

INCOME TAX REGULATION

CREDIT AGAINST TAX FOR
DONATIONS OR SALES BELOW COST OF TANGIBLE PERSONAL PROPERTY
AND CERTAIN MONEY CONTRIBUTIONS FOR CERTAIN QUALIFIED
EDUCATION PURPOSES

ACT 759 OF 1985

1(A) Act 759 of 1985 grants a credit against a taxpayer's Arkansas corporate income tax or Arkansas individual income tax for donations by a taxpayer of new machinery or equipment and for sales below cost of machinery and equipment by taxpayers to qualified education institutions for use in connection with a qualified education program or a qualified research program. The amount of the credit granted for donations of machinery and equipment is 33% of the cost of the machinery and equipment donated. The amount of the credit for machinery sold below cost is 33% of the amount by which the cost is reduced.

(B) Act 759 of 1985 grants a credit against a taxpayer's Arkansas corporate income tax or Arkansas individual income tax for any amounts which are paid by a taxpayer during the tax year to fund a qualified research program which has been approved for tax credit treatment under these rules and regulations. The credit for qualified research expenditures shall be 33% of the amount expended by the taxpayer in the tax year on the qualified research program.

2 LIMITS ON CREDIT

(A) In the case of donations or sales below cost, the credit shall be claimed in the tax year of the donation or sale below cost, but all or any part of the unused credit may be carried over to and claimed in succeeding tax years until the credit is exhausted or until the end of three tax years next succeeding the tax year of the donation or sale below cost, whichever occurs earlier.

(B) In the case of a qualified research expenditure, the credit shall be claimed in the tax year in which the expense incurred for the qualified research is actually paid, but all or any part of any unused credit may be carried over to and claimed in succeeding tax years until the credit is exhausted or until the end of three tax years next succeeding the tax year of the payment of the qualified research expenditure, whichever occurs earlier.

(C) Total credit for qualified research expenditures, donations and sales below cost under this Act shall be limited to 50% of the net tax liability of the taxpayer after all other credits and reductions in tax have been calculated.

(D) Any person claiming any credit granted by this Act for any expense or contribution or sale below cost shall not take any deduction under the Arkansas Income Tax Law for the same expense or contribution.

(E) To claim any credit granted by Act 759 of 1985, the taxpayer shall provide the following information:

- (a) An original official receipt from the institution receiving the donation, sale below cost or qualified research expenditure which receipt shall be signed by an officer of the institution, identify the position of that officer with the institution, and certifying the following facts:
 - i. The machinery or equipment received is a new machinery or equipment within the meaning of Act 759 of 1985.
 - ii. That the machinery has, in fact, been received or that the expenditure has, in fact, been made.
 - iii. A statement as to whether the machinery and equipment was received as a donation or as a sale below cost.
 - iv. If the machinery was purchased in a sale below cost, a statement of the amount paid for the machinery or equipment
 - v. The name or title of the qualified education program or qualified research program for which the machinery and equipment is used or the expenditure made.
- (b) In the case of a donation or sale below cost by a retail or wholesale business, the taxpayer shall supply a copy of the invoice from the business' supplier showing the actual cost of the machinery or equipment.
- (c) In the case of a donation or sale below cost by a manufacturer, the taxpayer shall provide a copy of the manufacturer's wholesale price list showing the lowest price for the machinery or equipment for which credit is claimed.
- (d) In the case of a claim for credit for qualified research expenditures, the taxpayer must provide a statement from the Arkansas Science and Technology Authority that the Department of Higher Education and the Arkansas Science and Technology Authority have approved the expenditure as part of a qualified research program.

3 The following examples illustrate the application of Act 759 of 1985. Each example assumes that the taxpayer, the donation, sale or expenditure, and the institution receiving the donation, sale or payment are qualified under the Act.

(A) A wholesaler purchases machinery for \$100,000.00 from his supplier. The taxpayer sells this machinery and equipment to a qualified vocational technical school for

\$85,000.00. The wholesaler is entitled to claim credit under Act 759 of 1985 for a sale below cost. The basis of claiming this credit is the amount by which the wholesaler reduced the price from his own cost ($\$100,000.00 - \$85,000.00 = \$15,000.00$). The wholesaler may claim a credit of \$4,950.00 or 50% of his net tax liability, whichever is less.

(B) Arkansas Instruments, a computer manufacturer, sells a computer system to qualified vocational technical school for \$85,000.00. Arkansas Instruments paid \$45,000.00 for the parts that went into the computer system. The lowest price at which Arkansas Instruments sells the computer system to its customers is \$100,000.00. Arkansas Instruments is entitled to claim a credit under Act 749 for a sale below cost. Arkansas Instruments' cost is deemed to be the lowest price at which it sells the computer system (\$100,000.00). The credit is based upon the amount by which Arkansas Instruments reduced its cost ($\$100,000.00 - \$85,000.00 = \$15,000.00$). The credit is 33% of the amount by which the price is reduced ($\$15,000.00 \times .33 = \$4,950.00$). Arkansas Instruments may claim a credit of \$4,950.00 or 50% of its tax liability, whichever is less.

(C) A retailer purchases machinery for \$100,000.00 from his supplier. The taxpayer sells this machinery and equipment to qualified vocational technical school for \$85,000.00. The retailer is entitled to claim credit under Act 759 of 1985 for a sale below cost. The basis of claiming this credit is the amount by which the retailer reduced the price from his own cost ($\$100,000.00 - \$85,000.00 = \$15,000.00$). The retailer may claim a credit of \$4,950.00 or 50% of his net tax liability, whichever is less.

(D) Arkansas Retailer donates machinery and equipment to a qualified vocational technical school. Arkansas Retailer paid \$85,000.00 for the equipment from its supplier. Arkansas Retailer may claim a credit of $(\$85,000.00 \times .33 - \$28,050.00)$ \$28,050.00 or 50% of its tax liability, whichever is less.

(E) An Arkansas resident pays \$30,000.00 in cash to an Arkansas University to fund a qualified research program. The Arkansas taxpayer is entitled to claim a credit against his Arkansas Income Tax in the amount of \$9,900.00 or 50% of his tax liability, whichever is less.

(F) Arkansas Instruments, a manufacturer, donates a computer system to a qualified vocational technical school. Arkansas Instruments paid \$45,000.00 for the parts which went into the computer system. The lowest price this system is sold to Arkansas Instruments' customers is \$100,000.00. Arkansas Instruments is entitled to a credit of $(\$100,000.00 \times .33 = \$33,000.00)$ \$33,000.00 or 50% of its tax liability, whichever is less.

Witness our hands this 11th day of July, 1985.

Mahlon Martin
Director
Department of Finance and Administration

Charles D. Ragland
Commissioner of Revenues
Department of Finance and Administration