

5365--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 25, 2013

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Introduced by M. of A. SCHIMMINGER -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing an asbestos remediation tax credit

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

1     Section 1. The tax law is amended by adding a new section 23-a to read  
2 as follows:

3     S 23-A. ASBESTOS REMEDIATION CREDIT. (A) DEFINITIONS. AS USED IN THIS  
4 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

5     (1) QUALIFIED STRUCTURE. "QUALIFIED STRUCTURE" SHALL MEAN (I) A BUILD-  
6 ING, PRINCIPALLY USED BY THE TAXPAYER FOR RESIDENTIAL, INDUSTRIAL,  
7 COMMERCIAL, RECREATIONAL OR ENVIRONMENTAL CONSERVATION PURPOSES, AND  
8 (II) WHICH WAS ORIGINALLY PLACED IN SERVICE AT LEAST TWENTY-FIVE YEARS  
9 PRIOR TO THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED.

10    (2) ELIGIBLE COSTS. "ELIGIBLE COSTS" SHALL MEAN ALL AMOUNTS PROPERLY  
11 CHARGEABLE TO A CAPITAL ACCOUNT, WHICH ARE INCURRED IN DIRECT CONNECTION  
12 TO ASBESTOS REMEDIATION OF A QUALIFIED ASBESTOS PROJECT.

13    (3) QUALIFIED ASBESTOS PROJECT. "QUALIFIED ASBESTOS PROJECT" SHALL BE  
14 AN ASBESTOS PROJECT AS DEFINED IN SECTION NINE HUNDRED ONE OF THE LABOR  
15 LAW AND UNDERTAKEN BY THE TAXPAYER, ON A QUALIFIED STRUCTURE, AND  
16 COMPLETED PURSUANT TO THE APPLICABLE REGULATIONS AT PART FIFTY-SIX OF  
17 TITLE TWELVE OF THE OFFICIAL COMPILATION OF RULES AND REGULATIONS OF THE  
18 STATE.

19    (B) ASBESTOS REMEDIATION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER  
20 WHO HAS UNDERTAKEN A QUALIFIED ASBESTOS PROJECT ON A QUALIFIED STRUC-  
21 TURE, AND WHO IS SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A OR TWENTY-TWO

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

LBD04752-07-4

1 OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO  
2 THE PROVISIONS REFERENCED IN SUBDIVISION (C) OF THIS SECTION.

3 (2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TWENTY PERCENT  
4 OF ALL ELIGIBLE COSTS WHICH ARE INCURRED IN THE TAXABLE YEAR, AS A  
5 RESULT OF ASBESTOS REMEDIATION WITH A COMPLETED QUALIFIED ASBESTOS  
6 PROJECT. THE CREDIT SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE  
7 QUALIFIED ASBESTOS PROJECT IS FIRST COMMENCED AND FOR THE NEXT TWO  
8 SUCCEEDING TAXABLE YEARS. THE CREDIT AUTHORIZED PURSUANT TO THIS SECTION  
9 SHALL NOT EXCEED THE TOTAL SUM OF ONE MILLION DOLLARS FOR THE THREE  
10 TAXABLE YEARS ALLOWED AND CLAIMED. THE COSTS, EXPENSES AND OTHER AMOUNTS  
11 FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS SUBDIVISION SHALL  
12 NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT ALLOWED UNDER THIS  
13 CHAPTER.

14 (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN  
15 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

16 ARTICLE 9: SECTION 187-T.

17 ARTICLE 9-A: SECTION 210-B, SUBDIVISION 49.

18 ARTICLE 22: SECTION 606, SUBSECTIONS (I) AND (CCC).

19 S 2. The tax law is amended by adding a new section 187-t to read as  
20 follows:

21 S 187-T. ASBESTOS REMEDIATION CREDIT. 1. ALLOWANCE OF CREDIT. A  
22 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN  
23 SECTION TWENTY-THREE-A OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY  
24 THIS ARTICLE. PROVIDED, HOWEVER, THAT THE AMOUNT OF SUCH CREDIT ALLOW-  
25 ABLE AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-FOUR OF THIS  
26 ARTICLE SHALL BE THE EXCESS OF THE AMOUNT OF SUCH CREDIT OVER THE AMOUNT  
27 OF ANY CREDIT ALLOWED BY THIS SECTION AGAINST THE TAX IMPOSED BY SECTION  
28 ONE HUNDRED EIGHTY-THREE OF THIS ARTICLE.

29 2. APPLICATION OF CREDIT. THE CREDIT UNDER THIS SECTION FOR ANY TAXA-  
30 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE  
31 APPLICABLE MINIMUM TAX PRESCRIBED BY THIS ARTICLE. IF, HOWEVER, THE  
32 AMOUNT OF CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR  
33 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN  
34 SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE  
35 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND  
36 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF  
37 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER  
38 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

39 S 3. Section 210-B of the tax law is amended by adding a new subdivi-  
40 sion 49 to read as follows:

41 49. ASBESTOS REMEDIATION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER  
42 WHO HAS UNDERTAKEN A QUALIFIED ASBESTOS PROJECT ON AN EXISTING STRUCTURE  
43 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWEN-  
44 TY-THREE-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

45 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION  
46 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS  
47 THAN THE HIGHER AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF  
48 THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS  
49 SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY  
50 AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE  
51 TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORD-  
52 ANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS  
53 CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION  
54 ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST  
55 SHALL BE PAID THEREON.

1 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
2 of the tax law is amended by adding a new clause (xli) to read as  
3 follows:

4 (XLI) ASBESTOS REMEDIATION	AMOUNT OF CREDIT UNDER
5 CREDIT UNDER SUBSECTION (CCC)	SUBDIVISION FORTY-NINE OF
6	SECTION TWO HUNDRED TEN-B

7 S 5. Section 606 of the tax law is amended by adding a new subsection  
8 (ccc) to read as follows:

9 (CCC) ASBESTOS REMEDIATION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER  
10 WHO HAS UNDERTAKEN A QUALIFIED ASBESTOS PROJECT ON AN EXISTING STRUCTURE  
11 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWEN-  
12 TY-THREE-A OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

13 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER  
14 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR  
15 SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE  
16 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX  
17 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST  
18 SHALL BE PAID THEREON.

19 S 6. This act shall take effect on the same date and in the same  
20 manner as section 17 of part A of chapter 59 of the laws of 2014, takes  
21 effect and shall apply to taxable years commencing on or after such  
22 date.