

STATE OF NEW YORK

4636--A

2019-2020 Regular Sessions

IN SENATE

March 18, 2019

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing a residential asbestos remediation tax credit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 606 of the tax law is amended by adding a new
2 subsection (kkk) to read as follows:

3 (kkk) Residential asbestos and abatement tax credit. (1) General. A
4 qualified taxpayer shall be allowed a credit for taxable years beginning
5 on or after January first, two thousand twenty against the tax imposed
6 by this article for the costs of abatement of asbestos contamination in
7 certain residential real property, when such removal is recommended by
8 an asbestos professional certified or licensed pursuant to article thir-
9 ty of the labor law.

10 (2) Credit limitation. The amount of the credit shall be the lesser of
11 ten thousand dollars or thirty percent of the total cost.

12 (3) Asbestos abatement costs. The term "costs of abatement" includes
13 the cost of an inspection or assessment from a certified specialist, any
14 initial appraisals of asbestos, municipal or otherwise, labor costs of
15 removal, any disposal fees, and any cleanup fees; except any state or
16 local sales tax applicable to the services performed.

17 (4) Removal and abatement for qualified taxpayers. A property owner
18 who incurs costs for removing or remediating asbestos as in this
19 section, only applies to certain residential real property which is:

20 (A) located in this state;

21 (B) owned by the taxpayer;

22 (C) used by the taxpayer as his or her principal residence, secondary
23 residence, or rental property; and

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

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1 (D) is located in a city or municipality with one million residents or
2 less.

3 (5) When credit allowed. The credit provided for in this subsection
4 shall be allowed with respect to the taxable year in which the removal
5 work is completed and paid for.

6 (6) Carryover of credit. If the amount of the credit, and carryovers
7 of such credit, allowable under this subsection for any taxable year
8 shall exceed the taxpayer's tax for such year, such excess amount may be
9 carried over to the five taxable years next following the taxable year
10 with respect to which the credit is allowed and may be deducted from the
11 taxpayer's tax for such year or years.

12 (7) Allocation of credit. The commissioner, in consultation with the
13 commissioner of the department of health, shall promulgate regulations
14 by January first, two thousand twenty to establish procedures for the
15 allocation of tax credits allowed under this subsection. Such rules and
16 regulations shall include provisions describing the application process
17 for the credit allowed under this subsection, the due dates for such
18 applications, the standards which shall be used to evaluate the applica-
19 tions, the documentation that will be provided to taxpayers to substan-
20 tiate to the department the amount of tax credits allocated to such
21 taxpayers, and such other provisions as deemed necessary and appropri-
22 ate. Notwithstanding any other provisions to the contrary in the state
23 administrative procedure act, such rules and regulations may be adopted
24 on an emergency basis if necessary to meet such January first, two thou-
25 sand twenty deadline. The aggregate amount of tax credits allowed under
26 this subsection in any taxable year shall be twenty-five million
27 dollars. Such aggregate amount of credits shall be allocated among
28 taxpayers in order of priority based upon the date of filing an applica-
29 tion for the credit. If the total amount of allocated credits applied
30 for in any particular year exceeds the aggregate amount of tax credits
31 allowed for such year under this section, such excess shall be treated
32 as having been applied for on the first day of the subsequent year.

33 (8) Credit recapture. For provisions requiring recapture of credit,
34 see section forty-four of this chapter.

35 § 2. This act shall take effect on the one hundred eightieth day after
36 it shall have become a law and shall apply to taxable years beginning on
37 or after January 1, 2020. Effective immediately, the addition, amend-
38 ment and/or repeal of any rule or regulation necessary for the implemen-
39 tation of this act on its effective date are authorized to be made and
40 completed on or before such effective date.