

79-32,192. Credit against tax for purchase costs of equipment used in manufacture of products from postconsumer waste; limitations. (a) There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to 20% of the costs incurred by the taxpayer for purchases of qualified equipment if the total capacity of qualified equipment owned by the taxpayer on the last day of the taxable year in which such credit is claimed exceeds the total capacity of qualified equipment owned by the taxpayer on the last day of the base year. Such credit shall be claimed in the taxable year in which at least 70% of the total production capacity of the qualified equipment is used by the taxpayer to manufacture products. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the seventh taxable year succeeding the taxable year in which the tax credit is claimed. In no event shall the aggregate of any such credit for a taxpayer exceed \$100,000.

(b) If qualified equipment which is purchased by any taxpayer who has claimed the credit allowable pursuant to this section is disposed of or otherwise ceases to be qualified equipment within three years of the taxable year for which such credit is allowed, the taxpayer shall refund the amount of the tax credit which was deducted from income tax liability which exceeds the following amounts: (1) Within the first year, zero; (2) within the second year, an amount equal to 33% of the amount of the credit allowed; (3) within the third year, an amount equal to 67% of the amount of the credit allowed. Any taxpayer who has refunded an amount pursuant to this subsection shall no longer be eligible to carry forward any amount of the credit which had not been used as of the date such refund is made.

(c) (1) The department of revenue shall prepare a report on the effectiveness of the tax credit allowed pursuant to the provisions of this section. Such report shall include the following information based upon the most current information available at the time of preparation:

(A) The number of taxpayers who were allowed the tax credit and the aggregate dollar amount of tax credits allowed;
 (B) the volume of postconsumer waste utilized by qualified equipment for which the tax credit was allowed which would have otherwise been disposed of as waste and the percentage that the volume of postconsumer waste constitutes of the total volume of materials utilized in the manufacture of products;

(C) the number of new employees resulting from the use of qualified equipment for which the tax credit was allowed;
 (D) the amount of property tax revenues attributable to qualified equipment for which the tax credit was allowed; and
 (E) the types and quantity of products produced from qualified equipment for which the tax credit was allowed.

(2) Any taxpayer who is allowed the credit pursuant to the provisions of this section shall make available, upon request of the department of revenue, such information as is necessary for the department to prepare the report required by this subsection.

(3) The report shall be submitted to the legislature no later than January 1, 1994.

(d) As used in this section, unless the context otherwise requires:

(1) "Base year" means the income tax year immediately preceding the income tax year for which the credit allowed pursuant to the provisions of this section is claimed.

(2) "Capacity" means the volume of postconsumer waste which qualified equipment is capable of processing or handling.

(3) "Collection" means:

(A) The acquisition of materials from businesses or the general public through purchase or donation, including the organization of systems for such acquisition;

(B) the preparation of materials for over-the-road transportation through cleaning, densification by shredding, baling, or any other method, or coalescence, including the organization of systems for such preparation; or

(C) the transportation of postconsumer waste between separate geographical locations.

(4) "Cost" means the amount of the purchase price or the amount of the annual lease payment.

(5) "Energy conversion" means the use of postconsumer waste for the transformation of materials into heat to be converted into steam, electrical power, or other forms of energy which results in a corresponding decrease in the use of coal, natural gas, or other naturally occurring fuel for such purposes. Energy conversion includes, but is not limited to, methods by which gases generated by the decomposition of organic waste are captured in order to be sold in lieu of other energy-producing gas. Energy conversion does not include any incineration of solid waste for the primary purpose of reducing the quantity of such solid waste.

(6) "Postconsumer waste" means only those products and materials generated by businesses or consumers which have served their intended end use or usefulness and either have been or would normally be disposed of as solid waste except for the fact that they are separated from solid waste for purposes of collection, recycling or reuse. Postconsumer waste shall not include hazardous waste, as defined in K.S.A. 65-3430, and amendments thereto.

(7) "Product" means any material resulting from a manufacturing process and offered for sale to the private or public sector which is composed of at least 25% postconsumer waste, including energy conversion occurring in such manufacturing process, and which is used exclusively for any purpose other than as virgin material in a separate manufacturing process. Product does not include any shredded material unless such shredded material is incorporated directly into the manufacturing process, is to be used for energy conversion, or is to be used as compost.

(8) "Purchase" means:

(A) Any transaction under which title to qualified equipment is transferred for consideration; or

(B) any lease contract for qualified equipment for a period of at least three years regardless of whether title to qualified equipment is transferred at the end of such period.

(9) (A) "Qualified equipment" means machinery or equipment located within Kansas which has at least an estimated three-year useful life and which at least 70% of the total production capacity thereof is used by the taxpayer to manufacture products within three years of the date of purchase.

(B) Qualified equipment shall not include any machinery or equipment which is used for the collection of postconsumer waste.

(e) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1991, but prior to January 1, 1996.

History: L. 1992, ch. 316, § 13; July 1.