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## **Financial Assistance and Tax Incentives to Encourage Industrial and Business Growth in Areas of High Unemployment**

### **Sec. 32-9p-1. Statement of purpose**

These rules and regulations have been adopted to implement and are to be applied so as to accomplish the purposes of the investment incentive program of the jobs and development plan as established by and implemented in Sections 32-9o, 32-9p, 32-9r, 32-9s, 12-81 (59) and (60) and 12-217e of the General Statutes, as amended (collectively referred to herein as the "Statutes"). The investment incentive program is administered by the Department of Economic Development in connection with the Department of Revenue Services and the Office of Policy and Management and provides property tax exemptions and corporation business tax credits in order to encourage the investment of private capital in manufacturing facilities located in municipalities with high levels of economic and social distress, so as to increase employment, improve the tax base in these municipalities and develop a more productive and balanced State economy.

(Effective December 20, 1984)

### **Sec. 32-9p-2. Program procedures**

The Department has prepared a Procedural Guide which establishes detailed operating procedures for the investment incentive program. The Procedural Guide will be revised and supplemented and program bulletins will be available to participating businesses and municipalities from time to time in order to give effect to changes in administrative procedures which are appropriate in light of experience gained in carrying out the investment program. Revisions of the Procedural Guide will not affect the eligibility of any business to claim benefits or of any municipality to apply for grant payments from the State if the business or municipality is otherwise entitled to the benefits under the statutes and these regulations. Applications, eligibility certificates, notices, claim statements and other forms for the use by the Department of Economic Development, Department of Revenue Services, Office of Policy and Management, participating businesses and municipalities in the investment incentive program are provided in the Procedural Guide.

(Effective December 20, 1984)

### **Sec. 32-9p-3. General requirements of eligibility**

To be eligible to file a claim for a corporation business tax credit under Section 12-217e of the statutes or for the exemption from property taxes under Section 12-81 (59) and Section 12-81 (60) of the statutes, a claimant must present to the Commissioner of Revenue Services or the secretary of the Office of Policy and Management or the tax assessor or board of assessors of the local taxing jurisdiction, as the case may be, a current eligibility certificate issued by the Department. Eligibility certificates will be issued by the Department in accordance with the criteria established by the statutes and these regulations with respect to any facility which qualifies as a manufacturing facility and is located in a distressed municipality.

(Effective December 20, 1984)

### **Sec. 32-9p-4. Distressed municipality requirement**

(a) Any manufacturing facility which is the subject of an application for an eligibility certificate must be located in a municipality which, at the time the eligibility certificate is issued, is a distressed municipality. A distressed municipality must meet one of the following criteria:

(1) A municipality meeting the necessary number of quantitative physical and economic distress thresholds then applicable for eligibility for the urban development action grant program under the federal Housing and Community Development Act of 1977, as amended, as such municipalities are designated by the United States Department of Housing and Urban Development.

(2) A municipality adversely impacted by a major plant closing, relocation or lay off of a covered establishment when such closing, relocation, or layoff results in the loss of at least 7½% of the total non-agricultural and manufacturing employment positions located in the municipality.

(3) A municipality adversely impacted by a major plant closing within the municipality or relocation from the municipality of a covered establishment when such establishment is one of the two largest tax payers within the municipality.

The Department will make the designation of a distressed municipality under the provisions of a major plant closing, relocation or lay off upon request of the legislative body of the municipality and submission of documentation by the municipality. Distressed municipalities may include any town, city or borough, or any town within which is located a distressed unconsolidated city or borough.

(4) A portion of a municipality that is contiguous to an enterprise zone which is located in another municipality, and is eligible for designation as an enterprise zone in accordance with the provisions of subdivisions (2) of subsection (b) of Section 32-70, of the statutes as amended.

(b) The Department shall prepare, keep current and make available for public inspection and distribution a list of municipalities under the investment incentive program.

(c) In the event the Commissioner of Economic Development determines that the distress thresholds referred to in Section 32-9p-4 (a) (1) of these regulations have been materially changed as a result of amendatory federal legislation or administrative regulation, the Department shall give public notice of the determination and establish comparable distress thresholds. The criteria of distress shall include those of high unemployment, poverty levels, the age of housing stock, the rates of growth in job creation, population and per capita income and may include other criteria that are consistent with the purposes of the statutes. The number and character of the municipalities which qualify for assistance under the investment incentive program under the comparable criteria established in such circumstances shall closely approximate that of the municipalities qualifying as distressed municipalities under the superseded thresholds. These regulations shall be amended by the Department in accordance with Chapter 54 of the statutes to include the replacement criteria so established.

(d) Manufacturing facilities located partly within and partly outside a distressed municipality will qualify for an eligibility certificate only if the building, structure or improvement in which the manufacturing activity is carried on is located in a distressed municipality. Buildings, structures or improvements constituting a manufacturing facility which are located partly within and partly without a distressed municipality will qualify for an eligibility certificate, but this fact will be noted on the certificate and no claim for tax exemption will be allowed with respect to that portion of the facility located outside a distressed municipality. In this case, (1) the percentage of the credit against the corporation business tax permitted to be claimed by occupants of the manufacturing facility will be modified by the Department as appropriate to reflect the partial qualification of the facility for tax exemption, taking into account the amount of manufacturing floor space, the nature of the

manufacturing activity carried on in each municipality and other appropriate factors and (2) the assessed valuation against which the property tax exemption may be claimed will be the assessed valuation which is determined by the assessor of the distressed municipality to be attributable to the property of the manufacturing facility and any installed machinery and equipment which is located in the distressed municipality. If the buildings, structures and improvements of a manufacturing facility in which the manufacturing activity is carried on are located in two distressed municipalities, the occupants of the facility will be entitled to the full corporation business tax credit and the full property tax exemption will apply, except that the exemption will be allocated between the distressed municipalities by the Department in the manner described above.

(e) The continued effectiveness of any eligibility certificate will not be impaired solely by reason of the fact that subsequent to the issuance of the original certificate the municipality in which a manufacturing facility is located ceases to be a distressed municipality. Such a change in the status of the municipality also will not affect the issuance of replacement eligibility certificates to otherwise qualified subsequent occupants of the facility.

(f) Benefits are extended under the statutes only to manufacturing facilities which at the time an eligibility certificate is issued are located in a distressed municipality. However, a manufacturing facility will not qualify for the issuance of an eligibility certificate if the facility is acquired or constructed in a municipality which at the time of acquisition or construction was included in the distressed municipality list but not included at the time an eligibility certificate is proposed to be issued. In order to minimize any inequities which may result from such circumstances, the Department will monitor the distressed municipality list to ascertain those municipalities which may cease to qualify as a distressed municipality and will process eligibility certificate applications in a manner which to the greatest extent possible preserves the eligibility of manufacturing facility whose location in a distressed municipality was legitimately induced by the prospect of the tax credit or exemption provided by the statutes but whose eligibility is jeopardized by an impending change in the status of the municipality.

(Effective October 29, 1986)

### **Sec. 32-9p-5. Manufacturing facilities requirement**

(a) To qualify for the issuance of an eligibility certificate, in addition to being located in a distressed municipality, a manufacturing facility must:

(1) consist of a plant, building, other real property improvement, or part thereof;

(2) be

(A) constructed or substantially renovated or expanded; or

(B) acquired by a business organization which is unrelated to or unaffiliated with the seller after having been idle for at least one year prior to its acquisition, regardless of its previous use, except in the case of a facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, the idleness requirement shall be as set forth in subsection (d) of Section 32-9p of the statutes as amended; and

(3) be used for:

(A) the manufacturing, processing or assembly of raw materials, parts or manufacturing products;

(B) the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use;

(C) the distribution in bulk of manufactured products other than on a retail basis;

(D) research and development activities directly related to manufacturing. Research and development activities are considered to be directly related to the manufacturing process when the company has any of the standard industrial classification codes as listed in Section 32-9p-5 (h) (1) of these regulations; or

(E) in the case of a facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, for services satisfying the requirements of Section 32-9p-5 (h) (5) of these regulations.

(b) A manufacturing facility may consist of an entire plant, building, structure or other real property improvement or group of buildings or improvements, or may consist of a part, section, wing or floor of a plant, building or structure. In the event the acquisition or construction, substantial renovation or expansion is of a portion of a plant, the part, section, wing or floor so acquired, constructed, renovated or expanded will be designated as the manufacturing facility. The existing plant or structure need not itself house a business activity which would qualify the plant or structure as a manufacturing facility, as long as the activity carried on in the improvement or addition which is designated to be the manufacturing facility is an activity described in Section 32-9p-5 (a) (3) of these regulations.

(c) A manufacturing facility which is newly constructed will qualify for an eligibility certificate. An existing plant or building or part of floor thereof which is substantially renovated or an existing plant or building which is expanded will also qualify for an eligibility certificate. Substantial renovation or expansion for this purpose means the making of improvements or additions to the structure of a facility which involve capital expenditures equal to or greater than 50% of the current assessed value of the building, structures or part thereof being renovated or expanded and constituting the manufacturing facility. The improvements may be made for any business reason, but must be of a nature requiring the issuance of a building permit and must in the judgment of the Department be likely to have the direct result of increasing employment or expanding the tax base in the distressed municipality.

(d) A manufacturing facility is acquired for the purposes of the statutes if (1) title to the facility is acquired by a new owner through purchase or (2) the facility is leased as provided in Section 32-9p-5 (f) herein to a new occupant or occupants. The purchaser or seller or lessor and lessee of an acquired facility may not be related or affiliated in any manner at all, whether business, familial or otherwise. Thus, the parties may not have any common owner, stockholder, director, officer or employee, nor may the owners or employees of the parties be members of the same family either by blood or marriage. This paragraph is intended to deny the benefits of the statutes to the participants in any acquisition which is not transacted at arms length by the parties. In appropriate instances where a strict application of the provisions of this paragraph would be contrary to the purpose of the statutes and where the purchaser and seller or lessor and lessee are in all practicality unrelated and unaffiliated the Department may deem this requirement to be met.

(e) A manufacturing facility will not be deemed to have been acquired unless a substantial portion of its productive capacity is again utilized on a continuous basis after a period of idleness of at least one year. Idle facilities are those which have not been used or occupied at all during the entire one year period. In instances where a facility has been used on a very limited basis, such as temporary usages for maintenance or for product or equipment testing, but nonetheless has been essentially unoccupied and not productive during the one year period, the Department may deem the facility to have been idle if the Department determines that such a finding will further the purposes expressed in the statutes. The uses of an acquired

facility prior to the one year period of idleness will not affect the issuance of an eligibility certificate, as long as the use which is made of the facility subsequent to its acquisition is one described in Section 32-9p-5 (a) (3) of these regulations. Notwithstanding any provisions of this subsection, for a facility located in an enterprise zone designated pursuant to Section 32-70 of the statutes, the idleness requirement shall be as follows: for a facility with an average total employment of between 6 and 19 employees for the six months prior to the acquisition of the facility, the idleness requirement shall be six months; and for a facility which has five or fewer employees, the idleness requirement shall be waived provided no more than one eligibility certificate shall be issued for the same facility within a three year period. The Department may waive the requirement of idleness if it determines that absent qualification as a manufacturing facility, there is a high likelihood that the facility will remain idle for one year. Factors that the Department will consider in making this determination include the marketability of the facility, general economic condition of the distressed municipality, the size of the facility, the number of employment positions to be established and the importance of benefits of the statutes in the decision of the manufacturer to acquire the facility.

(f) No leasing of a manufacturing facility constitutes an acquisition unless the contract of lease is for an initial minimum term of five years and evidences by its provisions a substantial, long term commitment in the form of a renewable option at the request of the lessee for an aggregate term which shall not be less than ten years, or the right of the lessee to purchase the facility at any time after the initial five-year term, or both. This commitment will be determined based upon an evaluation of all facts and circumstances involved in each case. Factors which would tend to indicate a substantial commitment include the construction of leasehold improvements at the lessee's expense and contractual provisions for a renewal of the lease at the lessee's option and for liquidated damages payable by the lessee upon a breach of the lease. Notwithstanding any provisions of this subsection, for a facility located in an enterprise zone and designated pursuant to Section 32-70 of the statutes that employs an average of 10 or fewer employees over the six month period preceding acquisition, the contract for lease: may be for an initial minimum term of three years with a renewable option at the request of the lessee for an aggregate term which shall not be less than six years or may include the right of the lessee to purchase the facility at any time after the initial three-year term or both; and may include the right for the lessee to relocate to some other space within the same enterprise zone provided the space is under the same ownership or control as the originally leased space or if such space is not under the same control as the originally leased space, permission to relocate is granted by the lessor of the originally leased space, provided that such relocation shall not extend the duration of benefits granted under the original eligibility certificate.

(g) An acquisition will be deemed to have occurred when the deed or lease for the facility is executed. The construction, renovation or expansion of a manufacturing facility will be deemed to have occurred when most of the construction time, expenditure of funds and physical improvement involved in the process has been completed.

(h) The facility for which an eligibility certificate is issued must be one in which the occupant conducts one of the following five qualified manufacturing or related activities:

(1) The manufacture, processing or assembly of raw materials, parts or manufactured products. All activities which are currently classified as manufacturing activities by the Standard Industrial Classification Manual (prepared by the Executive

Office of the President, and published and periodically revised by the United States Government Printing Office) will meet this requirement. These activities are given SIC major group numbers 20 through 39, and are generally described as follows:

- Major Group 20. Food and kindred products
- Major Group 21. Tobacco manufacturers
- Major Group 22. Textile mill products
- Major Group 23. Apparel and other finished products made from fabrics and similar materials
- Major Group 24. Lumber and wood products, except furniture
- Major Group 25. Furniture and fixtures
- Major Group 26. Paper and allied products
- Major Group 27. Printing, publishing and allied industries
- Major Group 28. Chemical and allied products
- Major Group 29. Petroleum refining and related products
- Major Group 30. Rubber and miscellaneous plastics products
- Major Group 31. Leather and leather products
- Major Group 32. Stone, clay, glass, and concrete products
- Major Group 33. Primary metal products
- Major Group 34. Fabricated metal products, except machinery and transportation equipment
- Major Group 35. Machinery, except electrical
- Major Group 36. Electrical and electronic machinery, equipment, and supplies
- Major Group 37. Transportation equipment
- Major Group 38. Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks
- Major Group 39. Miscellaneous manufacturing industries

Any activity not classified as manufacturing by the Manual, such as services and retail trade, will not qualify under this restriction. The use of the manufacturing facility for purposes which are functionally related, ancillary and subordinate to and are required for the primary manufacturing activity carried on at the facility will not disqualify the facility under the program. Examples include a small administrative area for the management of plant operations, or a small area for the testing of products produced by the facility.

(2) The significant servicing, overhauling or rebuilding of machinery and equipment for industrial use. This activity is an adjunct to the manufacturing process involving major repairs to industrial machinery and equipment. Machinery and equipment used for production in activities classified as manufacturing by the Standard Industrial Classification Manual is considered industrial machinery and equipment. A facility which services, overhauls or rebuilds industrial stamping presses, lathes or generating equipment will qualify as a manufacturing facility, but one which is involved in the repair of televisions, automobiles or other consumer goods will not. As a further example, facilities which service, overhaul or repair computers will qualify only if the computers are directly used in the industrial or manufacturing process.

(3) The warehousing and distribution in bulk of manufactured products on other than a retail basis. This activity is a further adjunct to the manufacturing process involving the bulk distribution of manufactured products prior to their retail sale. Only those facilities for the warehousing and distribution of manufactured products on other than a retail basis which are newly constructed or which represent an expansion of an existing facility qualify as manufacturing facilities. Manufactured

products are products which are produced through activities classified as manufacturing by the Standard Industrial Classification Manual. A facility which is a regional center for the distribution in bulk of automobiles, furniture, clothing or glassware to retail outlets will therefore qualify as a manufacturing facility. One which houses warehouse sales directly to the public, performs mail order warehouse sales, or warehouses and distributes to its own retail stores will not qualify, however, since each involves retail sales and sales in small rather than bulk quantities.

(4) Research and development directly related to manufacturing as defined in Section 32-9p-5 (a) (3) (D).

(5) If located in an enterprise zone designated pursuant to Section 32-70 of the statutes as amended, establishments having the following standard industrialization classifications or operating or auxiliary units of such establishments, provided that the establishments, operating, or auxiliary units do not regularly involve direct business with, or service to, the general public:

- 0912 Commercial fishing - finfish
- 0913 Commercial fishing - shellfish
- 0919 Commercial fishing - miscellaneous marine products
- 0921 Commercial fishing - fish hatcheries and preserves
- 4215 Courier services, except by air
- 4221 Farm product warehousing and storage
- 4222 Refrigerated warehousing and storage
- 4226 Special warehousing and storage, not elsewhere classified
- 4231 Terminal and joint terminal maintenance facilities for motor freight transportation
- 4412 Deep sea foreign transportation of freight
- 4424 Deep sea domestic transportation of freight
- 4432 Freight transportation on the Great Lakes–St. Lawrence Seaway
- 4449 Water transportation of freight, not elsewhere classified
- 4491 Marine cargo handling
- 4492 Towing and tugboat services
- 4499 Water transportation services, not elsewhere classified
- 4512 Air transportation, scheduled
- 4513 Air courier services
- 4731 Arrangement of transportation of freight and cargo
- 4741 Rental of railroad cars
- 4783 Packing and crating
- 4789 Transportation services, not elsewhere classified
- 6011 Federal reserve banks
- 6019 Central reserve depository institutions, not elsewhere classified
- 6021 National commercial banks
- 6022 State commercial banks
- 6029 Commercial banks, not elsewhere classified
- 6035 Savings institutions, federally chartered
- 6036 Savings institutions, not federally chartered
- 6061 Credit unions, federally chartered
- 6062 Credit unions, not federally chartered
- 6081 Branches and agencies of foreign banks
- 6082 Foreign trade and international banking institutions
- 6091 Nondeposit trust facilities
- 6099 Functions related to depository banking, not elsewhere classified

- 6111 Federal and federally sponsored credit agencies
- 6141 Personal credit institutions
- 6153 Short-term business credit institutions, except agricultural
- 6159 Miscellaneous business credit institutions
- 6162 Mortgage bankers and loan correspondents
- 6163 Loan brokers
- 6211 Security brokers, dealers, and flotation companies
- 6221 Commodity contracts brokers and dealers
- 6231 Security and commodity exchanges
- 6282 Investment advice
- 6289 Services allied with the exchange of securities or commodities, not elsewhere classified
- 6311 Life insurance
- 6321 Accident and health insurance
- 6324 Hospital and medical service plans
- 6331 Fire, marine and casualty insurance
- 6351 Surety insurance
- 6361 Title insurance
- 6371 Pension, health and welfare funds
- 6399 Insurance carriers, not elsewhere classified
- 6712 Offices of bank holding companies
- 6719 Offices of holding companies, not elsewhere classified
- 6722 Management investment offices—open ended
- 6726 Unit investment trusts, face amount certificate offices, and closed-end management investment offices
- 6732 Educational, religious and charitable trusts
- 6733 Trusts except educational, religious and charitable
- 6792 Oil royalty traders
- 6794 Patent owners and lessors
- 6798 Real estate investment trusts
- 6799 Investors, not elsewhere classified
- 7323 Credit reports services
- 7371 Computer programming services
- 7372 Prepackaged software
- 7373 Computer integrated systems design
- 7374 Computer processing and data preparation and processing services
- 7375 Information retrieval services
- 7376 Computer facilities management services
- 7377 Computer rental and leasing
- 7378 Computer maintenance and repair
- 7379 Computer related services, not elsewhere classified
- 8071 Medical laboratories
- 8072 Dental laboratories
- 8731 Commercial physical and biological research
- 8732 Commercial economic, sociological, and educational research
- 8733 Noncommercial research organizations
- 8734 Testing laboratories

(Effective October 13, 1991)

**Sec. 32-9p-6. Award and modification of eligibility certificates; Tax credit or abatement claims**

The Department will award eligibility certificates in the manner set forth in the Procedural Guide. Any person with an interest in manufacturing facility may apply to the Department for an eligibility certificate, but the application must be signed by each person who intends to claim a benefit under the investment program. Eligibility certificates will state the owner and each occupant of the facility and each user of any machinery and equipment installed in the manufacturing facility. Changes in such ownership, occupancy or use of the manufacturing facility are to be reported to the Department and eligibility certificates will be modified to reflect the change. No person may claim a benefit under the program from the Commissioner of Revenue Services or the secretary of the Office of Policy and Management or assessor of the local taxing jurisdiction unless the person is stated on a current and valid eligibility certificate to be an owner or occupant of a manufacturing facility or a user of its machinery and equipment.

(Effective December 20, 1984)

**Sec. 32-9p-7. Corporation tax credit**

(a) Each occupant of a manufacturing facility who is listed on an eligible certificate is entitled under Section 12-217e of the statutes to claim a credit against the corporation business tax payable under chapter 208 of the statutes. This credit will be in an amount equal to 25% of the portion of the corporation business tax which is allocable to the manufacturing facility; provided, however, that for any such manufacturing facility located in an enterprise zone designated pursuant to Section 32-70 of the General Statutes, and which satisfies the applicable requirements under Section 12-217e, this credit will be in the amount equal to 50% of the portion of the corporation business tax which is allocable to the manufacturing facility. Affected State agencies may conduct audits at any reasonable time of manufacturing facilities that have been issued certificates of eligibility entitling them to such tax credits to ensure compliance with the eligibility requirements described above. The owner of the facility may not claim this credit unless the owner is also an occupant of the facility.

(b) As provided in the statutes, the portion of the tax which is allocable to the manufacturing facility will be determined by multiplying the tax by a fraction computed as the simple arithmetical mean of the following fractions: First, a fraction, the numerator of which is the average monthly net book value of the income year of the manufacturing facility and machinery and equipment acquired for and installed in the manufacturing facility, without deduction on account of any encumbrance thereon, or if rented to the taxpayer, the value of the manufacturing facility and machinery and equipment acquired for and installed in the manufacturing facility, computed by multiplying the gross rents payable by the taxpayer for the manufacturing facility and such machinery and equipment during the income year or period by eight, and the denominator, which is the sum of the average monthly net book value of all real property and machinery and equipment held and owned by the taxpayers in the State, without deduction on account of any encumbrance thereon and the value of all real property and machinery and equipment rented to the taxpayers in the State, computed by multiplying the gross rents payable during the income year by eight; and second, a fraction the numerator of which is all wages, salaries and other compensation paid during the income year to employees of the taxpayer whose positions are directly attributable to the manufacturing facility and

the denominator of which is the wages, salaries and other compensation paid during the income year to all employees of the taxpayer in the State. An employee's position is directly so attributable if (1) the employee's service is performed or his base of operation is at the manufacturing facility, (2) the position did not exist prior to the construction, renovation, expansion or acquisition of the manufacturing facility, and (3) but for the construction, renovation, expansion or acquisition of the manufacturing facility the position would not have existed. For the purpose of this subsection, "gross rents" means gross rents as defined in Section 12-218 of the statutes.

(c) Limitations on the right of an occupant to claim a credit against corporation business taxes, including the aggregate ten year duration of the right, are described in Section 32-9p-9 of these regulations. In addition, no credit will be allowed unless a proper claim is filed with the claimant's tax return. Claim forms and instructions are contained in the Procedural Guide. Once an eligibility certificate is issued, the commissioner of revenue services is responsible for determining whether the credit claimed and any calculations made by any taxpayer are proper under the statutes.

(Effective December 20, 1984)

### **Sec. 32-9p-8. Property tax exemption**

(a) Section 12-81 (59) of the statutes partially exempts manufacturing facilities from real property taxation imposed on the property by any taxing jurisdiction in the State. In the case of a building which is expanded or partially renovated, the exemption applies only to that part of the building which is the expansion or which has been renovated. This part is designated the manufacturing facility and is partially exempted from real property taxes. That part of the building which is not the expansion or has not been renovated is not exempt from taxation and will be treated separately from the manufacturing facility without regard to the statutes. Thus, in the case of a manufacturing facility which consists of a constructed, renovated or expanded portion of an existing plant, the assessed valuation of the manufacturing facility is the difference between the assessed valuation of the plant prior to its being improved and the assessed valuation of the plant upon completion of the improvements. In the case of a manufacturing facility which consists of an acquired portion of an existing plant, the assessed valuation of the manufacturing facility is the assessed valuation of the portion acquired.

(b) Machinery and equipment installed in any manufacturing facility is also partially exempt from Section 12-81 (60) of the statutes from personal property taxation imposed on the property by any taxing jurisdiction in the State. The exemption does not apply to any machinery and equipment installed in any part of the building which has not been designated as a manufacturing facility except for machinery and equipment acquired and installed on or after October 1, 1986 in a manufacturing facility for which an eligibility certificate had been previously issued, when such acquisition and installation is part of a business expansion which involves a contiguous enlargement of the previously certified facility is not less than 50% of its floor space. To qualify under this provision, the facility being enlarged must continue to be used for manufacturing purposes and the area which represents the enlargement must meet the requirements of a manufacturing facility. Both the facility being enlarged and the enlarged area must be occupied by the same firm to whom the original certificate was issued or by a successor firm to whom a replacement certificate was issued by the department.

In order to qualify for the exemption the machinery and equipment must represent an addition to the assessment or grand list of the municipality in which the exemption

is claimed and be directly attributable to and installed concurrently with the acquisition, construction, renovation or expansion established at the time the eligibility certificate is issued. Machinery and equipment existing in a manufacturing facility which has been acquired will also qualify for the exemption. Exempt machinery and equipment and the person responsible for paying taxes due with respect to the machinery and equipment will be stated in the eligibility certificate. Machinery and equipment installed in a manufacturing facility after an eligibility certificate is issued will also qualify for exemption from personal property taxation, but the exemption will not extend beyond the date the exemption of the manufacturing facility expires and will not apply unless the machinery and equipment is listed on the applicable replacement eligibility certificate together with the appropriate taxpayer. Any machinery and equipment installed in a building which has not been acquired, constructed, substantially renovated or expanded is not exempt from taxation under the program.

(c) The manufacturing facility and qualified machinery and equipment are exempt from property taxation to the extent of eighty percent (80%) of their assessed valuation. The owner, user or appropriate taxpayer is responsible for taxes payable with respect to the 20% of the assessed valuation which is not exempt from taxation. Taxes due the taxing jurisdiction are payable at the same times and in the same manner as they would be payable if the exemptions were inapplicable. The five year duration of the exemption of the real and personal property from taxation is described in Section 32-9p-9 of these regulations. The Procedural Guide contains instructions for persons desiring to claim a property tax exemption and forms which are required to be filed with the assessor of the taxing jurisdiction in making the claim. Once an eligibility certificate is issued the assessor or board of assessors is responsible for establishing the assessed valuation of the manufacturing facility. The statutes do not prohibit the lawful contest by interested persons of the valuation so established.

(Effective October 13, 1991)

### **Sec. 32-9p-9. Duration of benefits; Change in use, occupancy or ownership**

(a) The benefits of the statutes are provided with respect to the manufacturing facility and qualified machinery and equipment, and are established for fixed terms which cannot be extended. Corporation business tax credits may be claimed only for the ten income years following the income year of the issuance of an eligibility certificate for a manufacturing facility. Any qualified occupant of the facility may claim the credit during this period, and none after. Because the benefit is fixed with respect to the facility, a business which occupies the facility in any year after an eligibility certificate is issued may claim the benefit only for the years remaining in the eligibility term and not for a full ten years. The credit may not be claimed before the first full income year following the issuance of an eligibility certificate. Pro-rata allowances in the credit for changes in occupancy during one year of the ten-year term will be permitted as long as the change in occupancy is properly reflected on a replacement eligibility certificate.

(b) The fixed term for which the real property tax exemption applies is the five assessment years following the assessment year in which the acquisition, construction, renovation or expansion of the manufacturing facility is completed. The completion date will be determined by taking into account the date of completion of physical construction, the issuance of occupancy certificates, the commencement of business operations, employment considerations, and any other factors relevant in the circumstances. The personal property tax exemption applies during the same fixed term

of the five assessment years for the real property tax exemption. Once established upon the issuance of an original or replacement eligibility certificate, these terms cannot be extended. The availability of the exemption to subsequent owners, users and other taxpayers terminates at the expiration of the term so established. Thus a sale of manufacturing facility in the fourth assessment year of the eligibility term will entitle the new owner only to one full assessment year of the exemption, the same as would have been available to the seller. The exemption applicable and taxes payable in the year of sale will apply on a pro-rata basis between the new and former owners in the manner applicable to any real property transfer. Similarly, a change in the use of qualified machinery and equipment will result in a pro-ration of the personal property taxes payable in the year of change in use, but will not result in an extension of the originally established five year exemption period.

(c) The entitlement to any benefit allowed by the statutes, whether the corporation business tax credit or the real or personal property tax exemption, will terminate if the facility ceases to be qualified as a manufacturing facility under the statutes. Section 32-9p-5 of these regulations describes the applicable qualification criteria. Each person listed on an eligibility certificate is responsible for reporting to the Department any abandonment of the facility or any change in use which would bear upon the continued qualification of the facility. A manufacturing facility for which an eligibility certificate has been issued which becomes idle for a period of more than ninety days will cease to be qualified as a manufacturing facility. Similarly, a facility's qualification will also cease when it is used for a purpose which would not qualify it as a manufacturing facility on an original application for an eligibility certificate. No credit or exemptions may be claimed in the income or assessment year of any such termination.

(Effective December 20, 1984)

### **Sec. 32-9p-10. Municipal grant claims and payment**

Under the statutes, 20% of the taxes payable with respect to a manufacturing facility are payable by the owner of the facility reflected in the local land records. Pursuant to Section 32-9s of the statutes, an amount equal to 75% of the remaining 80% of such taxes will be paid by the State to the taxing jurisdiction upon proper application for the grant by the taxing jurisdiction. Notwithstanding provisions of this section, in the case of a business facility as defined in Sec. 32-9p-5 (h) (5) of these regulations an amount equal to 50% of the remaining 80% of such taxes will be paid by the state to the taxing jurisdiction. The amount payable by the State is based upon the total taxes due with respect to the exempt property, and will not be increased on account of the delinquency of any taxpayer. The taxing jurisdiction will have no claim against the State for real or personal property taxes which remain unpaid by the facility owner or machinery and equipment user.

(Effective October 29, 1986)