

**CHAPTER 73. EMERGENCY AND LIMITED MALT
BEVERAGE TAX CREDIT**

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§§ 73.1—73.4. [Reserved].**Source**

The provisions of these §§ 73.1—73.4 reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial page (83027).

§§ 73.5—73.8. [Reserved].**Source**

The provisions of these §§ 73.5—73.8 amended July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067; reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial pages (83027) to (83030).

§ 73.21. [Reserved].**Source**

The provisions of this § 73.21 amended through July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067; reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial page (83031).

§ 73.22. [Reserved].**Source**

The provisions of this § 73.22 amended July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067; reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial pages (83031) to (83032).

§ 73.23. [Reserved].**Source**

The provisions of this § 73.23 reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial page (83032).

§§ 73.24—73.27. [Reserved].**Source**

The provisions of these §§ 73.24—73.27 amended July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067; reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial pages (83032) to (83033) and (83035) to (83036).

§ 73.28. [Reserved].**Source**

The provisions of this § 73.28 reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial page (83036).

§ 73.29. [Reserved]**Source**

The provisions of this § 73.29 reserved July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067. Immediately preceding text appears at serial page (35907).

§ 73.30. [Reserved].**Source**

The provisions of this § 73.30 amended July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067; reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial page (83036).

§ 73.31. [Reserved].**Source**

The provisions of this § 73.31 reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial page (83037).

§§ 73.41—73.43. [Reserved].**Source**

The provisions of these §§ 73.41—73.43 amended July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067; reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial pages (83037) to (83039).

§ 73.44. [Reserved].**Source**

The provisions of this § 73.44 amended through July 1, 1983, effective July 2, 1983, 13 Pa.B. 2067; reserved February 13, 1998, effective February 14, 1998, 28 Pa.B. 979. Immediately preceding text appears at serial pages (83039) to (83040).

§ 73.51. Purpose.

The Secretary of Revenue, under the authority contained in section 10.1(d) and other provisions of the act (47 P. S. § 112.1(d)) and by reason of the act provides, among other things, that the General Assembly of the Commonwealth, conscious of the financial emergency facing the brewing industry of this Commonwealth and the attendant risk of business failure and loss of employment opportunity, declares it public policy that the renewal and improvement of the capital facilities of the brewing industry be encouraged and assisted by a limited tax subsidy to be granted during the period of the emergency and further making provisions for a limited subsidy by tax credits to be allowed under certain terms, conditions and limitations, adopts this section and §§ 73.52—73.57 to assist in these and other purposes and to aid and guide in the administration, operation and enforcement of the act.

Authority

The provisions of this § 73.51 issued under the Malt Beverage Tax Law (47 P. S. § 112.1 (Repealed)).

Source

The provisions of this § 73.51 adopted August 30, 1974, effective August 31, 1974, 4 Pa.B. 1811.

§ 73.52. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The act of May 9, 1974 (P. L. 279, No. 82) (47 P. S. § 112.1), an amendment to the Malt Beverage Tax Law (47 P. S. §§ 103—120.3).

Amounts paid—Amounts actually paid, or at the taxpayer's election, amounts promised to be paid under firm purchase contracts actually executed within any calendar year falling within the emergency period provided, however, that there shall be no duplication of amounts paid under this definition. Provided, further, that no amount or amounts shall constitute amounts paid until full proof thereof, as provided in the act and as provided in this chapter, shall have been submitted and filed under oath or other verification, as hereinafter required, and the Secretary has approved and certified the amounts and then only to the extent of the amounts so approved and certified by the Secretary not to exceed \$100,000 within a single calendar year.

Bureau—The Pennsylvania Bureau of Cigarette and Beverage Taxes.

Commonwealth—The Commonwealth of Pennsylvania.

Department—The Department of Revenue of the Commonwealth of Pennsylvania.

Emergency period—The period from January 1, 1974, to December 31, 1976, inclusive.

Qualifying capital expenditures—Amounts paid by a taxpayer during the emergency period for the purchase of items of plant, machinery or equipment intended for use by the taxpayer within this Commonwealth in the manufacture and sale of malt or brewed beverages. However, the total amount of qualifying capital expenditures made by the taxpayer within a single calendar year included within the emergency period may not exceed \$100,000. Provided further that the plant, machinery and equipment shall be directly related to the utilization of the manufacture and sale of malt or brewed beverages. Provided, further, that the total amount of qualifying capital expenditures made within a single calendar year within the emergency period shall include all amounts paid as defined in this chapter and the act, and shall not exceed \$100,000 in any single calendar year.

Example 1. Company expands, repairs, or improves employe parking facilities. This expenditure is not directly related to the manufacture and sale of malt beverages and hence does not qualify for tax credit.

Example 2. Company purchases new trucks to be used in the delivery of malt beverages to its customers. This expenditure is directly related to the manufacture and sale of malt beverages and hence qualifies for tax credit consideration.

Example 3. Company purchases automobiles for use by its salesmen and executives. These expenditures are not directly related to the manufacture and sale of malt beverages and hence do not qualify for tax credit.

Example 4. Company replaces a roof of a segment of its manufacturing plant, that is bottling facilities. This expenditure qualifies for tax credit.

Report—The application for claiming a tax credit as provided for in section 10.1(d) of the act (47 P. S. § 112.1(d)) and all attachments thereto. The report shall be in writing, shall contain in addition to other information the Secretary shall require, a statement of the nature, amounts and dates of the qualifying capital expenditures made, including a full description of the same, with specifications, together with copies of all contracts, bills, receipts and related papers pertaining to the qualifying capital expenditures for which a tax credit is, or may be sought. The report shall be made under oath or verified so as to subject the maker of the same to the penalties of perjury for any false statement, including attachments, in the report.

Secretary—The Secretary of Revenue of the Commonwealth of Pennsylvania when not otherwise qualified.

Taxpayer—A manufacturer of malt or brewed beverages claiming a tax credit or credits under the act, actively engaged in the manufacture and sale of malt or brewed beverages within this Commonwealth and owning and maintaining one or more plants for the manufacture within this Commonwealth, notwith-

standing whether the taxpayer has more than one plant and sales quarter or other facilities within this Commonwealth.

Authority

The provisions of this § 73.52 issued under the Malt Beverage Tax Law (47 P.S. § 112.1 (Repealed)).

Source

The provisions of this § 73.52 adopted August 30, 1974, effective August 31, 1974, 4 Pa.B. 1811.

Cross References

This section cited in 61 Pa. Code § 73.53 (relating to tax credit to be allowed and limitations).

§ 73.53. Tax credit to be allowed and limitations.

A tax credit or credits shall be allowed to a taxpayer, as provided in this section, not to exceed in total amount the amount of qualifying capital expenditures made by the taxpayer and certified by the Secretary.

(1) The amount of qualifying capital expenditures made by the taxpayer in any single calendar year shall be the total of the amounts actually paid, and at the taxpayer's election, amounts promised to be paid under firm purchase contracts executed during the calendar year, and certified by the Secretary, but not exceeding a total of \$100,000.

(2) No taxpayer, notwithstanding the number of plants, sales quarters or other facilities of the taxpayer within this Commonwealth for the manufacture and sale of malt or brewed beverages, and further notwithstanding the actual amounts paid as defined in § 73.52 (relating to definitions) shall be certified by the Secretary to receive or shall receive a tax credit or credits in any single calendar year in excess of \$100,000.

(3) The tax credit as authorized in this act shall in no event exceed the actual monetary cost to the taxpayer of the qualifying capital expenditure as defined in § 73.52 made by the taxpayer and the actual cost may not include any trade-in allowance, interest or financing charges or legal expenses or the cost of any item or expense not a direct actual cost of construction of plant or purchase and installation of machinery or equipment intended for use by the taxpayer within the Commonwealth in the manufacture and sale of malt or brewed beverages.

(4) Tax credit in any calendar year may not exceed tax paid to the Department in that calendar year.

Authority

The provisions of this § 73.53 issued under the Malt Beverage Tax Law (47 P.S. § 112.1 (Repealed)).

Source

The provisions of this § 73.53 adopted August 30, 1974, effective August 31, 1974, 4 Pa.B. 1811.

§ 73.54. Report applying for tax credit.

A taxpayer desiring to claim a tax credit or credits under this act shall from time to time, in accordance with regulations promulgated by the Secretary, report to the Secretary the nature, amounts and dates of qualifying capital expenditure made by him and other information the Secretary shall require. If satisfied as to the correctness of the report, the Secretary shall issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within the report.

(1) Effective September 30, 1974, a taxpayer may no less than 4 weeks prior to making a commitment of expenditures regarding a qualifying capital expenditure notify the Secretary in writing by personal delivery or certified mail, of the renewal or improvement intended to be made and fully describe the same. The Secretary may, at his discretion, cause an examination to be made of the taxpayer's capital facilities to ascertain what renewal and improvement, or either, of the capital facilities is intended. No report provided for in this subchapter or the act may be made or submitted by a taxpayer, nor may a tax credit for any renewal and improvement of the capital facilities be allowed, nor may a certificate establishing an amount of qualifying capital expenditures be made or tax credit allowed, whichever shall in the Secretary's discretion be applicable, unless the foregoing written notification has been submitted by the taxpayer.

(2) When the amounts paid, as defined in this chapter, shall be for the purchase of items of plant, machinery and equipment, as defined in this chapter or in the act, the taxpayer shall within 30 days after completion of the construction or installation of these items of plant, machinery or equipment, deliver to the Secretary, in writing, by personal delivery or certified mail, notice of the completion or installation. The Secretary, at his discretion, may cause an inspection to be made of the taxpayer's capital facilities to determine that the construction or installation has been completed and the plant, machinery or equipment has been placed into use or a valid reason for nonuse, and withhold the application of any tax credit or the issuance of a certificate provided for in this section until such construction or installation has been fully completed.

(3) Every report provided for in this section or in the act shall include and have attached thereto a full description of the items of plant, machinery or equipment, which is the subject matter of the report and which is concerned in any claim for a tax credit, including in detail the nature, amounts and dates of the qualifying capital expenditures made by the taxpayer, together with a written and signed statement, by the taxpayer or an officer thereof, under oath or verified so as to subject the maker of the same to the penalties of perjury for any false statement, including attachments, in the report, that the statements, items and amounts in the report and the attachments thereto are fully true, exact, correct and authentic, and submit exact copies of all documents, and the

like, in support thereof including, but not restricted to, contracts, bills, receipts and other related papers pertaining to the qualifying capital expenditures.

(4) It shall be the duty of the taxpayer to maintain auditable records schedules and relevant supporting data regarding tax credit claims until January 31, 1980. In addition, a schedule of payments and commitments shall be accurately maintained and be explicitly identifiable as to the amounts paid as well as the qualifying capital expenditure.

(5) Every taxpayer shall keep and retain full and complete books of account records and appropriate subsidiary accounts and data as to every qualifying capital expenditure, reports with attachments and every tax credit allowed and every certificate issued under the act as to qualifying capital expenditures by the Secretary for a period of not less than 3 years after December 31, 1977, or later date as the Secretary may in writing notify the taxpayer on or prior to December 31, 1977. All records shall be subject to examination by the Department. Every taxpayer shall give to the Department, or its duly authorized representative, reasonable means, facilities and opportunity for these examinations and audits.

(6) The Secretary may, from time to time, prepare and require the use of forms deemed needed or necessary to carry out the act and this chapter.

Authority

The provisions of this § 73.54 issued under the Malt Beverage Tax Law (47 P.S. § 112.1 (Repealed)).

Source

The provisions of this § 73.54 adopted August 30, 1974, effective August 31, 1974, 4 Pa.B. 1811.

§ 73.55. Grant of credit, conditions and limitations.

Upon receipt from a taxpayer of a certificate from the Secretary issued under section 10.1(c) of the act (47 P.S. § 112.1(c)) the Secretary shall grant a tax credit in the amount certified against any tax then due or thereafter becoming due from the taxpayer under the act. No credit will be allowed against any tax due for any taxable period ending after December 31, 1977.

(1) No tax credit or certificate for the credit provided for in the act will be credited or applied against any tax delinquent or past due under this act after the end of the calendar year in which the tax becomes due.

(2) Tax credits not utilized by taxpayer because taxpayer's tax payments were exceeded by the tax credit allowable in any calendar year are available for utilization by the taxpayer in subsequent calendar years, but not beyond December 31, 1977.

Authority

The provisions of this § 73.55 issued under the Malt Beverage Tax Law (47 P.S. § 112.1 (Repealed)).

Source

The provisions of this § 73.55 adopted August 30, 1974, effective August 31, 1974, 4 Pa.B. 1811.

§ 73.56. Reversal of credit allowance, liability for tax and interest, inapplicability of any statute of limitations.

(a) If the Secretary finds at any time that an expenditure has ceased to be a qualifying capital expenditure, the Secretary shall thereupon reverse any credit allowance theretofore made in respect of the expenditure and the taxpayer shall become liable for payment of the tax against which the credit was allowed, together with interest as provided by law. No statute of limitations may be applicable to prevent collection of the tax.

(b) If a qualifying capital expenditure for which a tax credit has been granted by the Department is subsequently sold, transferred, leased or otherwise disposed of by the taxpayer, then the tax credit applicable to the expenditure may, under certain conditions, be recaptured and the amount of tax credit posted as a debit on the taxpayer's Malt Beverage Tax account in the Department. The taxpayer is required to notify the Secretary, in writing, of any disposition and the applicable information thereto.

Authority

The provisions of this § 73.56 issued under the Malt Beverage Tax Law (47 P.S. § 112.1 (Repealed)).

Source

The provisions of this § 73.56 adopted August 30, 1974, effective August 31, 1974, 4 Pa.B. 1811.

§ 73.57. Construction and amendment of regulations.

(a) This chapter is intended to aid the efficient operation and the orderly administration and application of the act. It shall be construed for the accomplishment of these purposes.

(b) This chapter may be amended or repealed at any time in accordance with law.

(c) This chapter and section headings are intended for designation only, and may not limit or in any manner affect the meaning, contents or language of any section or paragraph or any amendments to this chapter.

Authority

The provisions of this § 73.57 issued under the Malt Beverage Tax Law (47 P.S. § 112.1 (Repealed)).

Source

The provisions of this § 73.57 adopted August 30, 1974, effective August 31, 1974, 4 Pa.B. 1811.

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