

5365--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 25, 2013

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

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.

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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, SUBDIVISION 50.

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 of the tax law is amended by adding a new subdivision
40 50 to read as follows:

41 50. 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 PARAGRAPHS (C) AND (D) OF SUBDIVI-
48 SION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED
49 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
50 AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
51 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
52 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
53 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF
54 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO
55 INTEREST 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 FIFTY OF
6 SECTION TWO HUNDRED TEN

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 immediately and shall apply to taxable
20 years commencing on or after January 1, 2015.