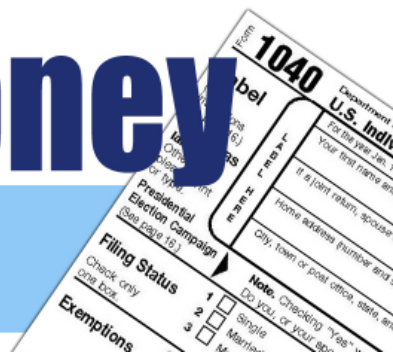




Your Tax Money

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February/March 2007

A Call To Action

Two Year Fight Continues

Associated Industries of Missouri and the Taxpayers Research Institute of Missouri are pleased to announce House Bill 131, sponsored by Rep. Shannon Cooper (R-120, Clinton) cleared the House Rules Committee on February 28 and is now awaiting debate by the full Missouri House of Representatives. The bill would provide a sales tax exemption for all utilities, chemicals, machinery, equipment, and materials used or consumed in manufacturing, research and development of products in Missouri.

“Two years of hard work have brought us to this point, and we are hopeful the Missouri House and Missouri Senate will pass this top priority of the AIM Tax Committee,” said Ray McCarty, executive director of the Taxpayers Research Institute of Missouri and author of the legislation. “This legislation has the potential to help Missouri attract and retain manufacturing jobs in Missouri by eliminating a significant burden placed on our manufacturers through the taxation of manufacturing inputs – a burden already eliminated in other states that are fiercely competing for manufacturing jobs. We sincerely appreciate the hard work of the sponsor, Rep. Shannon Cooper, and his relentless efforts to help the manufacturing industry in Missouri.”

Under current Missouri law, electricity used in manufacturing is exempted from sales tax only if electrical costs exceed 10 percent of the cost of production or if the manufacturer uses raw materials with more than 25 percent recycled content. Manufacturers using gas must pay the full sales tax in Missouri. Most chemicals and other materials that are used in the manufacturing process but not included in the final product are also taxed in Missouri. Other states, including Kansas, exempt all such utilities, chemicals and materials.

The Taxpayers Research Institute of Missouri began the fight to exempt utilities used in manufacturing in November 2005 with a similar bill also sponsored by Rep. Cooper. Since

then, AIM and TRIM have been working with legislators, state officials, leadership in the House and Senate and the governor’s office regarding the exemption and its potential benefit to the state. At the AIM Tax Conference in October, Taxpayers Research Institute listed this exemption as its top priority for the 2007 legislative session. In November 2006, the Missouri Supreme Court ruled some equipment used in research and development was subject to sales tax – equipment that manufacturers had long held to be exempt because it was used in the manufacturing process. The AIM Tax Committee voted to add research and development to the proposal and has since worked to obtain the support of other statewide business groups and state and local economic developers in the effort.

“If we all focus our collective efforts on this problem and work together, we will finally be able to eliminate the sales tax on all manufacturing inputs and help our Missouri manufacturers compete in the global economy,” said Gary Marble, president of Associated Industries of Missouri. “We urge lawmakers to make this the year we make Missouri manufacturing jobs a priority and pass this long-overdue exemption.”

HELP!!!

Please write or call your legislators today and let them know you support HB 131 eliminating taxes on manufacturing inputs. For more information, please visit our website at www.motaxpayers.com or contact Ray McCarty at rmccarty@aimo.com.

TRIM's Legislative Agenda

Legislative leaders have indicated 2007 is the year for significant reform of Missouri's tax systems. The Committee on Tax Policy has held many hearings regarding tax policy and it is generally thought that the Joint Committee will play a large role in development of any tax reform package that is likely to be considered in the 2007 legislative session. Although each proposal will need to be evaluated on a case-by-case basis, the Taxpayers Research Institute of Missouri has testified before the Joint Committee on several occasions and provided information regarding various tax issues. Generally, TRIM will:

- Support lower taxes for Missouri employers and oppose all employer tax increases;
- Support exemption of all energy used in manufacturing from sales and use taxes (see detailed explanation in the following pages);
- Support exemption of equipment and machinery purchased for use in research and development in Missouri from sales and use;
- Support reduction of the sales and use tax rate, but oppose any corresponding expansion or broadening of the sales and use tax base;
- Support reduction or elimination of corporation income and corporation franchise taxes;
- Support the full deductibility of federal income taxes paid from Missouri taxable income for individuals and corporations;
- Support revision of the income tax law to ensure taxpayers do not permanently lose tax benefit because of the temporary decoupling of Missouri's tax code from federal net operating loss and accelerated depreciation tax cut provisions;
- Support eliminating the 120-day "no interest" rule on sales and use tax refunds, align the interest rate charged for delinquencies with the interest rate paid on refunds, and pay interest from the date the tax was originally paid by the taxpayer;
- Support aligning the corporation franchise tax and corporation income tax refund statutes;
- Closely analyze any "flat tax" proposal, or other major individual income tax overhaul, for the impact it would have on Missouri small businesses that report their income taxes on individual income tax returns;
- Monitor federal Streamlined Sales Tax Project and business activity tax legislation;
- Work to protect Missouri taxpayers from efforts in other states to impose an economic nexus standard on Missouri companies in an effort to improperly subject Missouri taxpayers to other states' taxes;
- Oppose broadening the sales tax base through the taxation



Missouri State Capitol

2007

of services (a research report on this subject is available from TRIM);

- Oppose broadening the sales tax base through reduction, limitation, pro-ration, or elimination of current sales tax exemptions;

- Oppose any limitation or elimination of corporations' choice of apportionment formula to determine Missouri taxable income;

- Oppose decoupling Missouri's income tax code from the federal

income tax code;

- Oppose any legislation designed to improperly tax passive investment company income;

- Closely analyze any property tax reform proposals for the impact they may have on Missouri employers;

- Analyze any recommended changes in state tax credits; and,

- Gather information on complexity caused and the corresponding cost borne by businesses and county assessors by recent revisions of the business personal property tax assessment process.

TRIM will continue to participate in tax reform discussions, continue to represent employers' interests, and work to ensure any tax reductions apply to employer taxpayers as well as individual taxpayers.

In addition to this legislative agenda, the Taxpayers Research Institute of Missouri has scheduled meetings with the Missouri Department of Revenue to offer our assistance in helping that agency streamline some processes with the goal of improving taxpayers' ability to comply with the tax laws and making more efficient use of state resources. These discussions are ongoing and savings achieved or processes improved will be announced as they are accomplished.

Operation Efficiency Initiatives 2007

Taxpayers Research Institute of Missouri Meets with DOR

By Christine Cudney
Ameren Services
AIM Tax Committee Chairman

The Taxpayers Research Institute of Missouri (TRIM) and Missouri Department of Revenue (DOR) have joined efforts to work on operational efficiency opportunities as they relate to both Missouri taxpayers and the Department of Revenue.

This process was established through conversations with Director of Revenue Trish Vincent and Deputy Director Lowell Pearson at our most recent AIM Tax Committee meeting. At that meeting, we discussed our legislative agenda and other suggestions from our Tax Committee members for possible

improvements to the processes used by the tax agency when interacting with taxpayers.

Director Vincent and Deputy Director Pearson were extremely open to our suggestions. To address specific areas of improvement, we agreed subcommittees should be formed.

As a result, TRIM volunteers will be meeting with applicable DOR personnel on a monthly basis to discuss operational topics and brainstorm on efficiency opportunities. A few starter topics include:

Streamlining Forms & Application Processes (without losing any necessary information or control requirements);

Audit System Improvement Suggestions (comparing Missouri's audit process with the Best Practices of other

states); and,

Sales Tax Return Processing (finding ways taxpayers may help DOR expedite their return processing by providing return information in an alternative format).

Taxpayers Research Institute is seeking additional topics for these operational sessions with the intent of conducting ongoing sessions throughout 2007.

We feel this is a valuable process for both the DOR and Missouri taxpayers and we are very excited about the potential results.

If you have any suggestions for potential subjects, please send them to Ray McCarty, Executive Director of the Taxpayers Research Institute of Missouri, at rmccarty@aimo.com.

TRIM Supports House Bill 458

The House Ways and Means Committee recently passed House Bill 458 which would gradually eliminate the state's business franchise tax, taking a key step in the continued improvement of the state's business climate. Taxpayers Research Institute of Missouri and Associated Industries of Missouri testified in favor of this pro-business legislation.

A franchise tax is a business tax based on a corporation's assets in or apportioned to Missouri. Small businesses with less than \$1 million in outstanding stock or assets do not pay the tax. The franchise tax is not related to the profitability of a corporation, only the value of outstanding stock or assets. A company with limited income or no income must still pay the franchise tax simply for the privilege of doing business in Missouri.

HB 458 would reduce the franchise tax over three years, beginning next year:

- **2008** – The threshold would be raised from \$1 million to \$15 million
- **2009** – Rate would be cut in half
- **2010** – The franchise tax would be eliminated

AIM and TRIM have fought for this approach to eliminating the franchise tax for the last two legislative sessions.

"Eliminating the franchise tax is important to the business community of this state," said Ray McCarty, executive director of Taxpayers Research Institute of Missouri. "I commend the bill's sponsor, Rep. Mike Sutherland, and the House Ways and Means Committee for acting quickly on this legislation."

Having been approved by the committee, HB 458 will be sent to the House floor for debate.

Congress Renews R&E Tax Credits

By Adam J. Herman, CPA/ABV, ASA and
Michael J. Devereux II

In December of 2006, Congress passed the Tax Relief and Health Care Act of 2006, thereby extending the tax credit for research & experimentation activities through 2007. Most manufacturers may be surprised at what activities qualify.

The Research & Experimentation (R&E) tax credit - also known as the *Research & Development (R&D) tax credit* - is now available to manufacturers for such activities as developing new products, improving existing products, and developing or improving manufacturing processes.

ABOUT R&E TAX CREDITS

The R&E tax credit has been in existence since 1981, but recent regulations have relaxed the definition of qualified research activities and the record keeping requirements. Consequently, many manufacturers that were not eligible in the past may now take advantage of this federal tax credit. Furthermore, the changes to the governing regulations are retroactive, meaning manufacturers may file amended tax returns to obtain refunds of previously paid income taxes. In some cases, manufacturers may recapture taxes paid up to four years ago.

The R&E tax credit is a wage-based tax credit available for the *development or improvement* of products, processes, techniques, formulas, inventions or software. In addition to R&E wages, manufacturers may capture supply costs for prototypes, as well as 65 percent of contracted labor used during the development process. This tax credit is available to

all entities filing a federal tax return, including Subchapter S corporations and partnerships. In addition, more than 30 states offer a modified R&E tax credit.

Manufacturers can benefit by both deducting the research expenditures and by claiming the credit. While the research expenditures are a reduction of taxable income, the R&E tax credit is a dollar-for-dollar reduction of tax. In addition, any fees paid to advisors for documenting the credit are deductible in the year paid.

The R&E credit is calculated by comparing recent years' research expenditures to a base amount with 20 percent of the increase in activities captured as the tax credit.

Manufacturers must first use the credit to offset tax for the year the credit is generated. However, if additional credit remains, the company may carry the credit back one previous tax year or forward to the next 20 years.

REQUIREMENTS

There are three basic requirements for research activities to qualify:

1. Qualified research activities are defined as the development or improvement to a business component, which is defined as a product, process, technique, formula, invention or software.

Manufacturers are continually developing or improving their products and processes to maintain their competitive edge.

2. The research must be technological in nature. That is, the process of experimentation used to discover the information must fundamentally rely upon physical, biological, engineering or computer sciences. Furthermore, manufacturers may use existing technologies and may rely upon existing principles to satisfy this requirement.

Manufacturers rely heavily upon engineering, chemical, physical, and biological sciences to develop or improve their products or processes.

3. The research must be intended to

A Sample of MPP&W, P.C.'s R&E Tax Credit Group Results:

Size and Type of Company

\$20 million Plastic Injection Molder

\$8 million Plastic Rotational Molder

\$50 million Wood Cabinet Manufacturing

\$4 million Tool and Die Shop

\$110 million Boat Manufacturer

\$40 million Scale Manufacturer

\$30 million Survey Instrument Manufacturer

Achieved Results

\$382,000 in savings

\$190,000 in savings

\$255,000 in savings

\$250,000 in savings

\$650,000 in savings

\$360,000 in savings

\$288,000 in savings

eliminate uncertainty concerning the development or improvement of a business component. Uncertainty exists if the capability or method for developing the business component is unknown or if the appropriate design of the business component is unknown. Furthermore, the company must engage in a process of experimentation to eliminate that uncertainty.

Manufacturers are constantly searching for more efficient and more effective ways to design or build their products. There are endless design specifications and alternatives to be considered in designing a product or improving a manufacturing process, including but not limited to: quality or durability of products, reliability of manufacturing process, and performance of products or processes – all of which are uncertain at the outset of the product design and manufacturing process.

Moreover, manufacturers typically engage in a process of experimentation, such as systematic trial and error, simulation, or modeling, in order to eliminate uncertainty associated with the development or improvement of a business component.

COMMON MYTHS ADDRESSED

Myth: We are a small company. This credit is just for big business.

There is no size requirement for the R&E credit. Both large and small manufacturers are potential candidates for the credit. If you have improved your products or processes, you may be eligible.

Myth: We'll just tell our CPA to file the right form at the end of the year to receive the credit.

Successfully claiming the R&E tax credit is more complicated than just filing the appropriate form. Highly specialized knowledge of current and historical requirements is necessary to substantiate and defend your claim.

Myth: Our CPA looked into this a few years ago. We didn't qualify.

Recent changes to Treasury regulations have

changed the definition of qualified research, allowing many more manufacturers' activities to qualify.

Myth: I'm not sure the credit is worth the time and energy.

The credit is worth the time and energy. Due to the relaxed definition of qualified activities, credit amounts tend to be significant and the process of documentation is designed not to disrupt operations.

The Research & Experimentation tax credit is an excellent instrument to retain cash in a company. For a company in an ever-evolving industry, the credit provides an opportunity to offset some risk assumed by the company and encourages constant innovation.

Editor's Note: Adam Herman, CPA/ABV, CVA, ASA and Michael Devereux II are members of MPP&W, P.C.'s R&E Tax Credit Group, a division of a regional, St. Louis-based CPA and business advisory firm. The R&E Tax Credit Group specializes in assisting manufacturers and their advisors in maximizing the R&E tax credit. For more details, visit www.mppw.com/RE

**Wage Garnishment
& Child Support
Laws**

Speaker: James N. Foster, Jr.
Speaker: Kevin J. Lorenz
McMahon Berger

Seminar Dates & Locations:

February 28, 2007 – AIM Offices – Jefferson City
March 7, 2007 – Sheraton Clayton Plaza – Clayton
March 14, 2007 – Hawthorn Park Hotel – Springfield
March 21, 2007 – Hilton Garden Inn – Independence

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