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

5683

2013-2014 Regular Sessions

I N A S S E M B L Y

March 5, 2013

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Ways and Means

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:

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

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

(1) QUALIFIED STRUCTURE. "QUALIFIED STRUCTURE" SHALL MEAN A BUILDING (I) PRINCIPALLY USED BY THE TAXPAYER FOR RESIDENTIAL, INDUSTRIAL, COMMERCIAL, RECREATIONAL OR ENVIRONMENTAL CONSERVATION PURPOSES, (II) WHICH WAS ORIGINALLY PLACED IN SERVICE AT LEAST TWENTY-FIVE YEARS PRIOR TO THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED, AND (III) THAT IS AT LEAST PARTIALLY SITUATED WITHIN ERIE COUNTY.

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

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

(B) ASBESTOS REMEDIATION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHO HAS UNDERTAKEN A QUALIFIED ASBESTOS PROJECT ON A QUALIFIED STRUCTURE, AND WHO IS SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (C) OF THIS SECTION.

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

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(2) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE FIFTY PERCENT OF ALL ELIGIBLE COSTS WHICH ARE INCURRED IN THE TAXABLE YEAR, AS A RESULT OF ASBESTOS REMEDIATION WITH A QUALIFIED ASBESTOS PROJECT. THE CREDIT SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE QUALIFIED ASBESTOS PROJECT IS FIRST COMMENCED AND FOR THE NEXT TWO SUCCEEDING TAXABLE YEARS. THE CREDIT AUTHORIZED PURSUANT TO THIS SECTION SHALL NOT EXCEED ONE MILLION DOLLARS IN THE AGGREGATE FOR THE THREE TAXABLE YEARS ALLOWED AND CLAIMED. THE COSTS, EXPENSES AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS SUBDIVISION SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT ALLOWED UNDER THIS CHAPTER.

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

ARTICLE 9: SECTION 187-S.

ARTICLE 9-A: SECTION 210, SUBDIVISION 46.

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

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

S 187-S. ASBESTOS REMEDIATION CREDIT. 1. ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-THREE-A OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE. PROVIDED, HOWEVER, THAT THE AMOUNT OF SUCH CREDIT ALLOWABLE AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-FOUR OF THIS ARTICLE SHALL BE THE EXCESS OF THE AMOUNT OF SUCH CREDIT OVER THE AMOUNT OF ANY CREDIT ALLOWED BY THIS SECTION AGAINST THE TAX IMPOSED BY SECTION ONE HUNDRED EIGHTY-THREE OF THIS ARTICLE.

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

S 3. Section 210 of the tax law is amended by adding a new subdivision 46 to read as follows:

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

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE HIGHER AMOUNT PRESCRIBED IN PARAGRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

(XXXV) ASBESTOS REMEDIATION CREDIT UNDER SUBSECTION (VV)	AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-SIX OF SECTION TWO HUNDRED TEN

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

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

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

S 6. This act shall take effect immediately and shall apply to taxable years commencing on or after January 1, 2013.