

## *Ruling 96-13*

Vermont Department of Taxes

Date: July 25, 1996

Written By: George H. Phillips, Tax Policy Analyst

Approved By: Edward W. Haase, Commissioner of Taxes

You have requested a ruling on the first tax year in which [Company] may claim a Vermont manufacturers' investment tax credit. This ruling relies on information contained in your letter dated May 17, 1995.

You indicate that [Company] uses a fiscal year which ends September 30th. It holds an investment tax credit certification for expenditures of \$5,499,797 which it received on December 19, 1994 under the provision of 32 VSA § 5930. A portion of these expenditures were made between July 1, 1993 and September 30, 1993. Other expenses were made in the fiscal year ending September 30, 1994 and subsequently. Some of the expenditures had not yet been made when the certification was issued. In January 1995, cumulative actual expenditures on the certified projects reached \$4 million.

[Company] may begin to use the credit on its Vermont corporation income tax return for the year ending September 30, 1995. The credit is available for the first tax year in which qualified capital expenditures are made, (32 VSA §5930(d)). "Qualified capital expenditures" are defined at section 5930(a),(3) as "expenditures properly chargeable to capital account by a manufacturer between July 1, 1993 and June 30, 1996, totaling at least \$4 million ..." The first year in which certified expenditures totaling at least \$4 million were made is the fiscal year which ends September 30, 1995.

The credit is not available in the year ending September 1993 or the year ending 1994. The expenditures were not qualified capital expenditures when they were made during those years because they did not total at least \$4 million. Your letter suggests that delaying the credit until capital expenditures of \$4 million are made will prevent the credit from matching the revenues and deductions from the investment.

Allowing the credit to be taken when the first expenditures are made would often place the credit in a year before the property was placed in service and before any deduction is available for depreciation expense. It would in most cases allow the credit before revenues are generated from the investment. This approach would hardly support the legislative intent of financing the credits from the increased profits created by the investments.

This ruling is issued solely to you and is limited to the facts presented as affected by current statutes and regulation. Other taxpayers may refer to this ruling to determine the

Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in case of any change in the relevant statutes and regulations.