Pennsylvania Department of Revenue
Office of Economic Development

LOCAL RESOURCE MANUFACTURING TAX CREDIT PROGRAM

Act 66-2020, as amended by Act 108 of 2022, provides a Local Resource Manufacturing (LRM) Tax Credit to a qualified taxpayer purchasing dry natural gas for use in manufacturing petrochemicals or fertilizers at a facility in the Commonwealth. The LRM Tax Credit is an incentive for manufacturers purchasing dry natural gas to locate manufacturing facilities in the Commonwealth. A tax credit approved by DOR will be a non-refundable credit that must first be applied against the Qualified Taxpayer's own tax liability.

The LRM Tax Credit will be equal to forty-seven cents per unit of dry natural gas purchased and used in manufacturing petrochemicals or fertilizers. The credit is limited to 20% of any of the qualified taxpayer's qualified tax liabilities incurred in the taxable year for which the credit was approved. A qualified tax liability includes corporate net income tax, bank and trust companies shares tax, title insurance companies shares tax, insurance premiums tax, gross receipts tax, mutual thrift institutions tax and personal income tax liabilities for owners of pass-through entities receiving the credit. A recipient of a credit "passed-through" from a pass-through entity cannot be passed-through again, i.e., there is no "double pass-through" of the credit.

If the qualified taxpayer receiving the LRM Tax Credit holds the credit through the end of the calendar year in which the credit was granted, the taxpayer may apply for approval to sell or assign the credit to a buyer or assignee. A buyer or assignee may offset up to 50% of its own qualified tax liability with the purchased or assigned credit. The LRM Tax Credits must be used by the buyer or assignee in the calendar year the purchase or assignment is made. Credits may only be purchased or assigned once.

The LRM Tax Credit sale or assignment provision require that the qualified taxpayer exclusively offer the tax credit to downstream companies for a period of 30 days following approval of the credit, then exclusively to upstream companies for 30 days following the expiration of the downstream company offer period. This means that the qualified taxpayer cannot sell or assign the credit to a company that is neither a downstream nor upstream company within 60 days of the credit's approval.

The effective date for the LRM Tax Credit program is January 1, 2024.

The sunset date for the LRM Tax Credit initiative is December 31, 2050.

In order to meet the definition of a "qualified taxpayer," an applicant must:

- Purchase dry natural gas for use in manufacturing petrochemicals or fertilizers at a facility in the commonwealth placed in service on or after Jan. 1, 2019.
- Make a capital investment of at least $400,000,000 in order to construct a facility within the commonwealth.
- Create at least 800 New and Permanent jobs during the construction of the facility and ongoing operation of the project facility. All New jobs must pay the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry under the Prevailing Wage Act.

- Make a good faith effort to recruit and employ workers from the local labor market for employment during the construction of the project facility.
- Abide by the Steel Products Procurement Act March 3, 1978 (P.L.6, No.3) for construction work to place a project facility into service.

In addition to meeting the definition of "qualified taxpayer," an applicant must demonstrate the use of carbon capture and sequestration technology at the project facility to the extent it is cost effective and feasible.

Implementing the LRM Tax Credit program will reduce the after-tax cost of in-state upstream dry natural gas production facilities and potentially downstream manufacturing operations resulting in economic growth and job creation for the Commonwealth.

Questions regarding the administration of the LRM program should be directed to the Office of Economic Development within the Pennsylvania Department of Revenue. Please contact Matt Forti at 717-772-3896 or mforti@pa.gov.

LOCAL RESOURCE MANUFACTURING TAX CREDIT PROGRAM: QUESTIONS AND ANSWERS

What is the Local Resource Manufacturing (LRM) Tax Credit Program?
The LRM Tax Credit will be equal to forty-seven cents per unit of dry natural gas purchased for use in manufacturing petrochemicals and fertilizers and will be limited to 20% of the taxpayer's CNIT or pass-through tax liability. The LRM Tax Credit issued and approved by the Pennsylvania Department of Revenue (DOR) will be a non-refundable credit against Pennsylvania corporate net income tax, bank and trust companies shares tax, title insurance companies shares tax, insurance premiums tax, gross receipts tax, mutual thrift institutions tax and personal income tax liabilities for partners, members, or shareholders for credits earned by pass-through entities such as partnerships, LLCs and S-Corporations.

Can the LRM Tax Credit be assigned?
Yes. Businesses having approved LRM Tax Credits may apply for approval to sell or assign their eligible LRM Tax Credits to another taxpayer that can then use the purchased credits to offset up to 50% of its own Pennsylvania tax liability with the purchased credit.

LRM Tax Credits must first be exclusively offered to upstream and downstream companies for a total of 60 days following the approval of the credits. Purchasers of LRM Tax Credits, approved by DOR, would be a non-refundable credit. The LRM Tax Credits must be used by the buyer within the tax year approval of the assignment. Credits may only be assigned once.

To which Pennsylvania taxes may purchased LRM Tax Credits be applied, after an application is approved by DOR?
Purchasers of LRM Tax Credits approved by DOR would be a non-refundable credit against Pennsylvania corporate net income tax, personal income tax, bank and trust companies shares tax, title insurance companies shares tax, insurance premiums tax, gross receipts tax, and mutual thrift institutions tax.

What is Pennsylvania's current CNIT rate?
January 1, 2023 through December 31, 2023: 8.99 percent
January 1, 2024 through December 31, 2024: 8.49 percent
January 1, 2025 through December 31, 2025: 7.99 percent
January 1, 2026 through December 31, 2026: 7.49 percent
January 1, 2027 through December 31, 2027: 6.99 percent
January 1, 2028 through December 31, 2028: 6.49 percent
January 1, 2029 through December 31, 2029: 5.99 percent
January 1, 2030 through December 31, 2030: 5.49 percent
January 1, 2031 and each taxable year thereafter: 4.99 percent

What is Pennsylvania's current PIT rate?
The PIT rate is currently at 3.07%.

What is the Bank and Trust Companies Shares Tax rate?
The rate is currently at 0.95% for all bank and trust companies doing business in Pennsylvania.

What is the Title Insurance Companies Shares Tax rate?
The rate is currently at 1.25% for Pennsylvania title insurance companies.

What is the Insurance Premiums Tax rate?
The insurance premiums tax on life insurance entered with unauthorized insurance companies is 2% of gross premiums.

What is the Mutual Thrift Institutions Tax rate?
The rate is currently at 11.5% for savings institutions, savings banks, savings and loan associations, and building and loan associations doing business in Pennsylvania.

Will a firm be able to carry over any unused LRM Tax Credits?
No.

Can LRM Tax Credits be passed through?
Yes. Credits earned by pass-through entities such as partnerships, limited liability companies and S-Corporations can be passed through one time to partners, members, or shareholders on a pro-rata basis pursuant to the equity ownership interest in the pass-through entity at the end of the tax year for which the credit application is submitted.

Is there any additional information on the use of the LRM Tax Credits?
Yes, the credits:

- Must be applied in year passed through.
- No carry forward, carry back, or refund of unused credits by partners, members or shareholders.
- Utilized cannot exceed 20 percent of the total PIT liability by partners, members or shareholders.
- Must be "held" for one year before the assignment or sale.

Is there any additional information on the use of purchased or assigned LRM Tax Credits?
Yes:

- Prior to sale or assignment, the credits must first be offered exclusively to downstream companies for a period of 30 days after approval.
- Prior to sale or assignment, the credits must be offered to an upstream or downstream companies for a period of 30 days after the initial downstream exclusive provision expires.
- The credits must be claimed by the recipient in calendar year the credits are purchased or assigned.
- The credits may not be carried forward, carried back, or refunded.

- The amount of the credit used cannot exceed 50 percent of the recipient's qualified tax liability.
- The seller must get a tax clearance before the sale is allowed.

What is the definition of dry natural gas for LRM purposes?
Dry natural gas is defined as natural gas in which there are no appreciable natural gas liquids recoverable by separation at the wellhead.

What is the definition of petrochemical for LRM purposes?
Petrochemical is defined as chemical products obtained from refining and processing natural gas. The term does not include liquefaction or other processing of natural gas for the purpose of transport.

What is the definition of fertilizer for LRM purposes?
Fertilizer is defined as a chemical product derived from petrochemicals which is added to soil or land to increase fertility.

What is the definition of unit for LRM purposes?
Unit is defined as one thousand cubic feet of natural gas at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.73 pounds per square inch, in accordance with American Gas Association standards and according to Boyle's law for the measurement of gas under varying pressures with deviations stated within the enabling act.

What are the recapture provisions?
The department has the authority to audit any person claiming this tax credit to ascertain the validity of the amount claimed. The department has the authority to issue an assessment for any improperly issued tax credit.

What is the effective date for LRM Tax Credit Program?
January 1, 2024.

Is the LRM Tax Credit capped?
Yes, the program cap is $56,666,668.

Are there any Limitations under the Cap?
Yes, no more than 2 taxpayers may be approved for the credit annually. Awards may not exceed $6,666,667 per taxpayer approved for the credit under the initial eligibility provisions. Unallocated credits may be awarded, to a maximum of one taxpayer, that meets additional eligibility provisions:

- Has made a capital investment of at least $1,000,000,000 in order to construct a facility within the commonwealth.
- Has created at least 1,800 new and permanent jobs during the construction phase and ongoing operation of the facility.
- Has satisfied all other eligibility requirements.

Who will administer the LRM Tax Credits?
The DOR will administer the LRM Tax Credit Program. The LRM Tax Credits are issued and approved by DOR. DOR shall designate forms or schedules and promulgate regulations necessary for the implementation and administration of the LRM Tax Credit program.

What are the dates for application and approval of LRM Tax Credits by DOR?
A qualified taxpayer may apply for a LRM Tax Credit by submitting an application by March 1st to DOR. DOR shall notify the taxpayer the amount of the approved taxpayer's LRM Tax Credit by May 1st of the calendar year. The taxpayer or principals may immediately utilize the credit upon approval.

Is the any additional information required with the application of the LRM Tax Credits by DOR?
Yes. An affidavit signed by the applicant's president or designee in the form of a letter to DOR that the amount of dry natural gas purchased by the taxpayer applicant is correct is required

Will there be an annual license fee?
No.

Does the legislation have a sunset date?
Yes. December 31, 2050

What are the dates and the process for application and approval of the sale of LRM Tax Credits?
The seller business must hold LRM Tax Credits issued by DOR through the calendar year in which the credits were granted. Applications for the transfer of all or a portion of the Tax Credit will be reviewed by DOR. DOR may take up to 60 days to review the application and confirm compliance with all conditions before posting the transfer and transferee's respective accounts.

Is there any additional information for the transfer process for LRM Tax Credits?
Yes, the seller/assignor must be in tax compliance in order to transfer the credit.

Does the legislation have an annual reporting requirement for LRM Tax Credit effectiveness ?
Yes. The report shall include the names of all qualified taxpayers utilizing the tax credit and the amount of tax credit approved, utilized, sold or assigned by qualified taxpayers. DOR shall issue a report to the General Assembly no later than the year after which tax credits are first awarded and each October 1 thereafter.

Does the legislation have a final reporting requirement?
Yes. After the year in which tax credits are first awarded, DOR shall produce a ten year reconciliation report to the Governor and General Assembly concerning a program evaluation on the effectiveness of LRM Tax Credit program and any recommended changes or continuation of the credit.

What are the desired effects of the LRM Tax Credit program?

1. The LRM Tax Credit is an incentive for business manufacturers purchasing dry natural gas to locate this type of business manufacturing facility into the Commonwealth.
2. Firms can purchase LRM Tax Credits from a business manufacturer, due to the assignment provisions, so as to reduce their Pennsylvania tax liability.
3. If firms are upstream suppliers of dry natural gas selling to a business manufacturer, the purchase of LRM Tax Credits can reduce the after-tax cost of supplying the dry natural gas.
4. If firms are downstream Pennsylvania manufacturers who buy and use chemical products or chemical compounds from the business manufacturing facility, the purchase of LRM Tax Credits can reduce the after-tax cost for the downstream manufacturers.
5. Certain manufacturing firms in Pennsylvania will be able to reduce Pennsylvania Corporate Net Income Tax, and Personal Income Tax (for pass-through entities) liability for greater after-tax profitability.
6. Because of the assignment provisions, purchasers of LRM Tax Credits will be able to reduce Pennsylvania corporate net income tax, personal income tax, bank and trust companies shares tax, title insurance companies shares tax, gross premiums tax, gross receipts tax, and mutual thrift institutions tax.
7. LRM Tax Credits will be a relocation incentive tool, where Pennsylvania will become a more attractive place relative to other states for manufacturing businesses purchasing dry natural gas.
8. Greater economic energy activity is expected, which will generate higher economic growth for the Commonwealth. Enhanced job growth is expected.
9. In addition to providing additional Pennsylvania jobs, the increase in Pennsylvania processing energy investment makes Pennsylvania workers more productive and increases their incomes.
10. The LRM Tax Credit program through enhanced investment and job growth will result in indirect additional state revenues.