

810-3-38-.02 Additional Credits Allowed for Corporations. For an Approved Company whose project is financed by the State Industrial Development Authority's Project Obligations, the following shall be allowed as credits against the state corporate income tax imposed by Section 40-18-31:

(1) The credit available to an Approved Company pursuant to Section 41-10-44.8(a); and

(2) The credit available to an Approved Company pursuant to Section 41-10-44.9.

(3) The sum of the credits allowed in (1) and (2) above to an Approved Company in a given year shall not exceed the lesser of:

(a) the Approved Company's state corporate income tax liability for such year on the income generated by or arising out of a Project; or

(b) the total debt service payments made during such year by the Approved Company on the Project Obligations.

(4) Income generated by or arising out of a Project shall be determined by an Approved Company in accordance with the method set forth in a written agreement between the Company and the Department entered into before any Job Development Fees are collected.

(a) Whenever possible, such agreement shall require the Approved Company to separately account for all items of income and expense generated by or arising out of a Project.

(b) If it is impossible or impractical to separately account for such items, such agreement shall require the Approved Company to apportion all items of income and expense generated by or arising out of the Project based on the ratio of the Approved Company's property, payroll and sales attributed to or arising from the Project to the Approved Company's total property, payroll and sales in Alabama.

(c) If the methods set forth in (a) and (b) are impossible or impractical to utilize, such agreement shall require the use of any other method which has been agreed upon by the Approved Company and the Department to determine income generated by or arising out of a Project.

(5) For purposes of the limitations set forth in paragraphs (a) and (b) of (3), excess corporate income tax liability or debt service payments which are unused as a result of the applications of such limitations in a given year may not be carried backward or forward for use by an Approved Company in prior or subsequent years.

(6) For purposes of paragraphs (a) and (b) of (3), the term "Project" shall include the entire industrial, research or distribution facility acquired, constructed, expanded, or installed by an Approved Company at a given location as a result of the inducement available under Act No. 93-851 notwithstanding that only a portion of the cost of such facility may be financed with the proceeds of Project Obligations.

(7) For purposes of the limitations set forth in paragraphs (a) and (b) of (3), the term "Project Obligations" shall have the meaning ascribed to it in Section 41-10-44.2.

(8) Pursuant to Section 41-10-44.8(c), if an Approved Company fails to achieve the level of capital investment or employment anticipated at the time the State Industrial Development Authority agreed to finance the Project, the Department may, after notice and hearing, prospectively reduce or suspend all or part of the credits allowed in (1) and (2) above until such time as the anticipated capital investment and employment levels are met.

(9) A taxpayer claiming either of the credits allowed in (1) and (2) shall attach to its corporate income tax return a certificate executed by the State Industrial Development Authority confirming the taxpayer's status as an Approved Company pursuant to Section 41-10-44.4 together with a copy of the agreement required by paragraph (4) above.

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