

As Engrossed: 2/15/91

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

A BILL ACT 748 OF 1991
HOUSE BILL 1168

4 **By: Representative Gibson, Representatives Hawkins, J. Miller, Cunningham, Arnold**

5
6
7

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 26, CHAPTER 51,
9 SUBCHAPTER 5 TO ESTABLISH AN ARKANSAS INCOME TAX CREDIT
10 FOR THE PURCHASE OF WASTE REDUCTION, REUSE OR RECYCLING
11 EQUIPMENT; AND FOR OTHER PURPOSES."

12

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

14

15 SECTION 1. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended
16 to add the following new section:

17 "26-51-506. Tax credit for waste reduction, reuse or recycling
18 equipment.

19 (a) For the purposes of this section:

20 (1) 'Waste reduction, reuse or recycling equipment' means
21 machinery and equipment located in Arkansas on the last day of the taxable
22 year, designed to separate, process, modify, convert, or treat solid waste so
23 that the resulting product may be used as a raw material or for productive
24 use. 'Waste reduction, reuse or recycling equipment' does not include motor
25 vehicles.

26 (2) 'Recycling' means the systematic collection, sorting,
27 decontaminating and returning of waste materials to commerce as commodities
28 for use or exchange.

29 (b) There shall be allowed a credit against the tax imposed by the
30 Arkansas Income Tax Act, as amended, §26-51-101 et seq., an amount as
31 determined in subsection (d) of this section, for any taxpayer engaged in the
32 business of reducing, reusing or recycling solid waste material for commercial
33 purposes who purchases waste reduction, reuse or recycling equipment used
34 exclusively for the purpose of reducing, reusing or recycling solid waste.

35 (c) To claim the benefits of this section, a taxpayer must obtain a
36 certification from the Director of the Arkansas Department of Pollution

1 Control and Ecology certifying to the Revenue Division of the Department of
2 Finance and Administration that:

3 (1) the taxpayer is engaged in the business of reducing, reusing
4 or recycling solid waste material for commercial purposes, whether or not for
5 profit;

6 (2) the equipment purchased is waste reduction, reuse or
7 recycling equipment; and

8 (3) the equipment is being used in the collection, processing,
9 separation or manufacturing of products containing at least fifty percent
10 (50%) recovered waste materials, of which ten percent (10%) of the recovered
11 waste materials is from post-consumer waste.

12 (d) The amount of the credit allowed under subsection (a) of this
13 section shall be equal to thirty percent (30%) of the cost of waste reduction,
14 reuse or recycling equipment including the cost of installation. The cost of
15 installation shall not include the cost of feasibility studies, engineering
16 costs of a building to house the equipment and related machinery and equipment
17 used to service the waste reduction, reuse or recycling equipment.

18 (e) (1) In the case of a proprietorship or partnership engaged in the
19 business of waste reduction, reuse or recycling of solid waste, the amount of
20 the credit determined under this section for any taxable year shall be
21 apportioned to each proprietor or partner in proportion to the amount of
22 income from the entity which the proprietor or partner is required to include
23 as gross income.

24 (2) In the case of a Subchapter S corporation, as allowed by
25 §26-51-409, the amount of the credit determined under this section for any
26 taxable year shall be apportioned among the persons who are shareholders of
27 the corporation on the last day of the taxable year based on each person's
28 percentage of ownership.

29 (3) In the case of an estate or trust:

30 (A) the amount of the credit determined under this section
31 for any taxable year shall be apportioned between the estate or trust and the
32 beneficiaries on the basis of the income of the estate or trust allocable to
33 each; and

34 (B) any beneficiary to whom any amount has been apportioned
35 under Section 4 (d) (1) of this section shall be allowed, subject to

1 limitations contained in this section, a credit under this section for the
2 amount.

3 (f) The amount of the credit that may be used by a taxpayer for a
4 taxable year may not exceed the amount of state, individual or corporate
5 income tax otherwise due. Any unused credit may be carried over for a maximum
6 of three (3) consecutive years following the taxable year in which the credit
7 originated.

8 (g) A taxpayer who receives a credit under this section shall not be
9 entitled to claim any other credit or deduction based on the purchase of the
10 equipment.

11 (h) This section shall apply to purchases of waste reduction, reuse or
12 recycling equipment made after January 1, 1991."

13

14 SECTION 2. All provisions of this Act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

17

18 SECTION 3. If any provision of this Act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the Act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 Act are declared to be severable.

23

24 SECTION 4. All laws or parts of laws in conflict with this Act are
25 hereby repealed.

26

/s/ B. Gibson et al

27

28

APPROVED: 3-26-91

29

30

31

32

33