



MISSISSIPPI DEPARTMENT OF REVENUE

Tax Policy and Economic Development Notice 80-22-04 December 15, 2022

Railroad Reconstruction, Replacement, and New Rail Infrastructure

Miss. Code Ann. Section 27-7-22.42 provides for an income tax credit for an eligible taxpayer making qualified railroad reconstruction, replacement, or new rail infrastructure expenditures after January 1, 2022.

Eligible Taxpayer

An eligible taxpayer is any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

Amount of Credit and Limitation

The amount of the credit available depends on the type of expenditures incurred.

- The credit for expenditures incurred for maintenance, reconstruction or replacement of railroad infrastructure shall be the lesser of fifty percent (50%) of qualified expenditures for the taxable year or the product of Five Thousand Dollars (\$5,000.00) multiplied by the number of miles of railroad track owned or leased within the State of Mississippi as of the close of the taxable year.
- The credit for expenditures incurred for new construction shall be fifty percent (50%) of qualified expenditures for the taxable year, capped at One Million Dollars (\$1,000,000.00) per new rail-served customer project.
- The credit utilized in any tax year shall not exceed the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to the taxpayer under Chapter 27, except credit for tax payments made by or on behalf of the taxpayer.
- Any credit claimed, but not used in any taxable year, may be carried forward for five (5) consecutive years from the close of the taxable year in which the credit was earned.
- The aggregate amount of credits that may be claimed by all taxpayers during a calendar year shall not exceed Eight Million Dollars (\$8,000,000.00).

Claiming the Credit

To claim the credit, the taxpayer must use the Railroad Infrastructure Tax Credit code, 40, on Form 83-401, when filing its return. Additionally, the taxpayer should provide: (1) a description of the reconstruction, replacement, or new construction project, including beginning and ending dates, (2) a detailed listing of the qualifying expenditures along with documentation substantiating payment of the expenses, (3) identification of the relevant railroad mileposts, (4) the total number of miles of railroad track owned or leased by the taxpayer in Mississippi as of January 1, 2022, (5) if leased, the name of the owner of the leased railroad track miles, and (6) proof of classification by the United States Surface Transportation Board as a Class II or Class III railroad.

To obtain preapproval, an eligible taxpayer may submit a request, on company letterhead, that includes (1) the taxpayer's contact information, (2) the taxpayer's FEIN, and items (1)-(6) identified above to mstaxpolicy@dor.ms.gov or Office of Tax Policy, P.O. Box 22828, Jackson, MS 39225. The Department will review the information submitted and issue a written response within thirty (30) days. If preapproval is obtained, the taxpayer should include a copy of the approval letter with its return.

Transferring the Credit

An eligible taxpayer may transfer, by written agreement, any unused tax credit to any taxpayer having a liability under Chapter 27 of the Mississippi Code at any time during the year in which the credit is earned and the five (5) years following the taxable year in which the qualified expenditures are made. The eligible taxpayer and the eligible transferee must jointly file a copy of Form 83-451 Transfer of Railroad Infrastructure Tax Credits and the written transfer agreement with the Department of Revenue within thirty (30) days of the transfer.