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

5240

2013-2014 Regular Sessions

I N S E N A T E

May 15, 2013

Introduced by Sen. GOLDEN -- 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 the definition of "entire net income"

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

Section 1. Paragraph (a) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 19 to read as follows:

(19) ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING, FOR QUALIFIED PROPERTY AS DESCRIBED IN SECTION 167, 168 OR 179 OF THE INTERNAL REVENUE CODE WHICH WAS ACQUIRED BY AN ENTITY DESIGNATED AS A NEW YORK STATE INCUBATOR PURSUANT TO SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT, OR BY A TAXPAYER WHICH IS OR WAS A TENANT IN OR CLIENT OF SUCH NEW YORK STATE INCUBATOR, THAT WAS PLACED IN SERVICE DURING A TAXABLE YEAR BEGINNING WITH THE FIRST TAXABLE YEAR DURING WHICH THE TAXPAYER BECOMES A TENANT IN OR CLIENT OF A NEW YORK STATE INCUBATOR AND ENDING ON THE FIFTH TAXABLE YEAR THEREAFTER, THE TAXPAYER MAY ELECT TO DEDUCT DEPRECIATION FOR SUCH PROPERTY IN AN AMOUNT THAT IS EQUAL TO ONE HUNDRED PERCENT OF THE DEPRECIATION OF THE QUALIFIED PROPERTY FOR THE TOTAL OF ITS USEFUL LIFE THAT WOULD OTHERWISE BE ALLOWED PURSUANT TO SUCH SECTION 167, 168 OR 179 OF THE INTERNAL REVENUE CODE, PROVIDED THAT FOR ANY QUALIFIED PROPERTY FOR WHICH SUCH TAXPAYER DOES NOT MAKE SUCH ELECTION, THE TAXPAYER SHALL BE ALLOWED THE DEPRECIATION DEDUCTION ALLOWED PURSUANT TO SECTION 167, 168 OR 179 OF THE INTERNAL REVENUE CODE. A TAXPAYER WHO ELECTS TO DEDUCT DEPRECIATION IN AN AMOUNT THAT IS EQUAL TO ONE HUNDRED PERCENT OF THE COST OF PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR MAY NOT CLAIM ANY OTHER DEDUCTION ON THE COST OF SUCH PROPERTY. IF PROPERTY ON WHICH DEPRECIATION HAS BEEN TAKEN IS DISPOSED OF PRIOR TO THE END ON ITS USEFUL LIFE, THE TAXPAYER SHALL IN THE YEAR OF DISPOSITION ADD BACK THE DIFFERENCE

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

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BETWEEN THE DEPRECIATION TAKEN AND THE DEPRECIATION ALLOWABLE PURSUANT TO SECTION 167 OF THE INTERNAL REVENUE CODE FOR EACH YEAR OF THE REMAINING USEFUL LIFE OF THE PROPERTY.

S 2. Paragraph (o) of subdivision 9 of section 208 of the tax law, as added by section 3 of part O3 of chapter 62 of the laws of 2003, is amended to read as follows:

(o) For taxable years beginning after December thirty-first, two thousand two, in the case of qualified property described in paragraph two of subsection k of section 168 of the internal revenue code, other than qualified resurgence zone property described in paragraph (q) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section 1400L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), which was placed in service on or after June first, two thousand three, AND OTHER THAN PROPERTY ACQUIRED BY A NEW YORK STATE INCUBATOR DESIGNATED PURSUANT TO SECTION SIXTEEN-V OF THE URBAN DEVELOPMENT CORPORATION ACT, OR BY A TAXPAYER WHICH IS OR WAS A CLIENT OF SUCH NEW YORK STATE INCUBATOR DURING A PERIOD OF FIVE TAXABLE YEARS, BEGINNING WITH THE FIRST TAXABLE YEAR DURING WHICH THE TAXPAYER BECOMES A TENANT IN OR CLIENT OF SUCH NEW YORK STATE INCUBATOR, a taxpayer shall be allowed with respect to such property the depreciation deduction allowable under section 167 of the internal revenue code as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one.

S 3. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2013.