

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 284 Session of
1993

INTRODUCED BY VEON, TANGRETTI, RUDY, BELARDI, BELFANTI, ACOSTA, COLAFELLA, LAUGHLIN, YANDRISEVITS, SCRIMENTI, HALUSKA, REBER, STEELMAN, GORDNER, PESCI, HERMAN, JAROLIN, COLAIZZO, STISH, KREBS, LEVDANSKY, DeLUCA, YEWIC, TIGUE, GIGLIOTTI, McGEEHAN, TULLI, HESS, STERN, BUNT, STABACK, BUSH, D. R. WRIGHT, TRELLO, LaGROTTA, KASUNIC, BLAUM, FAJT, ROBERTS, ROONEY, FAIRCHILD, MIHALICH, SAURMAN, BATTISTO, CLARK, CESSAR, BUXTON, PISTELLA, MELIO, GERLACH, HASAY, CAWLEY, SURRA, DERMODY, MUNDY, FREEMAN, STURLA AND BAKER, FEBRUARY 8, 1993

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 8, 1993

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for an investment tax credit program.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
14 the Tax Reform Code of 1971, is amended by adding an article to
15 read:

ARTICLE XVIII-A

INVESTMENT TAX CREDIT

18 Section 1801-A. Short Title.--This article shall be known

1 and may be cited as the Investment Tax Credit Law.

2 Section 1802-A. Investment Tax Credits Program.--(a) A
3 taxpayer shall be allowed an investment tax credit against the
4 taxes imposed under Articles II, IV and VI of this act. The
5 amount of the credit shall be a percentage applied to the cost
6 or other basis, for Federal income tax purposes, of tangible
7 personal property and other forms of tangible property,
8 described in subsection (b).

9 (b) Tangible personal property and other forms of tangible
10 property which qualify for investment tax credit treatment under
11 this section shall meet all of the following requirements:

12 (1) Be acquired through a purchase as defined under section
13 179(d)(2) of the Internal Revenue Code of 1986 (Public Law 99-
14 514, 26 U.S.C. § 179(d)(2)), or constructed by the taxpayer for
15 their own use.

16 (2) Be depreciable under section 167 of the Internal Revenue
17 Code of 1986.

18 (3) For property undergoing construction, the qualifying
19 property represents that portion transferred to the property
20 base for depreciation purposes.

21 (4) Have a useful life of greater than or equal to four (4)
22 years.

23 (5) Be located and used in this Commonwealth.

24 (6) Be used principally by the taxpayer in any of the
25 following:

26 (i) The production of goods by manufacturing, processing,
27 assembling, refining, mining or extracting.

28 (ii) The exploration, production and transportation of
29 natural gas or crude oil.

30 (iii) The transportation of goods produced, manufactured,

1 processed, assembled, refined, mined or extracted in this
2 Commonwealth.

3 (iv) Research and development.

4 (v) Computer-related services as defined under section
5 201(dd) through (ii).

6 (7) With respect to property qualifying in 1994, the
7 qualifying property shall include expenditures for purchases on
8 or before January 1, 1994, which are transferred to the
9 property's depreciable basis on or after January 1, 1994,
10 regardless of the contract commitment date, and other transfers
11 to the property's depreciable basis on or after January 1, 1994,
12 up to and including December 31, 2002.

13 (c) A taxpayer shall not make a claim for any such credit
14 until the filing of the 1994 corporate net income tax return.
15 The department shall verify the validity of any claims and may
16 assess a twenty-five per cent penalty against the tax otherwise
17 due in the case of a fraudulent claim.

18 (d) Manufacturing means any stage of operation from the
19 handling of raw material or components on the production
20 activity site to the conversion of the raw materials into
21 products suitable for use and ready for delivery or storage, or
22 which provides a new form, new quality or new combinations to
23 matter which already has undergone some process by use of
24 machinery, tools, appliances or other similar equipment. The
25 property used in the production of goods shall include
26 machinery, equipment or other tangible property principally used
27 in the repair and service of other machinery, equipment or other
28 tangible property used principally for the production of goods.

29 (e) Research and development property means property which
30 is used for purposes of research and development in the

experimental or laboratory sense. These purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(f) Processing means processing as defined in section 601.

(g) An investment tax credit is not allowed for property otherwise qualifying for credit under the Neighborhood Assistance Tax Credit for the first two hundred fifty thousand dollars (\$250,000) of tax credit.

(h) (1) The investment tax credit shall be based upon a percentage being applied to the investment tax credit base. The percentage with respect to property constructed, reconstructed or acquired beginning 1994 shall be fifteen per cent to be taken over a period of no more than five years, with the same amount taken each year.

(2) Except as otherwise provided, the total investment tax credit available for application against each year's tax liabilities shall not exceed sixty per cent of the taxes imposed under Articles II, IV and VI with the order of application to be determined by the taxpayer.

(3) With respect to depreciable property pursuant to section 167 of the Internal Revenue Code of 1986 which is disposed of or ceases to be in qualified use prior to the end of the first taxable year in which such property is eligible for the investment tax credit, the amount of the credit available shall be that portion calculated by the ratio of the months in which the property was qualified in relation to the property's total months of useful life which is used for computing Federal

1 depreciation.

2 (4) If the taxpayer disposes of any property for which it
3 has taken investment tax credits prior to the completion of the
4 applicable cost recovery period used for Federal tax purposes, a
5 portion of the credit taken will be recaptured and added to the
6 tax liability for the taxable year in which such disposition is
7 made. The portion of the investment tax credit subject to
8 recapture is equal to the percentage which the number of years
9 remaining in the cost recovery period of the property bears to
10 the total years of cost recovery which could have been claimed
11 but for the disposition of the property. In calculating the
12 recapture percentage, the year of disposition is considered a
13 year of remaining cost recovery.

14 (5) Any amount of the investment tax credit not used in the
15 taxable year in which the credit was generated can be carried
16 forward to succeeding years until the full amount of allowable
17 credit has been used.

18 (i) At the option of the lessor, a lessor can pass on the
19 amount of investment tax credit otherwise allowable to the
20 lessor, to a lessee who is the actual user of the new property
21 which qualifies for the credit. However, a lessor cannot pass on
22 to a lessee the credit for used property.

23 (j) In order to qualify for the tax credit the taxpayer
24 shall certify in writing that the purchase of new equipment will
25 create new jobs.

26 Section 2. This act shall apply to taxable years 1994
27 through 2003 for purchases made between January 1, 1994, and
28 December 31, 2003.

29 Section 3. This act shall take effect immediately.