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Local Resource Manufacturing Tax Credit Enacted in Pennsylvania

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By: [Scott Ziance](#) and [Chris Knezevic](#)

Pennsylvania Governor Tom Wolf in July signed House Bill 732, which created a new transferable tax credit for businesses manufacturing fertilizers and petrochemicals using dry natural gas.

The Local Resource Manufacturing Tax Credit (LRMTC) is available to companies that invest at least \$400 million in order to construct a petrochemical or fertilizer plant that uses dry natural gas produced in Pennsylvania. At least 800 new and permanent jobs must be created and a good faith effort must be made to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market during the construction of the project facility. For each qualifying new job, the business must also pay prevailing minimum wage and benefits for each job classification as determined by the Pennsylvania Department of Labor and Industry. The legislation provides for a clawback of 10% of the amount of tax credits awarded in any year if the taxpayer intentionally fails to pay prevailing minimum wage or benefits. The legislation also requires that the project facility utilize carbon capture and sequestration technology, or similar technologies, to the extent it is cost effective and feasible at the discretion of the qualified business.

The legislation authorizes up to approximately \$26.67 million annually in tax credits over a 26-year period. Up to four facilities are eligible to receive the tax credit each year, and no business can receive an annual tax credit worth more than \$6.7 million. The tax credit is equal to \$0.47 per unit of dry natural gas that is purchased and used in the manufacturing of petrochemicals or fertilizers at the project facility. The tax credit may be applied against up to 20% of a qualifying business's tax liabilities incurred in the taxable year for which the tax credit was approved. Excess credits may be assigned or sold, in whole or in part; however, the qualified business is first required to offer the credit for sale or assignment to downstream businesses in the natural gas

industry, and next, to upstream businesses, before being able to sell or assign the credit to businesses in other industries.

Qualifying businesses may begin applying for the LRMTTC on purchases of dry natural gas beginning on Jan. 1, 2024, and ending on Dec. 31, 2049. Tax credit applications must be submitted to Pennsylvania Department of Revenue by March 1 of the year in which the credit is intended to be taken for dry natural gas purchased and used at the project facility during the prior calendar year. Applicants will be notified of final award determinations by May 1.

Vorys encourages you to contact your Vorys attorney or advisor with questions about this program. Please feel free to contact the following Vorys attorneys: Scott J. Ziance, 614.464.8287, sjziance@vorys.com; or Christopher J. Knezevic, 614.464.5627, cjknezevic@vorys.com.