at least 80% postconsumer waste where
24 all of that material is contained within a finished product
25 regardless of the finished product's percent postconsumer
26 content. The term also includes, but is not limited to, de-
27 inking equipment utilized in the production of fine quality
28 paper and equipment utilized to reclaim plastic which is used
29 either as a raw material by a manufacturer or is sold to a
30 manufacturer for use in the manufacture or fabrication of

1 finished products.

2 "Secondary waste." Fragments of products or finished
3 products of a manufacturing process generated within this
4 Commonwealth, which has converted a virgin resource into a
5 commodity of real economic value, and includes postconsumer
6 waste, but does not include mill broke, wood slabs, chips,
7 sawdust or other wood residue from a manufacturing process.

8 "Tax." Corporate Net Income Tax imposed under Article IV of
9 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
10 Code of 1971, and the Capital Stock-Franchise Tax imposed under
11 Article VI of the Tax Reform Code of 1971.

12 Section 1002. Tax credits.

13 (a) Authorization.--For income years beginning on or after
14 January 1, 1995, and before December 31, 1998, there shall be
15 allowed as a credit against each tax, an amount equal to 40% of
16 the cost of qualified property purchased on or after January 1,
17 1995, and before December 31, 1998. The amount of the allowable
18 credit shall be claimed as provided in section 1004.

19 (b) Basis adjustment.--The basis of any qualified property
20 for which a credit is allowed shall be reduced by the amount of
21 the credit. The basis adjustment shall be made for the income
22 year for which the credit is allowed.

23 Section 1003. Allowance of credits.

24 The credit shall only be allowed under this chapter if the
25 following are met:

26 (1) The total adjusted basis of all qualified property
27 owned on the last day of the income year exceeds the total
28 adjusted basis of all qualified property owned on the last
29 day of the base year.

30 (2) The total number, or capacity to use recycled

1 materials, of items of qualified property on the last day of
2 the income year exceeds the total number or capacity of items
3 of qualified property on the last day of the base year. If a
4 qualified property owned in the base year is replaced by
5 qualified property of larger capacity, the eligible costs
6 shall be proportional to the increase in capacity.

7 Section 1004. Amount of allowable credit.

8 The amount of the allowable credit shall be claimed as
9 follows:

10 (1) Twenty percent of the cost paid or incurred by the
11 taxpayer for qualified property shall be allowed for the
12 income year of purchase.

13 (2) Fifteen percent of the cost paid or incurred by the
14 taxpayer for qualified property shall be allowed for the
15 income year immediately succeeding the income year of
16 purchase.

17 (3) Five percent of the cost paid or incurred by the
18 taxpayer for qualified property shall be allowed for the
19 income year immediately succeeding the income year specified
20 in paragraph (2).

21 (4) The amount of credit allowed by this section shall
22 not exceed \$250,000 with respect to qualified property used
23 in any one manufacturing facility.

24 Section 1005. Duty of Department of Environmental Resources.

25 The department shall do all of the following:

26 (1) Certify that the qualified property is purchased and
27 used by the taxpayer as specified in section 1001.

28 (2) Provide an annual listing to the Department of
29 Revenue, in a form and manner agreed upon by the Department
30 of Revenue and the Department of Environmental Resources, of

1 the qualified taxpayers who were issued the certification.

2 (3) Provide the taxpayer with a copy of the
3 certification to retain for its records.

4 Section 1006. Duty of taxpayers.

5 The taxpayer shall do all of the following:

6 (1) Provide the department with documents, as deemed
7 necessary by the department, verifying the purchase of the
8 qualified property and that the machinery or equipment meets
9 the recycling requirements specified in this section.

10 (2) Retain for its records a copy of the certificate
11 issued by the department specified in section 1005(1).

12 Section 1007. Miscellaneous provisions.

13 (a) Excess credit.--In the case where the credit allowed by
14 this chapter exceeds the tax, for any income year for which a
15 credit is allowed by section 1004, the excess may be carried
16 over to reduce that tax, in the following year, and succeeding
17 years if necessary, until the credit is used.

18 (b) Disposal of property.--If a taxpayer disposes of or no
19 longer uses the qualified property, any amount that would have
20 been otherwise allowed as a credit for the income year of
21 disposition or nonuse shall not be allowed.

22 (c) Shared property.--If two or more taxpayers share in the
23 expenses eligible for the credit provided by this chapter, each
24 taxpayer shall be eligible to receive the tax credit in
25 proportion to its respective share of the expenses paid or
26 incurred. In the case of a partnership, the tax credit may be
27 divided between the partners pursuant to a written partnership
28 agreement, including section 704 of the Internal Revenue Code of
29 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), concerning
30 substantial economic effect, relating to a partner's

1 distributive share.

2 Section 1008. Reports to General Assembly.

3 The department shall, no later than March 1, 1998, submit a
4 report to the General Assembly evaluating the impact of the tax
5 credit authorized by this chapter. This report shall include
6 information about the number of taxpayers claiming the credit,
7 the total dollar amount of credit allocated and the equipment
8 for which the credit was used. The report shall also determine
9 to what extent, if any, the tax credit authorized by this
10 chapter increased recycling activities in this Commonwealth. The
11 Department of Environmental Resources shall work cooperatively
12 with the Department of Revenue to determine the relevant tax
13 return data necessary to complete the report and the time the
14 data is required. The Department of Revenue shall be responsible
15 for providing the data to the Department of Environmental
16 Resources.

17 Section 1009. Expiration of chapter.

18 This chapter shall expire December 31, 1998, unless reenacted
19 by the General Assembly. However, any unused credit may continue
20 to be carried forward, as provided in section 1007(a), until the
21 credit has been exhausted.

22 Section 2. This act shall take effect immediately.