

**FREQUENTLY ASKED QUESTIONS REGARDING THE MANUFACTURING MACHINERY AND EQUIPMENT GRANT (ORC 122.172 AND 122.173) AND THE MANUFACTURING MACHINERY AND EQUIPMENT TAX CREDIT (ORC 5733.33 OR 5747.33)**

*Q: What is the difference between the M&E Investment Grant and the M&E Investment Tax Credit?*

The M&E Investment Grant was created in Amended Substitute House Bill 66 and became effective July 1, 2005. This new program will effectively replace the former M&E Investment Tax Credit as the mechanism to take a non-refundable incentive against a corporation's franchise tax liability or an individual's state income tax liability. The M&E Investment Grant program applies to taxable years ending on or after July 1, 2005. So, for any entity taking a 1/7<sup>th</sup> incentive for ANY investment year (calculated from the Notice of Intent) on its returns for taxable years ending after 7/1/05, the M&E Investment Grant program will be used to receive the incentive. A taxpayer must file a grant form in conjunction with its tax return in order to receive the incentive (click the program summary link on the main webpage for more details).

The M&E Investment Tax Credit will continue to be the instrument to take the incentive for all taxable years that end prior to June 30, 2005 (ANY taxable year prior to that date). So, for taxpayers who have a taxable year-end between Jan. 1 and June 30, 2005, or ANY taxpayers filing amended returns for prior taxable years, the incentive is taken through the M&E Investment Tax Credit.

*Q: Where do I get the new "Grant Form"?*

Currently, the Ohio Department of Development and the Ohio Department of Taxation are working on the language of the form. Once it is available, it will be posted on the Ohio Department of Development's M&E Investment Grant/Tax Credit website and the Department of Taxation's website.

*Q: Does the grant form replace the Notice of Intent?*

No. The grant form is the mechanism through which the incentive is taken. This will be a separate form that must be attached to the taxpayer's return in order to claim the grant. The Notice of Intent (NOI) should continue to be filed as it has historically been, and the calculations will all remain the same. The Notice of Intent (NOI) MUST be filed with the Ohio Department of Development by the designated deadline for that investment to be eligible for an incentive. If a company has not filed a NOI for its purchases for a particular calendar year within the qualifying purchase period (1995- June 30, 2005), it MUST do so before the filing deadline (more on that in the next section).

*Q: What is the deadline for filing the notice of intent to claim the credit with the Ohio Department of Development (ODOD)?*

The deadline for filing the notice of intent (NOI) is based upon a company's fiscal year. In both the M&E Investment Grant and M&E Investment Tax Credit sections of the Ohio Revised Code, the wording is as follows: no incentive (either grant or tax credit) may be claimed under the programs for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely return, including extensions, for the taxable year that includes September 30, 2005. Therefore, a company must look at the deadline, with extensions, for its tax return for the taxable year that includes the date of 9/30/05. The schedule for the due date for NOI filings can be found under the "Notice of Intent filing due dates" link on the

main webpage. **NOTE: If a company has previously filed a NOI under the M&E Investment Tax Credit program, the company DOES NOT have to file an additional NOI for the M&E Investment Grant.**

*Q: What types of equipment qualify as new manufacturing machinery and equipment?*

The law defines manufacturing machinery and equipment as engines and machinery, tools and implements of every kind used or designed to be used in refining and manufacturing. This definition mirrors the personal property tax law, and the Department of Taxation will follow that law in making its determinations of what is manufacturing machinery and equipment. Manufacturing equipment will include equipment integrated into and necessary to the production process. For instance, Printing equipment and paint booths would qualify under the law as manufacturing machinery and equipment. However, machinery used to bottle gas or wash vegetables would not qualify as manufacturing machinery and equipment. Refer to ORC Section 5711.16 and associated case law.

*Q: Do the purchases of used equipment qualify as new manufacturing machinery and equipment for the grant/ tax credit?*

Purchases of used equipment are eligible if the equipment meets the “First Used in Ohio” standard. To be eligible, used equipment must be new to the state and the equipment must have **never** been considered taxable personal property for any entity within Ohio. Remember the “purchase” requirement is maintained.

*Q: Is it possible to claim the grant/credit for equipment that is leased from another entity?*

Leased equipment is eligible for the incentive if the user of the manufacturing machinery and equipment considers the lease a purchase for federal income tax purposes (capital lease) or under generally accepted accounting principles. A lessor **not using** the equipment **may not claim** the incentive. Financing/operating leases are not eligible.

*Q: Is it possible to claim the grant/credit for retooling of existing machinery and equipment?*

A grant/credit may be claimed for retooling purchases during the qualifying period if the retooling is capitalized and depreciated for federal income tax purposes.

*Q: How does a taxpayer know if their facility is within a designated eligible investment area (distressed area) where the value is 13.5%?*

ODOD will certify on the first day of January of each year those areas eligible for the 13.5% rate. To be considered eligible, an area must be distressed or situationally distressed, have a labor surplus or lie within an inner city area (aggregately defined as “Priority Investment Areas”). A link to the Priority Investment Area maps can be found on the program’s main webpage under the bullet “Priority Investment Area Maps”.

To qualify for the 13.5% credit, a facility must be located within the legal boundaries of the eligible areas. This would include the incorporated limits of qualifying cities or the legal boundaries of an eligible county. Note, some facilities may have an eligible city address but not lie in the corporate boundaries of that city. Contact local officials for boundary information.

*Q: Does the county average annual cost of new manufacturing machinery and equipment purchased roll forward for each year the grant/tax credit is in effect?*

The county average annual cost of new manufacturing machinery and equipment is the base for the incentive calculation. The base remains constant (1992, 1993 and 1994) for the first four qualifying periods (1995, 1996, 1997 and 1998). The base period for the other qualifying periods rolls forward each year (i.e., 1999 Base: 1993, 1994 and 1995 or 2000 Base: 1994, 1995 and 1996). The average is based upon the cost of those purchases made within the county where the facility and taxpayer are located. For each year of the base period, a taxpayer must calculate the cost of purchases made during the calendar year (January 1 through December 31). A taxpayer's fiscal year **may not** be substituted for the calendar year.

*Q: Can a taxpayer claim both the first investment tax credit (20%) and the most recent tax credit (7.5% or 13.5% credit) in the same year?*

New manufacturing machinery and equipment for which a taxpayer claims the first credit (20% credit) shall **not** be considered new manufacturing machinery and equipment under the second credit. However, a business may claim both credits **on separate purchases** of new machinery and equipment to the extent the business fulfills the requirements of the eligibility for both credits. Definitions and requirements of each credit are different and should be examined separately.

For more information regarding this and other Ohio tax incentive programs please contact the Office of Tax Incentives at (614) 466-2317.