

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)