

1 **TAX CREDITS FOR MANUFACTURING**

2 **CAPITAL INVESTMENTS**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Neil A. Hansen**

6 **This act modifies the Individual Income Tax Act and Corporate Franchise and Income Taxes**
7 **to provide nonrefundable tax credits for certain manufacturing capital investments in the**
8 **state. This act has retrospective operation for taxable years beginning on or after January**
9 **1, 2002.**

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 ENACTS:

12 **59-7-615**, Utah Code Annotated 1953

13 **59-10-135**, Utah Code Annotated 1953

14 *Be it enacted by the Legislature of the state of Utah:*

15 Section 1. Section **59-7-615** is enacted to read:

16 **59-7-615. Tax credits for certain manufacturing capital investments in the state --**

17 **Carry forward.**

18 (1) For purposes of this section:

19 (a) "Base amount" means:

20 (i) the sum of:

21 (A) \$1,000,000; and

22 (B) if the taxpayer has been a qualifying manufacturer for four or more consecutive taxable
23 years, the average manufacturing capital investment of the taxpayer in the three taxable years
24 immediately preceding the current taxable year; or

25 (ii) if the taxpayer is a qualifying manufacturer in the current taxable year but has not been
26 a qualifying manufacturer for four consecutive taxable years before the current taxable year,
27 \$1,000,000.



28 (b) (i) "Manufacturing capital investment" means the purchase of machinery, equipment,
29 or both if the machinery or equipment purchased is:

30 (A) purchased by the qualifying manufacturer during the taxable year; and

31 (B) primarily used in:

32 (I) the manufacturing process; and

33 (II) the state.

34 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
35 commission may make rules defining the terms:

36 (A) "primarily used in the manufacturing process"; and

37 (B) "primarily used in the state."

38 (c) (i) "Qualifying manufacturer" means a taxpayer that:

39 (A) maintains a physical presence in the state; and

40 (B) is described in one or more of the following sectors under the North American Industry
41 Classification System, United States, 1997, Executive Office of the President, Office of

42 Management and Budget:

43 (I) Subsector 325, Chemical Manufacturing;

44 (II) Subsector 334, Computer and Electronic Product Manufacturing;

45 (III) Subsector 336, Transportation Equipment Manufacturing; or

46 (IV) Subsector 339, Miscellaneous Manufacturing.

47 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
48 commission may make rules determining when a taxpayer maintains a physical presence in the
49 state.

50 (d) "Total manufacturing capital investment" means the sum of all manufacturing capital
51 investments made by a qualifying manufacturer during the current taxable year.

52 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after
53 January 1, 2002, but beginning on or before December 31, 2007, a qualifying manufacturer
54 meeting the requirements of this section may claim a nonrefundable tax credit equal to an amount
55 calculated by:

56 (i) determining the amount by which the total manufacturing capital investment exceeds
57 the base amount; and

58 (ii) dividing the amount determined under Subsection (2)(a)(i) by two.

59 (b) Notwithstanding Subsection (2)(a), a taxpayer may not claim a tax credit in accordance
60 with this section that exceeds \$2,000,000 for a taxable year.

61 (3) For purposes of claiming a tax credit under this section, a unitary group as defined in
62 Section 59-7-101 is considered to be one taxpayer.

63 (4) If the amount of a tax credit claimed by a taxpayer under this section exceeds the
64 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding
65 the tax liability:

66 (a) may be carried forward for a period that does not exceed the next ten taxable years; and

67 (b) may not be carried back to a taxable year preceding the current taxable year.

68 Section 2. Section **59-10-135** is enacted to read:

69 **59-10-135. Credits for certain manufacturing capital investments in the state -- Carry**
70 **forward.**

71 (1) For purposes of this section:

72 (a) "Base amount" means:

73 (i) the sum of:

74 (A) \$1,000,000; and

75 (B) if the taxpayer has been a qualifying manufacturer for four or more consecutive taxable
76 years, the average manufacturing capital investment of the taxpayer in the three taxable years
77 immediately preceding the current taxable year; or

78 (ii) if the taxpayer is a qualifying manufacturer in the current taxable year but has not been
79 a qualifying manufacturer for four consecutive taxable years before the current taxable year,
80 \$1,000,000.

81 (b) (i) "Manufacturing capital investment" means the purchase of machinery, equipment,
82 or both if the machinery or equipment purchased is:

83 (A) purchased by the qualifying manufacturer during the taxable year; and

84 (B) primarily used in:

85 (I) the manufacturing process; and

86 (II) the state.

87 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
88 commission may make rules defining the terms:

89 (A) "primarily used in the manufacturing process"; and

90 (B) "primarily used in the state."

91 (c) (i) "Qualifying manufacturer" means a taxpayer that:

92 (A) maintains a physical presence in the state; and

93 (B) is described in one or more of the following sectors under the North American Industry

94 Classification System, United States, 1997, Executive Office of the President, Office of

95 Management and Budget:

96 (I) Subsector 325, Chemical Manufacturing;

97 (II) Subsector 334, Computer and Electronic Product Manufacturing;

98 (III) Subsector 336, Transportation Equipment Manufacturing; or

99 (IV) Subsector 339, Miscellaneous Manufacturing.

100 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

101 commission may make rules determining when a taxpayer maintains a physical presence in the

102 state.

103 (d) "Total manufacturing capital investment" means the sum of all manufacturing capital

104 investments made by a qualifying manufacturer during the current taxable year.

105 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after

106 January 1, 2002, but beginning on or before December 31, 2007, a qualifying manufacturer

107 meeting the requirements of this section may claim a nonrefundable tax credit equal to an amount

108 calculated by:

109 (i) determining the amount by which the total manufacturing capital investment exceeds

110 the base amount; and

111 (ii) dividing the amount determined under Subsection (2)(a)(i) by two.

112 (b) Notwithstanding Subsection (2)(a), a taxpayer may not claim a tax credit in accordance

113 with this section that exceeds \$2,000,000 for a taxable year.

114 (3) If the amount of a tax credit claimed by a taxpayer under this section exceeds the

115 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding

116 the tax liability:

117 (a) may be carried forward for a period that does not exceed the next ten taxable years; and

118 (b) may not be carried back to a taxable year preceding the current taxable year.

119 **Section 3. Retrospective operation.**

120 This act has retrospective operation for taxable years beginning on or after January 1, 2002.

Legislative Review Note
as of 1-30-02 11:25 AM

This legislation allows corporate franchise and income tax and individual income tax credits to be claimed by certain manufacturers within the manufacturing sector of the North American Industry Classification System (NAICS), if those manufacturers meet requirements established by the legislation. Other manufacturers that are included within the manufacturing sector of NAICS are not allowed to claim a tax credit. The legislation arguably creates classes of taxpayers on the basis of their designation under NAICS, and permits one class of taxpayers to claim a tax credit while not allowing the other class of taxpayers to claim the tax credit. If these classifications are challenged as being special legislation or a violation of equal protection or uniform operation of the laws principles, a court is likely to uphold the classifications if the court finds that the classifications are rational and related to a reasonable statutory objective.

Office of Legislative Research and General Counsel