

1 SENATE BILL NO. 92

2 INTRODUCED BY M. HALLIGAN

3 BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ~~REPEALING~~ EXTENDING THE TERMINATION DATE FOR THE
6 INCOME AND CORPORATE TAX CREDIT FOR RECYCLING OF MATERIAL AND THE INCOME AND
7 CORPORATE TAX DEDUCTION FOR THE PURCHASE OF RECYCLED MATERIAL; REMOVING SOIL
8 CONTAMINATED BY HAZARDOUS WASTES FROM THE DEFINITION OF "RECLAIMABLE MATERIAL";
9 DELETING THE RESTRICTION ON DEPRECIABLE PROPERTY THAT TREATS SOIL CONTAMINATED BY
10 HAZARDOUS WASTES; ~~REPEALING THE RESTRICTION THAT A CREDIT MAY NOT BE CLAIMED FOR AN~~
11 ~~INVESTMENT IN PROPERTY USED TO PRODUCE ENERGY FROM RECLAIMED MATERIAL~~; AMENDING
12 SECTIONS 15-32-601, 15-32-602 AND 15-32-603, MCA; ~~REPEALING SECTION 15-32-604, MCA,~~
13 SECTION 9, CHAPTER 712, LAWS OF 1991, SECTIONS 4 AND 5, CHAPTER 542, LAWS OF 1995, AND
14 SECTION 1, CHAPTER 411, LAWS OF 1997; AND PROVIDING AN APPLICABILITY DATE."

15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17

18 **Section 1.** Section 15-32-601, MCA, is amended to read:

19 **"15-32-601. (Temporary) Definitions.** For the purposes of this part, unless otherwise required by
20 the context, the following definitions apply:

21 (1) "Collect" means the collection and delivery of reclaimable materials to a recycling or
22 reclaimable materials processing facility.

23 (2) "Postconsumer material" means a product or packaging material that has served its final
24 intended use, that has been discarded by an individual, commercial enterprise, or other entity after having
25 fulfilled its intended application or use, and that is usually thrown away and hauled to landfills. This term
26 does not include wastes generated during production of an end product.

27 (3) "Process" includes but is not limited to the treatment of hazardous wastes as defined in
28 75-10-403.

29 (4) (a) "Reclaimable material" means:

30 ~~—~~ (i) material that has useful physical or chemical properties after serving a specific purpose and that

1 would normally be disposed of as solid waste, as defined in 75-10-203, by a consumer, processor, or
 2 manufacturer; or

3 ~~—— (ii) soil that has been contaminated by hazardous wastes to the extent that treatment of those
 4 wastes is required as defined in 75-10-403.~~

5 (b) Except for claiming a tax credit as provided in 15-32-603(1)(d), material may not be considered
 6 reclaimed by the consumer, processor, or manufacturer that generated the material.

7 (5) "Recycled material" means a substance that is produced from reclaimed material as provided
 8 in 15-32-609. ~~(Terminates December 31, 2001--sec. 1, Ch. 411, L. 1997.)"~~

9

10 **Section 2.** Section 15-32-602, MCA, is amended to read:

11 **"15-32-602. ~~(Temporary)~~ Amount and duration of credit -- how claimed.** (1) An individual,
 12 corporation, partnership, or small business corporation, as defined in 15-31-201, may receive a credit
 13 against taxes imposed by Title 15, chapter 30 or 31, for investments in depreciable property to collect or
 14 process reclaimable material or to manufacture a product from reclaimed material, if the taxpayer qualifies
 15 under 15-32-603.

16 (2) Subject to ~~15-32-603(3) and~~ subsection (4) ~~of this section~~, a taxpayer qualifying for a credit
 17 under 15-32-603 is entitled to claim a credit, as provided in subsection (3) ~~of this section~~, for the cost of
 18 each item of property purchased to collect or process reclaimable material or to manufacture a product
 19 from reclaimed material only in the year in which the property was purchased. ~~If qualifying property was
 20 purchased prior to January 1, 1992, but on or after January 1, 1990, a taxpayer is entitled to a credit for
 21 tax year 1992.~~

22 (3) The amount of the credit that may be claimed under this section for investments in depreciable
 23 property is determined according to the following schedule:

24 (a) 25% of the cost of the property on the first \$250,000 invested;

25 (b) 15% of the cost of the property on the next \$250,000 invested; and

26 (c) 5% of the cost of the property on the next \$500,000 invested.

27 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million.

28 ~~(Terminates December 31, 2001--sec. 1, Ch. 411, L. 1997.)"~~

29

30 **Section 3.** Section 15-32-603, MCA, is amended to read:

1 **"15-32-603. ~~(Temporary)~~ Credit for investment in property used to collect or process reclaimable**
2 **material or to manufacture a product from reclaimed material.** (1) The following requirements must be met
3 to be entitled to a tax credit for investment in property to collect or process reclaimable material or to
4 manufacture a product from reclaimed material:

5 (a) The investment must be for depreciable property used primarily to collect or process
6 reclaimable material or to manufacture a product from reclaimed material.

7 (b) (i) The taxpayer claiming a credit must be a person who, as an owner, including a contract
8 purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a
9 business that collects or processes reclaimable material or that manufactures a product from reclaimed
10 material. For the purposes of this section, a business qualifies as a business that collects reclaimable
11 material if it gathers reclaimable material for later sale or processing for another business that has as its
12 primary business function the collection or processing of reclaimable material or the manufacture of a
13 product from reclaimed material. The collection of reclaimable material may be a minor or nonprofit part
14 of a business otherwise engaged in a retail trade or other business activity.

15 (ii) The taxpayer may but need not operate or conduct a business that collects or processes
16 reclaimable material or manufactures a product from reclaimed material. If more than one person has an
17 interest in a business with qualifying property, they may allocate all or any part of the investment cost
18 among themselves and their successors or assigns.

19 (c) The business must be owned or leased during the tax year by the taxpayer claiming the credit,
20 except as otherwise provided in subsection (1)(b), and must have been collecting or processing reclaimable
21 material or manufacturing a product from reclaimed material during the tax year for which the credit is
22 claimed.

23 (d) The reclaimed material collected, processed, or used to manufacture a product may not be an
24 industrial waste generated by the person claiming the tax credit unless:

25 (i) the person generating the waste historically has disposed of the waste onsite or in a licensed
26 landfill; and

27 (ii) standard industrial practice has not generally included the reuse of the waste in the
28 manufacturing process.

29 ~~(2) A credit for depreciable property that treats soil contaminated by hazardous wastes applies~~
30 ~~only to property that treats contaminated soil and not to auxiliary property.~~

1 ~~(3) A credit under this section may be claimed by a taxpayer for a business only if the qualifying~~
 2 ~~property is purchased before January 1, 2002.~~

3 ~~(4)(2)~~ The credit provided by this section is not in lieu of any depreciation or amortization
 4 deduction for the investment or other tax incentive to which the taxpayer otherwise may be entitled under
 5 Title 15.

6 ~~(5)(3)~~ A tax credit otherwise allowable under this section that is not used by the taxpayer in the
 7 taxable year may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year.

8 ~~(6)(4)~~ The taxpayer's adjusted basis for determining gain or loss may not be further decreased by
 9 any tax credits allowed under this section.

10 ~~(7)(5)~~ If the taxpayer is a shareholder of an electing small business corporation, the credit must
 11 be computed using the shareholder's pro rata share of the corporation's cost of investing in equipment
 12 necessary to collect or process reclaimable material or to manufacture a product from reclaimed material.
 13 In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
 14 provided by law. ~~(Terminates December 31, 2001--sec. 1, Ch. 411, L. 1997.)"~~

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16 ~~NEW SECTION. Section 4. Repealer. Section 15-32-604, MCA, section 9, Chapter 712, Laws~~
 17 ~~of 1991, sections 4 and 5, Chapter 542, Laws of 1995, and section 1, Chapter 411, Laws of 1997, are~~
 18 ~~repealed.~~

19

20 SECTION 4. SECTION 9, CHAPTER 712, LAWS OF 1991, IS AMENDED TO READ:

21 "Section 9. Termination. [This act] terminates December 31, ~~1995~~ 2005."

22

23 SECTION 5. SECTION 4, CHAPTER 542, LAWS OF 1995, IS AMENDED TO READ:

24 "Section 9. Termination. [This act] terminates December 31, ~~1995~~ 2001 2005."

25

26 SECTION 6. SECTION 5, CHAPTER 542, LAWS OF 1995, IS AMENDED TO READ:

27 "Section 5. Termination -- exception. (1) [Sections 1 through 3] terminate December 31, ~~1997~~
 28 2005.

29 (2) Notwithstanding subsection (1), 15-32-603(3), as numbered by [this act], which reads: "A
 30 credit under this section may be claimed by a taxpayer for a business only if the qualifying property is

1 purchased before January 1, ~~1998~~ 2006.", is deleted in its entirety on December 31, ~~1997~~ 2005."

2

3 **SECTION 7.** SECTION 1, CHAPTER 411, LAWS OF 1997, IS AMENDED TO READ:

4 "Section 5. Termination -- exception. (1) [Sections 1 through 3] terminate December 31, ~~1997~~
5 ~~2001~~ 2005.

6 (2) Notwithstanding subsection (1), 15-32-603(3), as numbered by [this act], which reads: "A
7 credit under this section may be claimed by a taxpayer for a business only if the qualifying property is
8 purchased before January 1, ~~1998~~ ~~2002~~ 2006.", is deleted in its entirety on December 31, ~~1997~~ ~~2001~~
9 2005."

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11 **NEW SECTION.** Section 8. Applicability. [This act] applies to tax years beginning after December
12 31, 2001.

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