



General Assembly

Substitute Bill No. 556

February Session, 2008

* SB00556CE_FIN031808 *

AN ACT CONCERNING ENERGY AND MANUFACTURING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-217w of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2008, and*
3 *applicable to income years commencing on or after January 1, 2008*):

4 (a) For purposes of this section: [.]

5 ["fixed capital"] (1) "Fixed capital" means tangible personal property
6 which [(1)] (A) has a class life, in years, of more than four years, as
7 described in Section 168(e) of the Internal Revenue Code of 1986, or
8 any subsequent corresponding internal revenue code of the United
9 States, as from time to time amended, [(2)] (B) is acquired by purchase
10 from a person other than a related person, [(3)] (C) is not acquired to
11 be leased, and is not leased, to another person or persons during the
12 twelve full months following its acquisition, and [(4)] (D) will be held
13 and used in this state by a corporation in the ordinary course of the
14 corporation's trade or business in this state for not less than five full
15 years following its acquisition. "Fixed capital" does not include
16 inventory, land, buildings or structures, or mobile transportation
17 property.

18 (2) With respect to a corporation claiming a credit under this

19 section, a "related person" means a corporation, partnership,
20 association or trust controlled by such corporation; an individual,
21 corporation, partnership, association or trust that is in control of such
22 corporation; a corporation, partnership, association or trust controlled
23 by an individual, corporation, partnership, association or trust that is
24 in control of such corporation; or a member of the same controlled
25 group as such corporation.

26 [For purposes of this section, "control"] (3) "Control", with respect to
27 a corporation, means ownership, directly or indirectly, of stock
28 possessing fifty per cent or more of the total combined voting power of
29 all classes of the stock of such corporation entitled to vote; with respect
30 to a trust, means ownership, directly or indirectly, of fifty per cent or
31 more of the beneficial interest in the principal or income of such trust.
32 The ownership of stock in a corporation, of a capital or profits interest
33 in a partnership or association or of a beneficial interest in a trust shall
34 be determined in accordance with the rules for constructive ownership
35 of stock provided in Section 267(c) of the Internal Revenue Code of
36 1986, or any subsequent corresponding internal revenue code of the
37 United States, as from time to time amended, other than Paragraph (3)
38 of such section.

39 (4) "Fuel cell" shall have the same meaning as in subdivision (113) of
40 section 12-412 of the 2008 supplement to the general statutes.

41 (5) "Energy-saving products" means products certified to reduce
42 energy consumption by a minimum of ten per cent.

43 (b) (1) There shall be allowed a credit for any corporation against
44 the tax imposed under this chapter in an amount paid or incurred by
45 such corporation for any new fixed capital investment during the
46 income year in which such fixed capital is acquired as follows: For any
47 income year commencing on or after January 1, 1998, and prior to
48 January 1, 1999, equal to three per cent of such amount paid or
49 incurred by the corporation during such income year; for any income
50 year commencing on or after January 1, 1999, and prior to January 1,

51 2000, equal to four per cent of such amount paid or incurred by the
52 corporation during such income year; and for any income year
53 commencing on or after January 1, 2000, equal to five per cent of such
54 amount paid or incurred by the corporation during such income year.

55 (2) There shall be allowed a credit for any corporation against the
56 tax imposed under this chapter in an amount paid or incurred by such
57 corporation for any fuel cell or energy-saving products, including the
58 amount paid or incurred to install such fuel cell or energy-saving
59 products, during the income year in which such fuel cell or energy-
60 saving products are acquired equal to (A) twenty per cent of such
61 amount paid or incurred by the corporation during such income year,
62 provided such fuel cell or products provide a reduction in energy
63 consumption of twenty per cent or more, or (B) ten per cent of such
64 amount paid or incurred by the corporation during such income year,
65 provided such fuel cell or products provide a reduction in energy
66 consumption of ten per cent to nineteen per cent, inclusive.

67 (c) The amount of such credit allowed to any corporation under this
68 section shall not exceed the amount of tax due from such corporation
69 under this chapter with respect to such income year.

70 (d) No corporation claiming the credit under this section with
71 respect to the acquisition of fixed capital, as defined in subsection (a) of
72 this section, may claim a credit against any tax under any other
73 provision of the general statutes with respect to the same acquisition.

74 (e) Any tax credit not used in the income year during which the
75 acquisition was made may be carried forward for the five immediately
76 succeeding income years until the full credit has been allowed.

77 (f) If the fixed capital on account of which a corporation has claimed
78 the credit allowed by this section is not held and used in this state in
79 the ordinary course of the corporation's trade or business in this state
80 for three full years following its acquisition as provided in subsection
81 (a) of this section, the corporation shall recapture one hundred per cent

82 of the amount of the credit allowed under this section on its
 83 corporation business tax return required to be filed for the income year
 84 immediately succeeding the income year during which such three-year
 85 period expires. If the fixed capital on account of which a corporation
 86 has claimed the credit allowed by this section is not held and used in
 87 this state in the ordinary course of the corporation's trade or business
 88 in this state for five full years following its acquisition as provided in
 89 subsection (a) of this section, the corporation shall recapture fifty per
 90 cent of the amount of the credit allowed under this section on its
 91 corporation business tax return required to be filed for the income year
 92 immediately succeeding the income year during which such five-year
 93 period expires. The provisions of this subsection shall not apply if the
 94 property that is the subject of the credit under this section is replaced.
 95 If any amount of credit required to be recaptured has not been paid to
 96 the commissioner on or before the first day of the fourth month next
 97 succeeding the end of the income year immediately succeeding the
 98 income year during which the three-year or five-year period, as the
 99 case may be, expires, such amount shall bear interest at the rate of one
 100 per cent per month or fraction thereof from such date to the date of
 101 payment.

102 Sec. 2. Section 12-412 of the 2008 supplement to the general statutes
 103 is amended by adding subdivision (119) as follows (*Effective July 1,*
 104 *2008, and applicable to sales occurring on or after said date*):

105 (NEW) (119) Sales of products certified to reduce energy
 106 consumption by a minimum of ten per cent, when such sales are made
 107 for use in manufacturing, as defined in section 12-412i.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008, and applicable to income years commencing on or after January 1, 2008</i>	12-217w

Sec. 2	<i>July 1, 2008, and applicable to sales occurring on or after said date</i>	12-412
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Joint Favorable Subst. C/R

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