

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill ACT 137 OF 1991

HOUSE BILL 1402

4 **By: Representatives Day, Wagner, and Brownlee**

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For An Act To Be Entitled

8 "AN ACT TO PROVIDE QUALIFIED MANUFACTURERS OF STEEL AN
9 EXTENDED PERIOD TO CLAIM THE INCOME TAX NET OPERATING LOSS
10 DEDUCTIONS; TO EXEMPT THEIR PURCHASES OF NATURAL GAS AND
11 ELECTRICITY FROM SALES AND USE TAX; AND FOR OTHER
12 PURPOSES."

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14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. DEFINITIONS. For purposes of this Act, the following
17 definitions apply:

18 (a) A taxpayer is a "qualified manufacturer of steel" if:

19 (1) The taxpayer is a natural person, company or corporation engaged in
20 the manufacture, refinement, or processing of steel, and,

21 (2) More than 50% of the electricity or natural gas consumed in the
22 manufacture, refinement or processing of steel by the taxpayer is used either

23 (A) to power an electric arc furnace or furnaces, continuous
24 casting equipment or rolling mill equipment in connection with melting,
25 continuous casting or rolling of steel, or,

26 (B) in the preheating of steel for processing through a rolling
27 mill.

28 (b) "Production and processing equipment" includes machinery and
29 equipment essential for the receiving, storing, processing and testing of raw
30 materials and the production, storage, testing, and shipping of finished
31 products, including facilities for the production of: steam, electricity,
32 chemicals, and such other materials that are essential to the manufacturing
33 process, but which are consumed in the manufacturing process and do not become
34 essential components of the finished product.

35 (c) "Invested" shall include expenditures made from the proceeds of
36 bonds (including interim notes or other evidence of indebtedness) issued by a

1 municipality, county, or an agency or instrumentality of a municipality,
2 county, or the State of Arkansas, if the obligation to repay the bonds,
3 including interest thereon, is a legal, binding obligation, directly or
4 indirectly, of the taxpayer.

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6 SECTION 2. To claim the benefits of this Act, a taxpayer must obtain
7 certification prior to June 30, 1994, from the director of the Arkansas
8 Department of Industrial Development certifying to the Arkansas Revenue
9 Division that:

10 (a) The taxpayer is a "qualified manufacturer of steel" as defined in
11 Section 1, or

12 (b) (1) The taxpayer operates a steel mill in Arkansas which began
13 production after the effective date of this Act, and

14 (2) The taxpayer has invested, after the effective date of this Act, in
15 excess of one hundred and twenty million dollars (\$120,000,000) in the steel
16 mill which investment expenditure is for one of the following:

17 (A) Property purchased for use in the construction of a building
18 or buildings or any addition or improvement thereon to house the steel mill.

19 (B) Machinery and equipment to be located in or in connection
20 with the steel mill. Motor vehicles of a type subject to registration shall
21 not be considered as machinery and equipment.

22 (C) Project planning costs, construction labor costs (including
23 on-site direct labor and supervision, whether employed by a contractor or the
24 project owner); architectural/engineering fees; right-of-way purchases;
25 utility extensions; site preparation; parking lots; disposal or containment
26 systems; water and sewer treatment systems; rail spurs; streets and roads;
27 purchase of mineral rights; land; buildings; building renovation; production,
28 processing and testing equipment; freight charges; building demolition;
29 material handling equipment; drainage systems; water tanks and reservoirs;
30 storage facilities; equipment rental; contractor's cost plus fees; builders
31 risk insurance; original spare parts, job administration expenses; office
32 furnishings and equipment; rolling stock; capitalized start-up costs as
33 recognized by generally accepted accounting principals; and other costs
34 related to the construction.

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1 SECTION 3. Taxpayers qualified under Section 2(b) of this Act and
2 entitled to an net operating loss deduction as provided in Ark. Code Ann. §
3 26-51-427 may carry forward that deduction to the next succeeding taxable year
4 following the year of such net operating loss and annually thereafter for a
5 total period of ten (10) years or until such net operating loss has been
6 exhausted, whichever is earlier. The net operating loss deduction must be
7 carried forward in the order named above.

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9 SECTION 4. Sales of natural gas and electricity to taxpayers qualified
10 under Section 2(a) or 2(b) of this Act for use in connection with the steel
11 mill shall be exempt from the Arkansas Gross Receipts Tax levied by Act 386 of
12 1941, as amended (Ark. Code Ann. § 26-52-101 et seq.) and the Arkansas
13 Compensating (Use) Tax, levied by Act 487 of 1949, as amended (Ark. Code Ann.
14 § 26-53-101 et seq.), and any other state or local tax administered under
15 those Acts. The benefits of exemptions granted pursuant to this section shall
16 become effective on July 1, 1991.

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18 SECTION 5. All provisions of this act of a general and permanent nature
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 6. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 7. All laws and parts of laws in conflict with this act are
29 hereby repealed.

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31 SECTION 8. EMERGENCY. Unemployment in Arkansas has reached emergency
32 proportions and can only be remedied by attracting new industry. Offering tax
33 incentives is an effective method of attracting business to Arkansas. This
34 Act offers incentives which will reduce unemployment levels. Therefore, an
35 emergency is declared to exist and this Act, being necessary for the immediate

1 preservation of the public peace, health and safety, shall be in full force
2 and effective from and after its passage and approval.

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APPROVED: 2-13-91

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