

ALABAMA DEPARTMENT OF REVENUE
REVENUE RULING 00-003

This document may not be used or cited as precedent. Code of Alabama 1975, §40-2A-5(a).

TO:

FROM: Michael Patterson
Commissioner, Alabama Department of Revenue

DATE: May 17, 2000

RE: "Industrial, warehousing or research activity," as defined in §40-18-190(6), Code of Ala. 1975, for capital credit purposes

FACTS

The following is a recitation of relevant facts, as stated to the Department in your ruling request:

"Partnership X is a general partnership engaged in the financing, ownership, and operation of a natural gas processing facility in Alabama. The partnership's business includes such activities as (a) natural gas compression, treatment and dehydration; (b) liquid separation, fractionation, storage, transportation and marketing; and (c) natural gas purchase and transportation.

"Partnership X has undertaken a project to construct a processing plant at which it will receive natural gas from its main pipeline. This plant is different from most processing plants in that the natural gas received by the processing plant already meets all the interstate pipeline requirements and is therefore in a usable form that could be transported directly to the end user. The plant will further separate condensate and natural gas liquids, such as ethane, butane and propane from the natural gas. The resulting natural gas and natural gas liquids are all reusable products. Once this process is complete, the natural gas will be sent to the interstate pipeline and the natural gas liquids will be transferred, via a separate pipeline, to a different location.

"As part of the project, Partnership X will also construct a power facility that will run

on the natural gas generated by the processing plant. The electricity and heat energy generated by the power facility will be used exclusively to power the natural gas processing plant. The power facility will not manufacture more power than is necessary to operate the processing plant.

...

"Partnership X is presently classified under the Standard Industrial Classification (SIC) Manual Code 1321, Production of Natural Gas Liquids. This classification code does not fall within the set of SIC numbers specifically listed in the definition of an "industrial, warehousing, or researching activity".

...

"Partnership X's natural gas processing facility obtains natural gas from several pipeline systems, which previously delivered the gas to interstate pipelines for transport to end users. This natural gas is comprised essentially of five hydrocarbon compounds: methane, ethane, butane, propane and natural gasoline, along with several trace contaminants. Methane typically comprises over 90% of natural gas and is the most efficient hydrocarbon fuel. The other hydrocarbon constituents are less efficient fuels but must be burned with the natural gas if not removed.

"The methane in natural gas is the compound that provides the primary energy that is generated when natural gas is burned as fuel. The ethane, butane, propane and natural gasoline, although burned, provide less benefit in the way of energy content to the buyer. . . . These compounds are recovered from natural gas in an industrial process. The removal process consists of equipment that expands and cools the natural gas stream forcing the ethane and heavier hydrocarbon compounds to condense as a liquid. The liquid, consisting of ethane, propane, butane and natural gasoline, is then removed from the natural gas stream and treated to remove impurities.

"After processing is completed, the purified natural gas, containing only the methane component, is returned to the main line for use by the end user. The natural gas will be used in the same manner by the purchaser with or without the recovery process performed by the new plant. The extracted elements are transferred, via a separate pipeline, to a different location where they can be stored until sold. The separated elements, ethane, butane, propane and natural gasoline, are a valuable energy source which is underutilized. The four elements recovered from the natural gas would be inefficiently used if it were not for the separation process performed by the new plant."

ISSUE

Whether or not Partnership X's facility will reclaim or convert materials to a "reusable product," within the meaning of §40-18-190(6)?

ANALYSIS

To receive the capital credit in §40-18-190, et seq., an investing company must, among other things, sponsor or undertake a "qualifying project." This phrase is defined in §40-18-190(11), as follows:

- (a) A project the capital costs of which are not less than \$2,000,000, and at which the predominant trade or business activity conducted will constitute industrial, warehousing or research activity.
- (b) A small business addition the capital costs of which are not less than \$1,000,000, and at which the predominant trade or business activity conducted will constitute industrial, warehousing or research activity.
- (c) A headquarters facility the capital costs of which are not less than \$2,000,000.

Because Partnership X's project is not a "small business addition" or "headquarters facility," the focus is on subparagraph (a) and whether or not the project will constitute an "industrial, warehousing or research activity." That phrase is defined as a business described within certain numerical classes of the Standard Industrial Classification Manual, "or any process or treatment facility which recycles, reclaims, or converts materials, which include solids, liquids, or gases, to a reusable product." Section 40-18-190(6).

It is undisputed that Partnership X's project does not fit within the numerical classifications. Therefore, to qualify for the credit, the project must be one "which recycles, reclaims, or converts materials, which include solids, liquids, or gases, to a reusable product." *Id.* In your ruling request, you contend that Partnership X's facility "reclaims and converts certain gases to a reusable product." Ruling Request, p.3.

First, it is sufficient if Partnership X either "reclaims" or "converts" its materials. Second, the materials must be reclaimed or converted into a "reusable product." Section 40-18-190(6).

"Reclaim" means "to procure (usable substances) from refuse or waste products; to demand the restoration or return of; claim again or back." The American Heritage Dictionary, Second College Edition. The facts in your situation demonstrate that Partnership X is not reclaiming the lower value compounds from the natural gas. Instead, Partnership X is claiming them for the first time.

"Convert" means "to change into another form, substance, state, or product;

transform: *convert water into ice.*" The American Heritage Dictionary, Second College Edition. Because the process used by Partnership X will change certain components of natural gas into liquid form in order to extract those components, the facility is one which "converts."

"Reusable" is the adjective form of the verb "reuse." The word "reuse" means "to use again, especially after special treatment or processing." The American Heritage Dictionary, Second College Edition. Here, the compounds extracted from natural gas are not being converted into a "reusable product," because these compounds have not been used the first time. Instead, these compounds are being extracted from the natural gas to be sold separate from the gas. Consequently, the processing performed by Partnership X at its facility does not meet the definition of "industrial, warehousing or research activity," as defined in §40-18-190(6). Therefore, Partnership X does not qualify for the capital credit in §40-18-190, et seq.

This result is supported by the overall context of the phrase at issue in §40-18-190(6). When read together, the use of words such as "recycles," "reclaims," "converts," and "reusable" clearly indicates a legislative intent to include within the definition those processes or facilities which salvage a material that already has been used and which make it reusable.

CONCLUSION

Because the processing performed by Partnership X at its facility does not meet the definition of "industrial, warehousing or research activity," Partnership X does not qualify for the capital credit in §40-18-190, et seq. Hopefully, this ruling sufficiently answers your request.

Michael Patterson
Commissioner, Alabama Department of Revenue

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