

1671--C

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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

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

LBD04752-06-4

1 TITLE TWELVE OF THE OFFICIAL COMPILATION OF RULES AND REGULATIONS OF THE
2 STATE.

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

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

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

21 ARTICLE 9: SECTION 187-T.

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

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

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

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

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

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

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

50 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
51 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
52 THAN THE HIGHER AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
53 THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS
54 SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY
55 AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE
56 TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORD-

1 ANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS
2 CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION
3 ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST
4 SHALL BE PAID THEREON.

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

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| 8 | (XLI) ASBESTOS REMEDIATION | AMOUNT OF CREDIT UNDER |
| 9 | CREDIT UNDER SUBSECTION (CCC) | SUBDIVISION FORTY-NINE OF |
| 10 | | SECTION TWO HUNDRED TEN-B |

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

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

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

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