

§2016. Pine Tree Development Zone businesses; reimbursement of certain taxes

1. Terms defined. As used in this section, the terms "qualified Pine Tree Development Zone business" and "qualified business activity" have the meanings given to them in Title 30-A, section 5250-I. For the purposes of this section, "primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

[PL 2005, c. 351, §9 (NEW); PL 2005, c. 351, §26 (AFF).]

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to:

A. The sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified Pine Tree Development Zone business and that is used directly and primarily by that business in one or more qualified business activities; or [PL 2017, c. 440, §8 (NEW).]

B. The sale or use of tangible personal property and the transmission and distribution of electricity to a qualified Pine Tree Development Zone business that is used directly and primarily in one or more qualified business activities. [PL 2017, c. 440, §8 (NEW).]

[PL 2017, c. 440, §8 (RPR).]

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section pursuant to subsection 2, paragraph A must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified Pine Tree Development Zone business certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily in a qualified business activity. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified Pine Tree Development Zone business and by the person, if any, that sold the real property in question to that business. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified Pine Tree Development Zone business, a claim for reimbursement in accordance with this section and pay the reimbursement to the qualified Pine Tree Development Zone business. [PL 2017, c. 440, §9 (AMD).]

B. If, by agreement between the contractor or subcontractor and the qualified Pine Tree Development Zone business, the contractor or subcontractor assigns its right to claim and receive reimbursement pursuant to subsection 2, paragraph A, the qualified Pine Tree Development Zone business must file a claim for reimbursement in accordance with this subsection. A reimbursement may not be issued to a qualified Pine Tree Development Zone business under this paragraph unless the contractor or subcontractor has previously submitted to the bureau a certificate, signed by the contractor or subcontractor, releasing the contractor's or subcontractor's claim to the reimbursement. The certificate must be in a format prescribed by the assessor. [PL 2017, c. 440, §9 (AMD).]

C. A claim for reimbursement under subsection 2, paragraph B by a qualified Pine Tree Development Zone business must include proof that the business was issued a certificate of

qualification by the Commissioner of Economic and Community Development pursuant to Title 30-A, section 5250-O. [PL 2017, c. 440, §9 (NEW).]
[PL 2017, c. 440, §9 (AMD).]

4. Limitations. The following are the limitations on reimbursements made pursuant to this section.

A. Reimbursements made by the assessor pursuant to subsection 2, paragraph A are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 10 years in the case of a qualified Pine Tree Development Zone business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a qualified Pine Tree Development Zone business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the qualified Pine Tree Development Zone business receiving the property is certified pursuant to Title 30-A, section 5250-O or by December 31, 2033, whichever occurs first. [PL 2021, c. 398, Pt. IIII, §4 (AMD).]

B. Reimbursement pursuant to subsection 2, paragraph A of taxes paid in connection with the sale of tangible personal property subsequently attached to real property may not be made when those real property improvements:

(1) Are owned by more than one person prior to their acquisition by the qualified Pine Tree Development Zone business whose certification accompanies the reimbursement claim pursuant to subsection 3; or

(2) Have been used for a business purpose by a person other than the qualified Pine Tree Development Zone business whose certification accompanies the reimbursement claim pursuant to subsection 3. [PL 2017, c. 440, §10 (AMD).]

C. Reimbursements pursuant to subsection 2, paragraph B are limited to taxes paid in connection with the sale or use of tangible personal property and the transmission and distribution of electricity that has occurred within the period of time between the date a qualified Pine Tree Development Zone business was issued a letter of certification pursuant to Title 30-A, section 5250-O and the date the business received a sales tax exemption certificate pursuant to eligibility for a sales tax exemption under section 1760, subsection 87, but in no case may this period of time exceed a period of time beyond 2 years from the date of issuance of the letter of certification. [PL 2017, c. 440, §10 (NEW).]

[PL 2021, c. 398, Pt. IIII, §4 (AMD).]

5. Audit. The assessor has the authority to audit any claim filed under this section. If the assessor determines that the amount of the claimed reimbursement is incorrect, the assessor shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that the assessor concludes should not have been reimbursed, the assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment. [PL 2005, c. 351, §9 (NEW); PL 2005, c. 351, §26 (AFF).]

6. Payment of claims. The State Tax Assessor shall determine the benefit for each claimant under this section. The assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section. [PL 2011, c. 655, Pt. L, §3 (AMD).]

SECTION HISTORY

PL 2005, c. 351, §9 (NEW). PL 2005, c. 351, §26 (AFF). PL 2009, c. 461, §25 (AMD). PL 2009, c. 627, §7 (AMD). PL 2009, c. 627, §12 (AFF). PL 2011, c. 655, Pt. L, §3 (AMD). PL 2017, c. 440, §§8-10 (AMD). PL 2021, c. 398, Pt. IIII, §4 (AMD).

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