

CHAPTER 294
FORMERLY
HOUSE BILL NO. 181
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES ON TELEGRAPH AND TELEPHONE COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4102, Title 30 of the Delaware Code, by adding a new subsection (d) to read as follows:

“(d) (1) Effective January 1, 2013, each individual, association, firm or corporation that is subject to tax under this section shall be entitled to a credit against such tax that is equal to 8 percent of its Delaware communications infrastructure investment cost. For purposes of this subsection, no taxpayer shall be entitled to claim a credit under this subsection in excess of the taxpayer’s total tax liability for the year in which the tax is paid and the preceding year.

(2) Effective January 1, 2014, each individual, association, firm or corporation that is subject to tax under this section shall be entitled to a credit against such tax that is equal to 4 percent of its Delaware communications infrastructure investment cost. For purposes of this subsection, no taxpayer shall be entitled to claim a credit under this subsection in excess of such taxpayer’s tax liability for the year in which the tax is paid.

(3) For purposes of this subsection, “Delaware communications infrastructure investment cost” means the average annual aggregate cost of capital investment in wired or wireless communications equipment and other communications infrastructure that was placed in service in Delaware during the current calendar year and the preceding calendar year by the taxpayer and its affiliates. For purposes of this subsection, one person is an affiliate of another person if such persons have a relationship that is specified in § 267(b) of Internal Revenue Code. Only one taxpayer shall be entitled to claim a credit under this subsection with respect to each item of Delaware communications infrastructure investment cost.”

Section 2. Strike Chapter 41, Title 30 of the Delaware Code in its entirety.

Section 3. The tax credit authorized by Section 1 of this Act shall not be considered an unforeseen change in a service provider’s costs of providing telecommunications services for purposes of § 707(c)(8) of subchapter VII-A, Title 26 of the Delaware Code.

Section 4. Section 1 of this Act takes effect January 1, 2013. Any credit claimed by the taxpayer for Delaware communications infrastructure investment costs as described in subsection (d) of this section shall be applied for after July 1, 2013 and payable by the State of Delaware by December 31 of the year in which the tax is paid. Section 2 of this Act takes effect on January 1, 2015. Section 3 of this Act takes effect immediately upon its enactment into law.

Approved July 05, 2012