

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015

A Bill

HOUSE BILL 1429

4
5 By: Representative Jett
6 By: Senator Burnett

For An Act To Be Entitled

9 AN ACT TO EXTEND TAX INCENTIVES AND PROVIDE
10 COMPETITIVE TAX EXEMPTIONS TO QUALIFIED MANUFACTURERS
11 OF STEEL; AND FOR OTHER PURPOSES.

Subtitle

15 TO EXTEND TAX INCENTIVES AND PROVIDE
16 COMPETITIVE TAX EXEMPTIONS TO QUALIFIED
17 MANUFACTURERS OF STEEL.

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19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. DO NOT CODIFY. Legislative findings.

23 The General Assembly finds that:

24 (1) Arkansas is one (1) of the leading producers of steel in the
25 United States, and Mississippi County, Arkansas, is ranked as one (1) of the
26 top (2) highest steel-producing counties in the United States;

27 (2) The steel industry in the United States is highly
28 competitive, and there are presently rising prices and a high level of demand
29 for raw materials in the domestic market;

30 (3) The five-year global recession that began in 2008 and
31 current economic conditions in the steel industry are continuing to
32 substantially affect the profitability of many Arkansas companies and reduce
33 the ability of Arkansas steel producers to utilize existing incentive
34 programs that are intended to encourage capital investment in this state; and

35 (4) In order to protect and preserve Arkansas jobs and encourage
36 continuing capital investment by steel producers in this state, adjustments



1 in the Arkansas recycling tax credit are appropriate to allow the tax credit
2 to be utilized more fully to accomplish the purposes for which the tax credit
3 is intended.

4
5 SECTION 2. Arkansas Code Title 15, Chapter 4, Subchapter 27, is
6 amended to add an additional section to read as follows:

7 15-4-2715. Qualified manufacturer of steel – Assignment and use of
8 credits.

9 (a) To be eligible for the income tax credit allowed under this
10 section, a taxpayer shall:

11 (1) Be a qualified manufacturer of steel as defined in § 26-51-
12 1211, § 26-52-901, § 26-52-911, Act 1084 of 2013, or Act 1476 of 2013;

13 (2) Have made the minimum investment required under § 26-51-
14 1212, § 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; and

15 (3) Either:

16 (A) Have obtained a certification under § 26-51-1212, §
17 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; or

18 (B) Be located on the same or an adjacent manufacturing
19 site as a qualified manufacturer of steel that has obtained such a
20 certification.

21 (b) An unused retention tax credit earned by a qualified manufacturer
22 of steel under § 15-4-2706(c) may be:

23 (1) Assigned and claimed by another qualified manufacturer of
24 steel located on the same or an adjacent manufacturing site; and

25 (2) Carried forward for a period of nine (9) consecutive years
26 beyond the year in which the retention tax credit was first earned under §
27 15-4-2706(c).

28 (c)(1) A retention tax credit earned by a qualified manufacturer of
29 steel under § 15-4-2706(c) before the effective date of this act that has
30 been carried forward for less than nine (9) consecutive years beyond the year
31 in which the retention tax credit was first earned under § 15-4-2706(c) may
32 be carried forward for a period of nine (9) consecutive years beyond the year
33 in which the retention tax credit was first earned under § 15-4-2706(c)
34 regardless of whether the retention tax credit has previously expired.

35 (2) However, if a retention tax credit expired before the
36 effective date of this act and is carried forward under subdivision (c)(1),

1 then the retention tax credit may be deducted from gross receipts tax and
2 compensating use tax liability only in tax years beginning on or after
3 January 1, 2015.

4
5 SECTION 3. Arkansas Code Title 26, Chapter 51, Subchapter 12, is
6 amended to add an additional section to read as follows:

7 26-51-1215. Tax credit for waste reduction, reuse, or recycling
8 equipment.

9 (a) As used in this section, "waste reduction, reuse, or recycling
10 equipment" means the same as defined in § 26-51-506 except that it also
11 includes production, processing, and testing equipment used to manufacture
12 products containing recovered materials.

13 (b) To be eligible for the income tax credit allowed under this
14 section, a taxpayer shall:

15 (1) Be a qualified manufacturer of steel as defined in § 26-51-
16 1211, § 26-52-901, § 26-52-911, Act 1084 of 2013, or Act 1476 of 2013;

17 (2) Have made the minimum investment required under § 26-51-
18 1212, § 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; and

19 (3) Either:

20 (A) Have obtained a certification under § 26-51-1212, §
21 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; or

22 (B) Be located on the same or an adjacent manufacturing
23 site as a qualified manufacturer of steel that has obtained such a
24 certification.

25 (c)(1) A qualified manufacturer of steel that qualifies for the income
26 tax credit for the purchase of waste reduction, reuse, or recycling equipment
27 under § 26-51-506 may carry forward any unused income tax credit earned under
28 § 26-51-506 for a period of fourteen (14) consecutive years following the
29 taxable year in which the income tax credit originated.

30 (2) Sections 5(b) and 7(a)(1)(B) of Act 1084 of 2013 and Act
31 1476 of 2013 shall continue to apply to the carry forward period for
32 qualified manufacturers of steel certified under those acts.

33 (3) Income tax credits that would otherwise expire during the
34 carry forward period shall be claimed first.

35 (4)(A) A qualified manufacturer of steel that received an income
36 tax credit under § 26-51-506 before the effective date of this act that has

1 been carried forward for less than fourteen (14) consecutive years following
2 the taxable year in which the income tax credit originated may carry forward
3 the unused income tax credit for a total period of fourteen (14) consecutive
4 years following the taxable year in which the income tax credit originated
5 regardless of whether the income tax credit had previously expired.

6 (B) However, if an income tax credit expired before the
7 effective date of this act and is carried forward under this subdivision
8 (c)(4), then the income tax credit may be deducted from income tax liability
9 only in tax years beginning on or after January 1, 2015.

10 (d) To claim the benefits of § 26-51-506, a qualified manufacturer of
11 steel shall either:

12 (1) Meet the requirements of § 26-51-506(d); or

13 (2) Obtain a certification from the Director of the Arkansas
14 Department of Environmental Quality certifying to the Revenue Division of the
15 Department of Finance and Administration that:

16 (A) The qualified manufacturer of steel is engaged in the
17 business of reducing, reusing, or recycling solid waste material for
18 commercial purposes, whether or not for profit;

19 (B) The machinery or equipment purchased is waste
20 reduction, reuse, or recycling equipment;

21 (C) The machinery or equipment is being used in the
22 collection, separation, processing, modification, conversion, treatment, or
23 manufacturing of products containing at least twenty-five percent (25%)
24 postconsumer waste; and

25 (D) The qualified manufacturer of steel has filed a
26 statement with the director acknowledging that the qualified manufacturer of
27 steel will make a good faith effort to utilize Arkansas postconsumer waste as
28 a part of the materials used.

29 (e)(1) Except as provided in subdivision (e)(2) of this section, § 26-
30 51-506(f) does not apply to a qualified manufacturer of steel meeting the
31 requirements of this section.

32 (2) A qualified manufacturer of steel shall refund the amount
33 required under subdivision (e)(3) of this section if within three (3) years
34 of the taxable year in which the credit originated:

35 (A)(i) The waste reduction, reuse, or recycling equipment
36 is removed from Arkansas, disposed of, or transferred to another person, or

1 the qualified manufacturer of steel otherwise ceases to use the required
2 materials or operate in accordance with § 26-51-506 or this section.

3 (ii) Reorganization transactions, changes of
4 ownership and control, and sales and transfers of waste reduction, reuse, or
5 recycling equipment among affiliates that do not constitute sales or
6 transfers to a third-party purchaser are not disposals, transfers, or
7 cessations of use for purposes of § 26-51-506 or this section; or

8 (B) The director finds that the qualified manufacturer of
9 steel has operated the waste reduction, reuse, or recycling equipment in a
10 manner that demonstrates a pattern of intentional failure to comply with
11 final administrative or judicial orders that clearly indicates a disregard
12 for environmental regulation.

13 (3) If a qualified manufacturer of steel is required to make a
14 refund under subdivision (e)(2) of this section, the qualified manufacturer
15 of steel shall refund the amount of the allowed income tax credit claimed by
16 the qualified manufacturer of steel that exceeds the following amounts:

17 (A) Within the first taxable year, zero dollars (\$0.00);

18 (B) Within the second taxable year, an amount equal to
19 thirty-three percent (33%) of the amount of credit allowed; and

20 (C) Within the third taxable year, an amount equal to
21 sixty-seven percent (67%) of the credit allowed.

22 (4) A refund required under subdivision (e)(2)(A) of this
23 section applies only to the credit given for the particular waste reduction,
24 reuse, or recycling equipment to which subdivision (e)(2)(A) of this section
25 applies.

26 (5) A qualified manufacturer of steel that is required to refund
27 part of an income tax credit under this section shall no longer be eligible
28 to carry forward any amount of the income tax credit that had not been used
29 as of the date the refund is required.

30 (f) A qualified manufacturer of steel aggrieved by a decision of the
31 director under this section may appeal to the Arkansas Pollution Control and
32 Ecology Commission through administrative procedures adopted by the
33 commission and to the courts in the manner provided in §§ 8-4-222 – 8-4-229.

34 (g) Act 1084 of 2013 and Act 1476 of 2013 continue in full force and
35 effect and are not amended or limited by this section.

36

1 SECTION 4. Arkansas Code Title 26, Chapter 52, Subchapter 9, is
2 amended to add an additional section to read as follows:

3 26-52-915. Exemption for replacement and repair of machinery and
4 equipment.

5 (a) As used in this section:

6 (1) “Manufacturing” or “processing” means the same as defined in
7 § 26-52-402(b) and includes activities described in subsection (b) of this
8 section, both independently and collectively; and

9 (2) “Used directly” means the same as defined in § 26-52-402(c).

10 (b) To be eligible for the exemption provided under this section, a
11 taxpayer shall:

12 (1) Be a qualified manufacturer of steel as defined in § 26-51-
13 1211, § 26-52-901, § 26-52-911, Act 1084 of 2013, or Act 1476 of 2013;

14 (2) Have made the minimum investment required under § 26-51-
15 1212, § 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; and

16 (3) Either:

17 (A) Have obtained a certification under § 26-51-1212, §
18 26-52-902, § 26-52-912, Act 1084 of 2013, or Act 1476 of 2013; or

19 (B) Be located on the same or an adjacent manufacturing
20 site as a qualified manufacturer of steel that has obtained such a
21 certification.

22 (c) The gross receipts or gross proceeds derived from the sale of the
23 following to a qualified manufacturer of steel are exempt from the gross
24 receipts tax levied under this chapter and the compensating use tax levied by
25 the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.:

26 (1) Machinery and equipment purchased to modify, replace, or
27 repair, either in whole or in part, existing machinery or equipment used
28 directly in producing, manufacturing, fabricating, assembling, processing,
29 finishing, or packaging articles of commerce at a manufacturing or processing
30 plant or facility in this state; and

31 (2) Service relating to the initial installation, alteration,
32 addition, cleaning, refinishing, replacement, or repair of machinery or
33 equipment described in subdivision (b)(1) of this section.

34 (d) All existing tax exemptions, including without limitation
35 exemptions under §§ 26-52-402 and 26-53-114, remain in effect and are not
36 limited by this section.