



Substitute Senate Bill No. 263

Public Act No. 18-145

AN ACT ELIMINATING CERTAIN UNCLAIMED AND SELDOM CLAIMED TAX CREDITS.

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

Section 1. Section 12-217e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018, and applicable to income years commencing on or after January 1, 2018*):

(a) There shall be allowed as a credit against the tax imposed by this chapter an amount equal to twenty-five per cent of that portion of such tax which is allocable to any manufacturing facility, provided, for any such facility which is located in an enterprise zone designated pursuant to section 32-70 or in a municipality with an entertainment district designated under section 32-76 or established under section 2 of public act 93-311 and which became eligible as a manufacturing facility after the designation of such zone and for which not less than one hundred fifty full-time employees or thirty per cent of the full-time employment positions directly attributable to the manufacturing facility were, during the last quarter of the income year of the taxpayer, held by employees of the taxpayer who at the time of employment were (1) residents of such zone, or (2) residents of such municipality and eligible for training under the Federal Comprehensive Employment Training Act or any other training

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program that may replace the Comprehensive Employment Training Act, a credit of fifty per cent shall be allowed. A position is directly attributable to the manufacturing facility if: (A) The work is performed or the base of operations is at the facility; (B) the position did not exist prior to the construction, renovation, expansion or acquisition of the facility; and (C) but for the construction, renovation, expansion or acquisition of the facility, the position would not have existed, provided nothing in this section shall preclude a position from being considered directly attributable to a manufacturing facility if such position formerly existed in an eligible manufacturing facility in the same municipality under section 32-9p. For income years commencing on and after January 1, 2012, the credit under this section for that portion of the tax imposed by this chapter, which is allocable to any manufacturing facility shall be available under the same terms and conditions to that portion of such tax which is allocable to an eligible facility. For purposes of this section, "eligible facility" means any facility described in subparagraph (D) of subdivision (2) of subsection (d) of section 32-9p.

(b) There shall be allowed as a credit against the tax imposed by this chapter an amount equal to the following percentage of that portion of such tax which is allocable to any service facility: (1) Fifteen per cent, if there are three hundred or more but not more than five hundred ninety-nine new employees working at such facility; (2) twenty per cent if there are six hundred or more but not more than eight hundred ninety-nine new employees working at such facility; (3) twenty-five per cent, if there are nine hundred or more but not more than one thousand one hundred ninety-nine new employees working at such facility; (4) thirty per cent if there are one thousand two hundred or more but not more than one thousand four hundred ninety-nine new employees working at such facility; (5) forty per cent, if there are one thousand five hundred or more but not more than one thousand nine hundred ninety-nine new employees working at such facility; or (6)

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fifty per cent if there are two thousand or more new employees working at such facility. As used in this subsection: (A) "New employee" means a person hired by a taxpayer to fill a position for a new job or a person shifted from an existing location of the taxpayer outside this state to a service facility in this state, provided (i) in no case shall the total number of new employees allowed for purposes of this credit exceed the total increase in the taxpayer's employment in this state, which increase shall be the difference between (I) the number of employees employed by the taxpayer in this state at the time of application to the Commissioner of Revenue Services for such credit plus the number of new employees who would be eligible for inclusion under the credit allowed under this subsection without regard to this calculation, and (II) the highest number of employees employed by the taxpayer in this state in the year preceding the taxpayer's application to the Commissioner of Revenue Services for such credit, and (ii) a person shall be deemed to be a "new employee" only if such person's duties in connection with the operation of the facility are on a regular, full-time or equivalent or full-time and permanent basis; and (B) "new job" means a job that did not exist in the business of a taxpayer in this state prior to the taxpayer's application to the Commissioner of Revenue Services for such credit and that is filled by a new employee, but does not include a job created when an employee is shifted from an existing location of the taxpayer in this state to a service facility.

(c) The portion of such tax which is allocable to such a manufacturing facility, service facility or eligible facility shall be determined by multiplying such tax by a fraction computed as the simple arithmetical mean of the following fractions: First, a fraction the numerator of which is the average monthly net book value in the income year of the manufacturing facility, service facility or eligible facility, and machinery and equipment acquired for and installed in the manufacturing facility, service facility or eligible facility, without

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deduction on account of any encumbrance thereon, or if rented to the taxpayer, the value of the manufacturing facility, service facility or eligible facility, and machinery and equipment acquired for and installed in the manufacturing facility, service facility or eligible facility, computed by multiplying the gross rents payable by the taxpayer for the manufacturing facility, service facility or eligible facility, and such machinery and equipment during the income year or period by eight, and the denominator of which is the sum of the average monthly net book value of all real property and machinery and equipment held and owned by the taxpayer in the state, without deduction on account of any encumbrance thereon and the value of all real property and machinery and equipment rented to the taxpayer in the state, computed by multiplying the gross rents payable during the income year by eight; and second, a fraction the numerator of which is all wages, salaries and other compensation paid during the income year to employees of the taxpayer whose positions are directly attributable to the manufacturing facility, service facility or eligible facility and the denominator of which is the wages, salaries and other compensation paid during the income year to all employees of the taxpayer in the state. An employee's position is directly so attributable if (1) the employee's service is performed or his base of operations is at the manufacturing facility, service facility or eligible facility, (2) the position did not exist prior to the construction, renovation, expansion or acquisition of the manufacturing facility, service facility or eligible facility, and (3) but for the construction, renovation, expansion or acquisition of the manufacturing facility, service facility or eligible facility the position would not have existed. For the purposes of this subsection, "gross rents" means gross rents as defined in section 12-218.

(d) The credit allowed by this section may be claimed only by the initial occupant or occupants of the manufacturing facility, service facility or eligible facility. The owner of the manufacturing facility, service facility or eligible facility may not claim the credit unless the

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owner is also an occupant. The credit may first be claimed on the tax return for the taxpayer's income year which begins during the calendar year next succeeding the calendar year in which the taxpayer was issued an eligibility certificate, and may be claimed in each of the following nine income years. If within such period, however, any facility for which an eligibility certificate has been issued ceases to qualify as a manufacturing facility, service facility or eligible facility, or any occupant of a manufacturing facility, service facility or eligible facility ceases to be an occupant, the entitlement to the credit allowed by this section shall terminate in the income year in which the qualification or occupancy ceases, and there shall not be a pro rata application of the credit to such income year. No credit allowed by this section may be first claimed for any income year commencing on or after January 1, 2018.

(e) Any subsequent occupant or occupants of a manufacturing facility, service facility or eligible facility for which an eligibility certificate has been issued may claim the credit allowed by this section in accordance with subsection (c) of this section but only after obtaining a new eligibility certificate with respect to the manufacturing facility, service facility or eligible facility being occupied in the manner provided in section 32-9r, as amended by this act.

(f) The Commissioner of Economic and Community Development shall, upon request, provide a copy of the applicable eligibility certificate to the Commissioner of Revenue Services.

Sec. 2. Section 32-9r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) Any person may apply to the department for a determination as to whether the facility described in an application qualifies as a manufacturing facility or service facility. Applications for eligibility certificates are to be made on the forms and in the manner prescribed

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by the department. In evaluating each application the department may require the submission of all books, records, documents, drawings, specifications, certifications and other evidentiary items which it deems appropriate. No eligibility certificate shall be issued after March 1, 1991, for a manufacturing facility located in a distressed municipality which does not qualify as a targeted investment community unless the department has issued to the applicant a commitment letter for such facility prior to March 1, 1991. Notwithstanding the provisions of this subsection, an eligibility certificate may be issued by the department after March 1, 1991, for a qualified manufacturing facility acquired, constructed or substantially renovated in a distressed municipality provided the commissioner determines that such acquisition, construction or substantial renovation was initiated prior to March 1, 1991, and was legitimately induced by the prospect of assistance under section 12-217e, as amended by this act, and subdivisions (59) and (60) of section 12-81, respectively. The department may issue an eligibility certificate for a qualified manufacturing facility or a qualified service facility located in a targeted investment community upon determination by the commissioner (A) that the acquisition, construction or substantial renovation relating to the qualified manufacturing facility or qualified service facility in such community was induced by the prospect of assistance under [section 12-217e and] subdivisions (59) and (60) of section 12-81; and (B) the applicant demonstrates an economic need or there is an economic benefit to the state. The department shall issue an eligibility certificate for a qualified manufacturing facility located in an airport development zone established pursuant to section 32-75d, and may issue an eligibility certificate for a facility described in subparagraph (D) of subdivision (2) of subsection (d) of section 32-9p, upon determination by the department (i) that the acquisition, construction or substantial renovation relating to the qualified manufacturing facility or facility described in said subparagraph (D) in the airport development zone was induced by the prospect of

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assistance under [section 12-217e and] subdivisions (59) and (60) of section 12-81; (ii) the applicant demonstrates an economic need and there is an economic benefit to the state without causing an economic detriment to or conflict with an existing zone; and (iii) that the applicant serves an airport-related function or relies substantially on airport services. The department shall issue an eligibility certificate if the commissioner determines (1) that the manufacturing facility is located in an enterprise zone designated pursuant to section 32-70 and is a qualified manufacturing facility, or (2) that the facility is a plant, building, other real property improvement, or part thereof, which is located in a municipality with an entertainment district designated under section 32-76 or established under section 2 of public act 93-311, and which qualifies as a "manufacturing facility" under subsection (d) of section 32-9p in that it is to be used in the production of entertainment products, including multimedia products, or as part of the airing, display or provision of live entertainment for stage or broadcast, including support services such as set manufacturers, scenery makers, sound and video equipment providers and manufacturers, stage and screen writers, providers of capital for the entertainment industry and agents for talent, writers, producers and music properties and technological infrastructure support including, but not limited to, fiber optics, necessary to support multimedia and other entertainment formats, except entertainment provided by or shown at a gambling or gaming facility or a facility whose primary business is the sale or serving of alcoholic beverages.

(b) The department shall reach a determination as to the eligibility of a facility within a reasonable time period, but may postpone the determination to the extent required to verify to its satisfaction that there is a high likelihood that any proposed facility will actually be constructed, expanded, substantially renovated or acquired. [Upon] Prior to July 1, 2018, upon a favorable finding, the department shall issue to the applicant a certificate to the effect that the facility

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concerned is a manufacturing facility or a service facility and is eligible for assistance under section 12-217e, as amended by this act, and subdivisions (59) and (60) of section 12-81. On and after July 1, 2018, upon a favorable finding, the department shall issue to the applicant a certificate to the effect that the facility concerned is a manufacturing facility or a service facility and is eligible for assistance under subdivisions (59) and (60) of section 12-81.

(c) Except as specified in subsection (d) of this section, upon an unfavorable determination the department shall issue a notice to the applicant to the effect that the facility concerned has been determined not to be a manufacturing facility or a service facility, together with a statement in reasonable detail as to the reasons for the unfavorable determination. Any aggrieved applicant shall be afforded an opportunity for a public hearing on the matter within thirty days following issuance of the notice. The department shall reconsider the application based upon the information presented at the public hearing and reaffirm or change its earlier determination within ten days of the hearing.

(d) Upon an unfavorable determination regarding an application concerning an airport development zone, the department shall issue a notice to the applicant to the effect that the facility concerned has been determined not to be a manufacturing facility or a service facility, together with a statement in reasonable detail as to the reasons for the unfavorable determination. Any aggrieved applicant shall be afforded an opportunity for a public hearing on the matter within thirty days following issuance of the notice. The department shall reconsider the application based upon the information presented at the public hearing and reaffirm or change its earlier determination within ten days of the hearing.

(e) The decision of the department rendered pursuant to subsection (c) or (d) of this section to issue an eligibility certificate or to deny an

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application for the issuance of an eligibility certificate either upon the expiration of thirty days without a public hearing following an initial unfavorable determination or upon any reconsideration of the application pursuant to subsection (c) or (d) of this section is conclusive and final as to the matters thereby decided, and chapter 54 shall not apply to the administrative determinations authorized to be made by this section.

(f) Any person who claims a benefit under section 12-217e, as amended by this act, or subdivisions (59) and (60) of section 12-81 shall notify the department of any change in fact or circumstance which may bear upon the continued qualification as a manufacturing facility or a service facility for which an eligibility certificate has been issued. Upon receipt of such information or upon independent investigation, the department may revoke the eligibility certificate in the manner provided in subsection (c) of this section.

(g) The commissioner shall adopt regulations, in accordance with chapter 54, to carry out the provisions of this section. Such regulations shall provide that establishments in the category of business support services, as defined in subsection (b) of section 32-222, or manufacturing facilities, as defined in subsection (d) of section 32-9p, may be eligible for a certificate if they are located in an enterprise zone.

Sec. 3. Section 12-217v of the general statutes is repealed. (*Effective July 1, 2018*)

Approved June 13, 2018