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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 81

Session of 1993

INTRODUCED BY RUDY, COY, STEELMAN, FARGO, KREBS, FAIRCHILD, GORDNER, LaGROTTA, HALUSKA, E. Z. TAYLOR, PESCI, M. N. WRIGHT, TRELLO, BAKER, VAN HORNE, WOGAN, PISTELLA, KENNEY, STABACK, LYNCH, STURLA, DALEY, CLARK, HERSHEY AND KIRKLAND, JANUARY 27, 1993

REFERRED TO COMMITTEE ON RULES, JANUARY 27, 1993

AN ACT

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

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

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

ARTICLE XVIII-A

INVESTMENT TAX CREDIT

Section 1801-A. Short Title.--This article shall be known and may be cited as the Investment Tax Credit Law.

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

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

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

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

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

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

(5) Be located and used in this Commonwealth.

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

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

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

(iii) The transportation of goods produced, manufactured, processed, assembled, refined, mined or extracted in this Commonwealth.

(iv) Research and development.

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

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

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

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

(e) Research and development property means property which 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 depreciation.

(4) If the taxpayer disposes of any property for which it

has taken investment tax credits prior to the completion of the applicable cost recovery period used for Federal tax purposes, a portion of the credit taken will be recaptured and added to the tax liability for the taxable year in which such disposition is made. The portion of the investment tax credit subject to recapture is equal to the percentage which the number of years remaining in the cost recovery period of the property bears to the total years of cost recovery which could have been claimed but for the disposition of the property. In calculating the recapture percentage, the year of disposition is considered a year of remaining cost recovery.

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

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

Section 2. This act shall apply to taxable years 1994 through 2002 for purchases made between January 1, 1994, and December 31, 2002.

Section 3. This act shall take effect immediately.