S T A T E O F N E W Y O R K

4192

2011-2012 Regular Sessions

I N S E N A T E

March 23, 2011

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing a tax deduction for the installation of mechanical insulation property

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subsection (c) of section 612 of the tax law is amended by adding a new paragraph 27 to read as follows:

(27) THE APPLICABLE PERCENTAGE OF THE COST OF MECHANICAL INSULATION PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR.

(A) FOR THE PURPOSES OF THIS PARAGRAPH:

(I) "APPLICABLE PERCENTAGE" SHALL MEAN THE LESSER OF:

(I) THIRTY PERCENT OF THE COST OF THE MECHANICAL INSULATION PROPERTY PLACED IN SERVICE; OR

(II) THE EXCESS, IF ANY, OF (A) THE ENERGY SAVINGS, EXPRESSED AS A PERCENTAGE, OBTAINED BY PLACING SUCH MECHANICAL INSULATION PROPERTY IN SERVICE IN CONNECTION WITH A MECHANICAL SYSTEM, OVER (B) THE ENERGY SAVINGS, EXPRESSED AS A PERCENTAGE, SUCH PROPERTY IS REQUIRED TO MEET BY STANDARD 90.1-2007, DEVELOPED AND PUBLISHED BY THE AMERICAN SOCIETY OF HEATING, REFRIGERATING AND AIR-CONDITIONING ENGINEERS.

(II) "COST" SHALL INCLUDE:

(I) THE AMOUNTS PAID OR INCURRED FOR THE INSTALLATION OF SUCH MECHANICAL INSULATION PROPERTY;

(II) EXPENDITURES FOR LABOR COSTS PROPERLY ALLOCABLE TO THE PREPARATION, ASSEMBLY AND INSTALLATION OF MECHANICAL INSULATION PROPERTY; AND

(III) IN THE CASE OF REMOVAL AND DISPOSAL OF THE OLD MECHANICAL INSULATION PROPERTY, THIRTY PERCENT OF THE COST OF THE NEW MECHANICAL INSULATION PROPERTY, DETERMINED WITHOUT REGARD TO THE TAX CREDIT AUTHORIZED BY THIS SUBSECTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(III) "MECHANICAL INSULATION PROPERTY" SHALL MEAN INSULATION MATERIALS, FACINGS AND ACCESSORY PRODUCTS:

(I) PLACED IN SERVICE IN CONNECTION WITH A MECHANICAL SYSTEM WHICH IS LOCATED IN THE STATE OF NEW YORK AND IS OF A CHARACTER SUBJECT TO AN ALLOWANCE FOR DEPRECIATION; AND

(II) UTILIZED FOR THERMAL, ACOUSTICAL AND PERSONNEL SAFETY REQUIREMENTS FOR MECHANICAL PIPING AND EQUIPMENT, HOT AND COLD APPLICATIONS, AND HEATING, VENTING AND AIR CONDITIONING APPLICATIONS WHICH CAN BE USED IN VARIETY OF FACILITIES.

(B) IN THE CASE OF MECHANICAL INSULATION PROPERTY PLACED IN SERVICE AS A REPLACEMENT FOR INSULATION PROPERTY, SUBCLAUSE (II) OF CLAUSE (I) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE APPLIED WITHOUT REGARD TO ITEM (B) THEREOF.

(C) THE AMOUNT OF ANY OTHER CREDIT OR DEDUCTION ALLOWABLE UNDER THIS CHAPTER FOR ANY COST OF MECHANICAL INSULATION PROPERTY WHICH IS TAKEN INTO ACCOUNT UNDER PARAGRAPH ONE OF THIS SUBSECTION SHALL BE REDUCED BY THE AMOUNT OF SUCH COST SO TAKEN INTO ACCOUNT; PROVIDED, HOWEVER, THAT THIS PARAGRAPH SHALL NOT APPLY TO ANY AMOUNT PROPERLY ATTRIBUTABLE TO MAINTENANCE.

(D) IN THE CASE OF MECHANICAL INSULATION PROPERTY INSTALLED ON OR IN PROPERTY OWNED BY AN ENTITY DESCRIBED IN PARAGRAPH THREE OR FOUR OF SECTION 50(B) OF THE INTERNAL REVENUE CODE, THE PERSON WHO IS THE PRIMARY CONTRACTOR FOR THE INSTALLATION OF SUCH PROPERTY SHALL BE TREATED AS THE TAXPAYER THAT PLACED SUCH PROPERTY IN SERVICE.

(E) FOR THE PURPOSES OF THIS SUBSECTION, ENERGY SAVINGS SHALL BE CERTIFIED UNDER REGULATIONS OR OTHER GUIDANCE PROVIDED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to taxable years commencing on or after such effective date; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.