

3240

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 22, 2015

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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 reme-  
diation tax credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, 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 A BUILDING  
6     (I) PRINCIPALLY USED BY THE TAXPAYER FOR RESIDENTIAL, INDUSTRIAL,  
7     COMMERCIAL, RECREATIONAL OR ENVIRONMENTAL CONSERVATION PURPOSES, (II)  
8     WHICH WAS ORIGINALLY PLACED IN SERVICE AT LEAST TWENTY-FIVE YEARS PRIOR  
9     TO THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED, AND (III) THAT IS AT  
10    LEAST PARTIALLY SITUATED WITHIN ERIE COUNTY.  
11    (2) ELIGIBLE COSTS. "ELIGIBLE COSTS" SHALL MEAN ALL AMOUNTS PROPERLY  
12    CHARGEABLE TO A CAPITAL ACCOUNT, WHICH ARE INCURRED IN DIRECT CONNECTION  
13    TO ASBESTOS REMEDIATION OF A QUALIFIED ASBESTOS PROJECT.  
14    (3) QUALIFIED ASBESTOS PROJECT. "QUALIFIED ASBESTOS PROJECT" SHALL BE  
15    AN ASBESTOS PROJECT AS DEFINED IN SECTION NINE HUNDRED ONE OF THE LABOR  
16    LAW AND UNDERTAKEN BY THE TAXPAYER, ON A QUALIFIED STRUCTURE, AND  
17    COMPLETED PURSUANT TO THE APPLICABLE REGULATIONS AT PART FIFTY-SIX OF  
18    TITLE TWELVE OF THE OFFICIAL COMPILATION OF RULES AND REGULATIONS OF THE  
19    STATE.  
20    (B) ASBESTOS REMEDIATION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER  
21    WHO HAS UNDERTAKEN A QUALIFIED ASBESTOS PROJECT ON A QUALIFIED STRUC-  
22    TURE, AND WHO IS SUBJECT TO TAX UNDER ARTICLE NINE, NINE-A OR TWENTY-TWO  
23    OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO  
24    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-T.

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

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

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

S 187-T. 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-B of the tax law is amended by adding a new subdivision 49 to read as follows:

49. 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 SECTION TWO HUNDRED TEN OF THIS ARTICLE. 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 (xli) to read as follows:

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

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

(CCC) 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 TWEN-  
TY-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, 2015.