

No. 1986-123

AN ACT

SB 1422

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," reenacting provisions relating to a credit against gross receipts tax for railroad expenditures on maintenance or right-of-way improvements.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1101.2 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added March 27, 1980 (P.L.60, No.24), is reenacted to read:

Section 1101.2. Credit Against Tax.—(a) Subject to the further provisions hereof, a credit against the tax imposed by this act shall be granted to every railroad company, equal to twenty-five per cent of the amount expended in this Commonwealth during calendar year 1980 and each calendar year thereafter, for the maintenance and improvement of rights-of-way, said credit to be applied to the succeeding tax year; however, in order to qualify for the credit each year, a railroad company must spend, in Pennsylvania, an amount equivalent to at least twice the amount of the tax credit granted for the prior year; and, further, in no taxable year shall the amount of the credit allowed exceed the total of the tax due.

(b) For the purpose of this act, "maintenance and improvement of rights-of-way" shall mean and include only those capital and maintenance expenditures, except depreciation, in the official maintenance-of-way and capital track accounts of said railroad company for ties, rails, signals and interlockers, communication systems, power transmission systems, other track materials, ballast and related labor as presently prescribed under the ICC Uniform System of Accounts.

(c) Applications for tax credits shall be filed with the Secretary of Revenue in such form as the secretary shall prescribe, not later than sixty days prior to the commencement of the tax year to which the credit is to be applied. The secretary shall review each such application, and shall grant the same provided that the applicant certifies that the claimed expenditures have been made, and that the railroad company will continue to make substantial investment in the Commonwealth in the maintenance and improvement of rights-of-way during the ensuing year. Investment in the improvement and maintenance of rights-of-way during the taxable year shall be increased above the level which would have been budgeted for such purposes without the credit by at least the amount of the credit. For purposes of this section,

“claimed expenditures” shall not include any funds spent as a consequence of the allowance of a tax credit. The decision of the secretary granting or denying a claimed credit shall be communicated to the applicant prior to the commencement of the tax year to which the credit is proposed to be applied, and said decision shall be final, subject only to review by the Commonwealth Court in the manner prescribed by 2 Pa.C.S. § 701 et seq. (relating to judicial review of Commonwealth agency action).

(d) Every railroad company which applies for and is granted a tax credit under the provisions of this act shall be required to furnish to the members of the General Assembly and the Secretary of Revenue an annual report of systemwide expenditures for those items included in subsection (b) which includes data on Pennsylvania as well as comparable data for those other states in which the railroad company operates together with an accounting of additional expenditure directly attributable to tax credit statutes.

(e) No railroad company shall be entitled to receive the credit established pursuant to this section unless and until such railroad company agrees, in writing, that whenever such railroad company abandons any part of its right-of-way, the abandoned portion of its right-of-way shall be transferred to the Department of Environmental Resources at fair market value within five years of the abandonment proceeding. The railroad company will continue to pay any or all real property taxes imposed on such abandoned right-of-way, or in lieu of such payment, then the property shall be conveyed to the Commonwealth to be used for recreational purposes.

(f) Unless the Secretary of Revenue shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, only such rail as has been manufactured in the United States of America shall be acquired for use in projects for which the credit established pursuant to this section is claimed.

This requirement shall not apply if, at the time such items must be contracted for purchases in connection with a particular project, rail manufactured in the United States of America is not available in sufficient and reasonable commercial quantities and of a satisfactory quality to meet the needs of such projects on a timely and economical basis.

Section 2. (a) The Secretary of Revenue shall review and analyze the effect of the credit against tax authorized by the act and report to the General Assembly.

(b) This act shall apply to tax year 1987 and thereafter.

(c) This act shall expire following tax year 1992 unless reenacted by the General Assembly.

(d) This act shall take effect immediately.

APPROVED—The 10th day of July, A. D. 1986.

DICK THORNBURGH