

810-4-3-.09 Property Qualifying for Abatement – Chapter 9G.

(1) Property qualifying for tax abatements under Title 40, Chapter 9G, Code of Ala. 1975 must be classified as an approved activity, as defined in §40-9G-1.

(2) 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 approved activity then all of the property to be acquired or constructed at said site will constitute industrial development property eligible for abatements under Chapter 9G. If the predominant activity is not in the nature of an approved activity, then only that portion used in an approved activity will be eligible for abatements under Chapter 9G and any related real property will not be eligible for an abatement.

(3) To constitute a qualifying project within the meaning of Title 40, Chapter 9G, Code of Ala. 1975, there must be an investment in capital expenditures that equals or exceeds \$2,000,000 as part of any addition, expansion, improvement, renovation, re-opening, rehabilitation of a facility, or replacement of any existing equipment. The project must predominately involve an approved activity. Abatements pursuant to Chapter 9G are not available if a project agreement has been entered into with the Governor for the provision of other incentives.

Replacement equipment and capitalized costs associated with renovating, remodeling rebuilding, and maintaining an existing operating approved activity as part of a qualifying project will qualify for abatement.

(4) All abatements granted by Chapter 9G are subject to the requirements of Chapter 9B except as follows:

(a) County noneducational Ad Valorem Tax may be abated only with the consent by resolution of the governing body of the county. Municipal noneducational Ad Valorem Tax may be abated only with the consent by resolution of the governing body of the municipality. State noneducational Ad Valorem Tax may be abated only with the consent of the Governor. However, the governing body of a county and a municipality may separately authorize one or more public industrial authorities to provide by resolution for the consent on its behalf.

(b) The amount of any Ad Valorem Tax abatement must be equal to the Ad Valorem Tax owed, minus the Ad Valorem Tax owed for the tax year immediately preceding the qualifying project placed in service date.

(5) If an expansion project qualifies as both a major addition per Chapter 9B and a qualifying project per Chapter 9G, a private user may seek abatements

- (i) solely under the authority of Chapter 9B,
- (ii) solely under the authority of Chapter 9G, or
- (iii) under both authorities with respect to different portions of its investment.

For example, for the portion of a proposed expansion which constitutes replacement equipment that would not otherwise qualify for abatement under Chapter 9B, a private user may elect to petition for a property tax abatement for the property under the authority of Chapter 9G. If the private user so elects, and regardless of the length of the abatement, the state, county and city would each have to separately consent to the abatement under Chapter 9G. For any expansion to property that constitutes both a major addition per Chapter 9B and a qualifying project per Chapter 9G, tax abatements must be granted under separate tax abatement agreements under Title 40, Chapter 9B, Code of Ala. 1975 and Title 40, Chapter 9G, Code of Ala. 1975.

(6) A change of ownership or assignment of interest of an operating industrial or research enterprise does not qualify the property for a new or additional abatement. The new owner will be allowed to receive the remainder of abatements previously granted.

(7) A change of ownership or assignment of interest of the property of a non-operating qualifying project to an unrelated party shall qualify the property for a new abatement. The property of the new owner or private user otherwise qualifies for an abatement in accordance with the statutes. A non-operating industrial or research facility will be considered one that has ceased operation for a period of six consecutive calendar months.

(8) Property that ceases to be used in the active conduct of an approved activity for six consecutive months will no longer be eligible for abatement of Ad Valorem Tax.

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