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TITLE 50 STATE BOARD OF TAX COMMISSIONERS

LSA Document #00-83(F)

DIGEST

Amends 50 IAC 10 to address amendments made to IC 6-1.1-12.1 that expanded the available abatement deduction periods, changed the deduction schedules, and made the deduction available to research and development equipment. Effective 30 days after filing with the secretary of state.

50 IAC 10-1-3	50 IAC 10-2-6
50 IAC 10-1-6	50 IAC 10-3-1
50 IAC 10-1-6.5	50 IAC 10-3-2
50 IAC 10-1-9	50 IAC 10-3-3
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SECTION 1. 50 IAC 10-1-3 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-1-3 “New manufacturing equipment” defined

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1-1

Sec. 3. (a) “New manufacturing equipment” has the meaning set forth in IC 6-1.1-12.1-1(3). In order to be new manufacturing equipment, personal property must be qualifying **property machinery and equipment** as defined in ~~50 IAC 10-1-6~~ **section 6 of this rule**.

(b) New manufacturing equipment includes new equipment and used equipment brought into Indiana from outside of Indiana.

(c) Special tooling, as defined in 50 IAC 4.2-6-2, qualifies as new manufacturing equipment if it satisfies the requirements of qualifying **property machinery and equipment** under section 6 of this rule.

(d) The capitalized amount of expenditures for the major rebuilding or reworking of existing production equipment qualify [*sic., qualifies*] as new manufacturing equipment, if those expenditures are capitalized for federal income tax purposes and substantially increase the productivity or capacity of existing manufacturing equipment, substantially prolong the useful life of the existing manufacturing equipment, or adapt the manufacturing equipment to a substantially different use. The expenditures first become eligible as new manufacturing equipment when those expenditures are capitalized. (*State Board of Tax Commissioners; 50 IAC 10-1-3; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1294; errata filed Feb 9, 1996, 11:05 a.m.: 19 IR 1372; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1303*)

SECTION 2. 50 IAC 10-1-6 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-1-6 “Qualifying machinery and equipment” defined

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1

Sec. 6. (a) “Qualifying ~~property~~ **machinery and equipment**” means tangible property used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

(1) As used in this subsection, “production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or

finishing” is a comprehensive description of the various means of production and circumscribes all of the operations or processes by which a finished product is derived.

(2) As used in this subsection, “direct”, within the phrase “used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property”, means an essential or integral part of the operation or process that leads to the creation of other tangible personal property.

(3) The conversion of a solid waste or a hazardous waste into energy or other useful products constitutes use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

(b) Personal property will be qualifying **property machinery and equipment** when it is used within the process that chronologically begins with the material handling equipment that carries or moves the raw material from its on-site storage location to the first machine or production step and ends with the material handling equipment that carries or moves the finished product from its final machine or production step to the in-plant finished good storage site.

(c) Examples of personal property that may be considered qualifying **property machinery and equipment** include, but are not limited to, the following:

(1) Computer equipment, if used directly to control equipment directly used in the manufacturing process.

(2) Laboratory equipment, if used directly to test the tangible personal property being produced.

(3) Testing and inspection equipment, including quality control equipment, used to ensure the specifications or quality of the tangible personal property being produced. However, the equipment must be used:

(A) as part of the production process; and

(B) to test or inspect the tangible personal property being produced.

(4) Shelves, racks, or other temporary storage facilities or containers used to transport or convey work-in-progress from one (1) step in the production process to another step in the production process, or for the temporary storage of work-in-progress between one (1) step in the production process to another step in the production process.

(d) Examples of personal property that will not be considered qualifying **property machinery and equipment** include, but are not limited to, the following:

(1) Computer equipment, if used for such functions as administration, payroll, bookkeeping, drafting, production scheduling, or inventory control.

(2) Furniture and fixtures, such as office furniture, telephones and telephone equipment, break room fixtures, and employee lockers.

(3) Maintenance equipment used to repair production equipment.

(4) Licensed transportation vehicles.

(5) Warehouse racks, shelving, or other equipment used to store either raw materials or finished goods.

(6) Equipment used in research and development, including computer equipment used in research and development.

(e) If computer equipment, or other personal property, is both used in direct production and is also used for purposes other than direct production, an allocation shall be made between its use in direct production and its use for purposes other than direct production. (*State Board of Tax Commissioners; 50 IAC 10-1-6; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1295; errata filed Feb 9, 1996, 11:05 a.m.: 19 IR 1372; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1303*)

SECTION 3. 50 IAC 10-1-6.5 IS ADDED TO READ AS FOLLOWS:

50 IAC 10-1-6.5 “Qualifying research and development equipment” defined

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1-1; IC 6-1.1-35-9

Sec. 6.5. “Qualifying research and development equipment” means new research and development equipment as defined under IC 6-1.1-12.1-1(12), and properly documented as required by this section. Each item, or group of like items, must be individually identified and itemized as one (1) of the following:

(1) Laboratory equipment.

(2) Research and development.

(3) Computer and computer software.

(4) Telecommunications equipment.

(5) Testing equipment.

Each item or group of like items must be identified as being devoted to a specified research and development activity. As used in this subsection, “research and development activity” means an activity that can be demonstrated, under commonly recognized industry practices, as being related to the research and development, testing, or improvement of a new or existing product. The documentation required by this subsection may be supported by academic industry literature, internal company documents, or data (including confidential information submitted under IC 6-1.1-35-9), or any Indiana or United States statute, rule, or regulation that relates to research and development or the taxation of research and development equipment or activities. (State Board of Tax Commissioners; 50 IAC 10-1-6.5; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1304)

SECTION 4. 50 IAC 10-1-9 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-1-9 “Statement of benefits” defined

Authority: IC 6-1.1-31-1

Affected: IC 5-14-3-3; IC 6-1.1-12.1-4; IC 6-1.1-12.1-4.5

Sec. 9. (a) “Statement of benefits” means the document or form on which the property owner submits information to the designating body. The statement of benefits form is prescribed by the state board. The state board has prescribed Form SB-1, Statement of Benefits (State Form 27167), as the statement of benefits form.

(b) The statement of benefits may be incorporated into the designation application with approval of the state board pursuant to 50 IAC 4.2-1-6.

(c) The statement of benefits must contain information concerning the proposed redevelopment or rehabilitation of real property or the installation of new manufacturing equipment, including the following information:

- (1) A description of the proposed project related to the redevelopment or rehabilitation of real property or the installation of new manufacturing equipment.
- (2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the project.
- (3) An estimate of the salaries of the individuals who will be employed or whose employment will be retained by the person as a result of the project.
- (4) An estimate of the cost and assessed value of the project.
- (5) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.
- (6) If required by the designating body, information concerning other benefits to be provided by the property owner as a result of the project.

(d) The abatement schedules set out in IC 6-1.1-12.1-4 and IC 6-1.1-12.1-4.5, effective prior to July 1, 2000, shall be applied to statement of benefits approved prior to July 1, 2000. The abatement schedules set out in IC 6-1.1-12.1-4 and IC 6-1.1-12.1-4.5, effective after June 30, 2000, shall be applied to statement of benefits approved after June 30, 2000. The abatement schedules set out in IC 6-1.1-12.1-4 and IC 6-1.1-12.1-4.5, effective after June 30, 2000, shall be applied to all research and development equipment. (State Board of Tax Commissioners; 50 IAC 10-1-9; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1296; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1304)

SECTION 5. 50 IAC 10-2-2 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-2-2 Preliminary designation

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1

Sec. 2. (a) The designating body may designate a particular area to be an economic revitalization area on its own motion or upon application by a property owner.

(b) If the designating body designates a particular area to be an economic revitalization area on its own motion, no statement of benefits is required. For example, the designating body may declare an industrial park or former industrial site to be an economic revitalization area in order to spur economic development at that location. This subsection shall not be interpreted to exempt an

applicant from filing a statement of benefits before the initiation of the redevelopment or rehabilitation of real property or the installation of new manufacturing equipment **or research and development equipment** for which the applicant desires to claim the deduction.

(c) Where a property owner has applied for designation of an area, the property owner must provide a statement of benefits. The information contained in the statement of benefits will be evaluated by the designating body in making its decision whether to designate the area an economic revitalization area.

(d) The designating body shall determine whether an area should be designated an economic revitalization area and whether a deduction should be allowed. In doing so, the designating body shall make findings addressing the issues specified in IC 6-1.1-12.1-3 as to property defined in IC 6-1.1-12.1-1(4) or IC 6-1.1-12.1-4.5(a) as to new manufacturing equipment **and/or research and development equipment**. A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by statute are made in the affirmative.

(e) If the designating body finds the area should be an economic revitalization area, it shall either:

(1) prepare maps and plats that identify the area; or

(2) prepare a simplified description of the boundaries of the area by describing its location in relation to public ways, streams, or otherwise.

(f) If the designating body makes the findings required in subsection (d) and prepares the information required in subsection (e), the designating body shall pass a preliminary resolution declaring the area to be an economic revitalization area. The resolution must contain a description of the affected area and be filed with the county assessor. *(State Board of Tax Commissioners; 50 IAC 10-2-2; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1296; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1304)*

SECTION 6. 50 IAC 10-2-3 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-2-3 Limitations permitted upon designation

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1-4.5

Sec. 3. (a) In declaring an area to be an economic revitalization area, the designating body may place certain limitations or conditions on the economic revitalization area, such as a limitation on the length of time that the area shall be designated as an economic revitalization area or a limitation on the dollar amount of the allowable deduction. The designating body must specify the limitation or condition in the preliminary resolution.

(b) However, the designating body may not reduce the number of years over which a taxpayer is statutorily entitled to receive the economic revitalization area deduction. So, even if the designating body adopts a resolution limiting the designation of the economic revitalization area to one (1) calendar year, the new manufacturing equipment **and/or research and development equipment** installed during that calendar year will still be eligible for either the five (5) year deduction schedule or the ten (10) year deduction schedule provided in ~~IC 6-1.1-12.1-4.5~~ **the deduction schedule applicable under 50 IAC 10-1-9(d)**. *(State Board of Tax Commissioners; 50 IAC 10-2-3; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1297; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1305)*

SECTION 7. 50 IAC 10-2-5 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-2-5 Waiver of statement of benefits

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1

Sec. 5. (a) In lieu of providing the statement of benefits and in lieu of providing information showing compliance with the statement of benefits, the designating body may adopt a resolution waiving the statement of benefits. To waive the statement of benefits, the designating body must find that the purposes of the economic revitalization area deduction will be served by allowing the deduction and that the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment **and/or research and development equipment** or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) as determined by the state board.

(b) The property owner or the designating body may request a determination from the state board as to whether the property owner has installed new manufacturing equipment **and/or research and development equipment** or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) during the thirty-six (36) months preceding the first assessment date to which the waiver would apply. Such request shall be made under 50 IAC 4.2-1-6. (*State Board of Tax Commissioners; 50 IAC 10-2-5; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1297; errata filed Feb 9, 1996, 11:05 a.m.: 19 IR 1372; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1305*)

SECTION 8. 50 IAC 10-2-6 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-2-6 Deductions in existing economic revitalization area

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1

Sec. 6. (a) When an economic revitalization area has previously been designated and such designation has not expired, a taxpayer must submit a statement of benefits to the local designating body prior to the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment **and/or research and development equipment** for which the person desires to claim a deduction.

(b) The designating body shall review the statement of benefits submitted under subsection (a) and shall determine under IC 6-1.1-12.1-3(b) as to property defined in IC 6-1.1-12.1-1(4) or IC 6-1.1-12.1-4.5(c) as to new manufacturing equipment **and/or research and development equipment** whether the totality of the benefits justify the deduction. A designating body may not approve of the deduction unless it finds that the totality of the benefits justify [*sic., justifies*] the deduction. (*State Board of Tax Commissioners; 50 IAC 10-2-6; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1297; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1306*)

SECTION 9. 50 IAC 10-3-1 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-3-1 Filing procedures for the deduction for real property

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1

Sec. 1. (a) A property owner who desires to obtain the economic revitalization area deduction for the rehabilitation or redevelopment of real property must file a certified deduction application, on forms prescribed by the state board, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (c) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) The state board has prescribed Form 322 ERA, Application for Deduction from Assessed Valuation for Structures in Economic Revitalization Areas (State Form 18379), as the form on which the economic revitalization area deduction for the rehabilitation or redevelopment of real property shall be claimed.

(c) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, Form 322 ERA (State Form 18379) may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(d) A deduction application filed under subsection (a) or (c) is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the immediate following two (2), four (4), five (5), or nine (9) years **in an economic revitalization area designated prior to July 1, 2000, and the immediate following second through ninth years in an economic revitalization area designated after June 30, 2000**, whichever is applicable, without any additional deduction application being filed.

(e) A property owner who desires to obtain the economic revitalization area deduction for the rehabilitation or redevelopment of real property but who has failed to file a deduction application within the dates prescribed in subsection (a) or (c) may file a deduction application between March 1 and May 10 of a subsequent year. The deduction application shall apply to the year in which it is filed and to subsequent years without the filing of any additional deduction application. (*State Board of Tax Commissioners; 50 IAC 10-3-1; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1298; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1306*)

SECTION 10. 50 IAC 10-3-2 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-3-2 Filing procedures for the deduction for new manufacturing equipment and/or research and development equipment

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-3-7; IC 6-1.1-12.1

Sec. 2. (a) A person who desires to obtain the economic revitalization area deduction for new manufacturing equipment **and/or research and development equipment** must file a certified deduction application on forms prescribed by the state board, in duplicate, with the auditor of the county in which the new manufacturing equipment **and/or research and development equipment** is located. A person who timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment **and/or research and development equipment** is installed must file the application between March 1 and May 15 of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment **and/or research and development equipment** is installed must file the application between March 1 and June 14 of that year.

(b) The county auditor shall forward a file-marked copy of the deduction application to the state board within ten (10) days of receipt.

(c) The state board has prescribed Form ~~ERA/PP~~, 322 **ERA/PPME**, Application for Deduction from Assessed Valuation New Manufacturing Equipment in Economic Revitalization Area (State Form 19338), as the form on which the economic revitalization area deduction for the installation of new manufacturing equipment shall be claimed **and Form 322 ERA/PPR&DE, Application for Deduction from Assessed Valuation New Research and Development Equipment in Economic Revitalization Area, as the form on which the economic revitalization area deduction for the installation of new research and development equipment shall be claimed.**

(d) A deduction application **for new manufacturing equipment** must be filed under this section in the year in which the new manufacturing equipment is installed and in each of the immediately ~~succeeding~~ **following** four (4) or nine (9) years **in an economic revitalization area designated prior to July 1, 2000. A deduction application for new manufacturing equipment and/or research and development equipment must be filed under this section in the year in which the new manufacturing equipment and/or research and development equipment is installed and in each of and the immediate following second through ninth years, whichever is applicable, in an economic revitalization area designated after June 30, 2000.**

(e) The state board shall review and verify the correctness of each deduction application and shall notify the county auditor of the county in which the property is located that the deduction application is approved or denied or that the amount of the deduction is altered. Upon notification of approval of the deduction application or of alteration of the amount of the deduction, the county auditor shall make the deduction. (*State Board of Tax Commissioners; 50 IAC 10-3-2; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1298; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1306*)

SECTION 11. 50 IAC 10-3-3 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-3-3 Leased property

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1

Sec. 3. (a) The claim for deduction for new manufacturing equipment **and/or research and development equipment** subject to a capital lease, as defined in 50 IAC 4.2-8-2(b), shall be made by the lessee.

(b) The claim for deduction for new manufacturing equipment **and/or research and development equipment** subject to an operating lease, as defined in 50 IAC 4.2-8-2(c), shall be made by the lessor. (*State Board of Tax Commissioners; 50 IAC 10-3-3; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1298; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1307*)

SECTION 12. 50 IAC 10-3-4 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-3-4 Compliance with statement of benefits

Authority: IC 6-1.1-31-1

Affected: IC 5-14-3-3; IC 6-1.1-12.1

Sec. 4. (a) Beginning with statements of benefits that were approved after June 30, 1991, a taxpayer must submit information to show compliance with the statement of benefits. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) The state board has prescribed Form CF-1, Compliance with Statement of Benefits (State Form 44973), as the form on which a taxpayer submits information to show compliance with the statement of benefits.

(c) For the deduction for real property, the Form CF-1(~~State Form 44973~~) must be filed with the deduction application (Form 322 ERA) ~~State Form 18379~~) and must be updated within sixty (60) days after the end of each year in which the deduction is applicable.

(d) For the deduction for new manufacturing equipment **and/or research and development equipment**, the Form CF-1(~~State Form 44973~~) must be filed with the deduction application (Form 322 ERA/PP; ~~State Form 19338~~) **ERA/PPME and/or Form 322 ERA/PPR&DE**) between March 1 and May 15 of each year in which the deduction is applicable. If a taxpayer has received a filing extension from the township assessor, the Form CF-1(~~State Form 44973~~) must be filed between March 1 and June 14 of each year in which the deduction is applicable.

(e) With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (Form CF-1). ~~State Form 44973~~);

(f) Except for information concerning the salaries paid to individual employees and the cost of new manufacturing equipment **and/or research and development equipment**, the information contained on the Form CF-1(~~State Form 44973~~) is public information, and the Form CF-1(~~State Form 44973~~) may be inspected and copied under IC 5-14-3-3. (*State Board of Tax Commissioners; 50 IAC 10-3-4; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1299; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1307*)

SECTION 13. 50 IAC 10-4-1 IS AMENDED TO READ AS FOLLOWS:

50 IAC 10-4-1 Correcting procedural problems

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-12.1

Sec. 1. (a) If any of the following events occur, the designating body may adopt a resolution to waive noncompliance:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing held to consider the preliminary resolution.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or before the installation of new manufacturing equipment **and/or research and development equipment** for which the person desires to claim an economic revitalization area deduction.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) rehabilitation;

~~(B)~~ (C) installation of new manufacturing equipment; or

~~(C)~~ **rehabilitation;**

(D) installation of new research and development equipment;

for which the person desires to claim an economic revitalization area deduction.

(4) Failure of the designating body to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, **and/or research and development equipment**.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) Before adopting a waiver under subsection (a), the designating body shall conduct a public hearing on the waiver. (*State Board of Tax Commissioners; 50 IAC 10-4-1; filed Feb 8, 1996, 5:30 p.m.: 19 IR 1299; filed Dec 21, 2000, 2:11 p.m.: 24 IR 1307*)

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