

79-32,156. Same; claiming credit upon acquisition or lease of qualified business facility by related taxpayer; election; estate entitled to credit upon death of taxpayer. (a) If a taxpayer, hereafter referred to in this section as "transferor," shall have established a qualified business facility and, prior to the expiration of the ten-year period during which the credit allowed by K.S.A. 79-32,153, and amendments thereto, may be claimed by the transferor, all or a portion of such qualified business facility, is acquired by, or leased to, a related taxpayer, as defined in subsection (h) of K.S.A. 79-32,154, and amendments thereto, and hereafter referred to in this section as "transferee," the transferor shall elect either to allow the transferee to claim such credit as provided in subsection (b), or to retain such credit as provided in subsection (c).

(b) If all or a portion of the qualified business facility is acquired by, or leased to, the transferee, the portion thereof so acquired by, or leased to, the transferee shall be considered a qualified business facility in the hands of the transferee. In such event, the transferee shall be entitled to a credit, computed in accordance with K.S.A. 79-32,153, and amendments thereto, with respect to the portion of the qualified business facility held by it. Such credit shall be allowed for the remaining portion of the ten-year period during which the transferor could have claimed such credit if all or a portion of the qualified business facility had not been acquired by, or leased to, the transferee. The portion, if any, of the qualified business facility retained by the transferor shall continue to be a qualified business facility in the hands of the transferor and it shall be entitled to the credit allowed by K.S.A. 79-32,153, and amendments thereto, for the remaining portion of such ten-year period.

(c) If a portion of the qualified business facility is acquired by, or leased to, the transferee, the transferor may, notwithstanding such acquisition or lease, treat the portion of the qualified business facility acquired by, or leased to, the transferee as a qualified business facility held by the transferor. In such event, the transferor shall be entitled to the credit allowed by K.S.A. 79-32,153, and amendments thereto, for the remaining portion of such ten-year period, but the transferee shall not be entitled to any such credit. For the purpose of computing such credit, the transferor may take into account such number of employees of the transferee as would constitute qualified business facility employees, and such amount of the transferee's investment as would constitute qualified business facility investment, if the qualified business facility were considered held by the transferee, but shall not take into account the income of the transferee which would constitute qualified business facility income if the qualified business facility were considered held by the transferee.

(d) The transferor shall perfect the election authorized by subsection (a) by notifying the secretary of revenue, by a written statement attached to the return for the taxable year in which the qualified business facility is acquired by, or leased to, the transferee, of the election made and setting forth such other information as the secretary of revenue may, by rules and regulations, require. If the transferor fails to make such election, the transferee shall be deemed entitled to the credit in accordance with subsection (b) of this section.

(e) If an individual taxpayer entitled to the credit allowed by K.S.A. 79-32,153, and amendments thereto, shall die prior to the expiration of the ten-year period during which such taxpayer is entitled to such credit and the qualified business facility with respect to which such credit was claimed passes to the estate of the deceased taxpayer, such estate shall be entitled to a credit with respect to such qualified business facility. Upon distribution of the qualified business facility, or a portion thereof, to a distributee of such estate, the distributee shall be entitled to a credit with respect to such qualified business facility, or portion thereof, distributed to it. The amount and period of the credit to which such estate or distributee shall be entitled shall be determined in accordance with K.S.A. 79-32,153, and amendments thereto, but in no event shall: (1) The qualified business facility investment of the estate or distributee for the portion of the qualified business facility acquired by it from the deceased taxpayer exceed the deceased taxpayer's qualified business facility investment for such portion; and (2) the aggregate number of taxable years for which the estate and the distributee may claim such credit exceed 10 taxable years reduced by the number of taxable years for which the deceased taxpayer claimed the credit.

History: L. 1976, ch. 431, § 4; L. 1986, ch. 385, § 4; July 1.