

7484

I N S E N A T E

May 4, 2016

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 and the economic development law, in relation to the excelsior investment tax credit

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

1 Section 1. Subdivision (c) of section 31 of the tax law, as amended by
2 section 47 of part A of chapter 59 of the laws of 2014, is amended to
3 read as follows:
4 (c) Election of credit. A taxpayer who or which is qualified to claim
5 the excelsior investment tax credit component and is also qualified to
6 claim the investment tax credit provided for under subdivision one of
7 section two hundred ten-B or subsection (a) of section six hundred six
8 of this chapter, may claim either the excelsior investment tax credit
9 component or the investment tax credit, but not both with regard to a
10 particular piece of property. In addition, a taxpayer who or which is
11 qualified to claim the excelsior investment tax credit component and is
12 also qualified to claim the brownfield tangible property credit compo-
13 nent under section twenty-one of this article, [as added by chapter one
14 of the laws of two thousand three, may claim either the excelsior
15 investment tax credit component or such tangible property credit compo-
16 nent, but not both with regard to a particular piece of property. The
17 election to claim the excelsior investment tax credit component, the
18 investment tax credit or the brownfield tangible property credit compo-
19 nent, with regard to the same property, is irrevocable] CAN CLAIM THE
20 EXCELSIOR INVESTMENT TAX CREDIT COMPONENT ONLY TO THE EXTENT THAT QUALI-
21 FYING COSTS UNDER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT ARE NOT
22 QUALIFYING COSTS UNDER THE BROWNFIELD TANGIBLE PROPERTY CREDIT COMPO-
23 NENT. NOTWITHSTANDING ANY LAW OR REGULATION TO THE CONTRARY, A TAXPAYER
24 QUALIFIED TO CLAIM THE BROWNFIELD TANGIBLE PROPERTY CREDIT COMPONENT
25 UNDER SECTION TWENTY-ONE OF THIS ARTICLE, SHALL ALSO BE ELIGIBLE TO
26 CLAIM ANY OR ALL OF: (I) THE EXCELSIOR JOBS TAX CREDIT COMPONENT; (II)

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

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1 THE EXCELSIOR RESEARCH AND DEVELOPMENT TAX CREDIT COMPONENT; AND/OR
2 (III) THE EXCELSIOR REAL PROPERTY TAX CREDIT COMPONENT.

3 S 2. Subdivision 2 of section 355 of the economic development law, as
4 amended by section 4 of part G of chapter 61 of the laws of 2011, is
5 amended to read as follows:

6 2. Excelsior investment tax credit component. A participant in the
7 excelsior jobs program shall be eligible to claim a credit on qualified
8 investments. The credit shall be equal to two percent of the cost or
9 other basis for federal income tax purposes of the qualified investment.
10 A participant may not claim both the excelsior investment tax credit
11 component and the investment tax credit set forth in subdivision twelve
12 of section [two hundred ten]TWO HUNDRED TEN-B, subsection (a) of section
13 six hundred six[, subsection (i) of section fourteen hundred fifty-six,]
14 or subdivision (q) of section fifteen hundred eleven of the tax law for
15 the same property in any taxable year, except that a participant may
16 claim both the excelsior investment tax credit component and the invest-
17 ment tax credit for research and development property. In addition, a
18 taxpayer who or which is qualified to claim the excelsior investment tax
19 credit component and is also qualified to claim the brownfield tangible
20 property credit component under section twenty-one of the tax law [may
21 claim either the excelsior investment tax credit component or such
22 tangible property credit component, but not both with regard to a
23 particular piece of property. A credit may not be claimed until a busi-
24 ness enterprise has received a certificate of tax credit, provided that
25 qualified investments made on or after the issuance of the certificate
26 of eligibility but before the issuance of the certificate of tax credit
27 to the business enterprise, may be claimed in the first taxable year for
28 which the business enterprise is allowed to claim the credit. Expenses
29 incurred prior to the date the certificate of eligibility is issued are
30 not eligible to be included in the calculation of the credit] CAN CLAIM
31 THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT ONLY TO THE EXTENT THAT
32 QUALIFYING COSTS UNDER THE EXCELSIOR INVESTMENT TAX CREDIT COMPONENT ARE
33 NOT QUALIFYING COSTS UNDER THE BROWNFIELD TANGIBLE PROPERTY CREDIT
34 COMPONENT.

35 S 3. This act shall take effect immediately and shall apply to taxable
36 years beginning on and after January 1, 2015.