

**TAX CREDITS FOR MANUFACTURING  
CAPITAL INVESTMENTS**

2002 GENERAL SESSION  
STATE OF UTAH

**Sponsor: Neil A. Hansen**

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

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

ENACTS:

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

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

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

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

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

**Carry forward.**

(1) For purposes of this section:

(a) "Base amount" means:

(i) the sum of:

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

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

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



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

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

(B) primarily used in:

(I) the manufacturing process; and

(II) the state.

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

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

(B) "primarily used in the state."

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

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

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

(I) Subsector 325, Chemical Manufacturing;

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

(III) Subsector 336, Transportation Equipment Manufacturing; or

(IV) Subsector 339, Miscellaneous Manufacturing.

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

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

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

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

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

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

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

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

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

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

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

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

(1) For purposes of this section:

(a) "Base amount" means:

(i) the sum of:

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

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

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

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

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

(B) primarily used in:

(I) the manufacturing process; and

(II) the state.

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

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

(B) "primarily used in the state."

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

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

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

(I) Subsector 325, Chemical Manufacturing;

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

(III) Subsector 336, Transportation Equipment Manufacturing; or

(IV) Subsector 339, Miscellaneous Manufacturing.

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

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

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

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

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

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

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

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

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

### **Section 3. Retrospective operation.**

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

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**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**