

Ruling 99-06

Vermont Department of Taxes

Date: December 17, 1999

Written By: George Phillips, Tax Policy Analyst

Approved By: Sean P. Campbell, Commissioner of Taxes

Your letter of December 1, 1999 asks for ruling on the use of credits available to your client, [client]. [Company] has approved a small business investment tax credit under 32 V.S.A. § 5930g for the corporation in the amount of \$107,853 for approved expenditures of \$1,550,000 made during a two-year period beginning January 1, 1999. The transmittal letter approving the credit included a "Schedule for Claiming Credits" indicating that 81% of the credits would be from 1999 investments and 19% from investments in 2000.

You have asked for clarification of whether the year the investment may be taken is determined by the year of the actual investment or the schedule provided by [company]. You have also asked whether an investment is considered to be made when an asset is placed in service, or when an expenditure is booked with an entry to Construction in Progress or a similar account.

The credit is available for "investments within the state of Vermont in excess of \$150,000.00 in plants or facilities and machinery and equipment in the applicable tax year." § 5930g (emphasis added). While neither "investment" nor "applicable tax year" is defined in the statute, the statute does not contain any language to limit the credit to any special timing rules. Expenditures chargeable to capital accounts (but not maintenance or other non-capital expenditures) are subject to the credit for the tax year in which the expenditures are made.

Therefore, down payments and progress payments for plant or facilities and machinery and equipment are, to the extent that they exceed \$150,000, part of the calculation of the credit for the year in which the expenditures are made. Because the amount of investment each year may be more or less than had been projected at the time [Company] approved the credit, the amount of credit each year may more or less than the amount shown on the Schedule for Claiming Credits. The total amount of expenditures on which credit is claimed over the two year period, however, is limited to \$1,550,000 and the total amount of credit is limited to \$107,853.

This ruling is issued solely to your business and is limited to the facts presented as affected by current statutes and regulations. 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 the case of any change in the relevant statute or regulations.