

810-4-3-.03 Property Qualifying for Abatement.

(1) Real and/or personal property acquired in connection with establishing or expanding an industrial or research enterprise in Alabama.

(2) The industrial or research enterprise must be described in the 1987 standard industrial classification major groups 20 to 39, inclusive, 50 and 51, industrial group number 737 and industry numbers 4613, 8731, 8733, and 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget or with respect to abatements granted in accordance with Section 40-9B-9 must be described in the 1997 North American Industry Classification System within Subsector 493, Industry Number 488310, or Industry Number 488320 or any others as may be reclassified per Section 40-9B-3(6)(c), as it may be amended from time to time.

(3) If the trade or business to be conducted by a private user at a given site is predominantly (i.e. more than 50% of the project investment) in the nature of an industrial or research enterprise then all of the property to be acquired or constructed at said site will constitute industrial development property eligible for abatements under the Act. If the predominant activity is not in the nature of an industrial or research enterprise, then only that portion, if any, of the property which will be so used will constitute industrial development property eligible for abatements under the Act.

(4) No further abatement with respect to the same private use industrial property may be granted unless there is a major addition to the property, in which event, abatement may be granted only with respect to the noneducational property taxes on the major addition.

(a) To constitute a major addition, the lesser of an investment of 30 percent of the original cost of currently existing industrial property, the sum total of original facilities and equipment and any expansion or additions to date prior to abatement request, or \$2,000,000 must be made.

(b) Such major addition shall not include capitalized repairs, rebuilds, or maintenance, nor shall replacement equipment qualify.

1. Replacement property shall qualify for the remainder of an abatement previously granted on the equipment being replaced.

2. Replacement equipment acquired subject to a lease in effect prior to Act 92-599 becoming law shall be taxable only according to the provisions of the lease.

3. Equipment that performs the same function as the equipment it replaces even though the new equipment performs the function better or faster shall be defined as replacement.

Equipment that replaces existing equipment that performs not only the same function, but also an additional function, would qualify as capital investment toward the thirty (30) percent or \$2,000,000 threshold of a major addition.

4. Any expansion of an existing facility must be a major addition.

(c) Cost associated with renovating or remodeling existing facilities of an operating industrial or research enterprise shall not qualify for an abatement.

(5) Only industrial property not previously placed in service in Alabama by the user or a related party may be eligible for an abatement of noneducational property taxes.

(6) "Change of ownership or assignment of interest of an operating industrial or research enterprise shall not qualify the property for a new or additional abatement on property previously abated. The new owner shall be allowed to receive the remainder of abatements previously granted on the above industrial or research enterprise."

(7) "Change of ownership or assignment of interest of the property of a nonoperating industrial or research enterprise to an unrelated party shall qualify the property for a new abatement if the new owner or private user otherwise qualifies for an abatement as though a new industrial or research enterprise was established in the state."

(a) "A nonoperating industrial or research facility will be considered one that has ceased operation for a period of six consecutive calendar months."

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Authority: Section 40-2A-7(a)(5) and Title 40, Section 9B, Code of Alabama 1975

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