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:

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

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

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

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

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

(A) located in this state;

(B) owned by the taxpayer;

(C) used by the taxpayer as his or her principal residence, secondary 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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(D) is located in a city or municipality with one million residents or less.

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

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

(7) Allocation of credit. The commissioner, in consultation with the commissioner of the department of health, shall promulgate regulations by January first, two thousand twenty to establish procedures for the allocation of tax credits allowed under this subsection. Such rules and regulations shall include provisions describing the application process for the credit allowed under this subsection, the due dates for such applications, the standards which shall be used to evaluate the applications, the documentation that will be provided to taxpayers to substantiate to the department the amount of tax credits allocated to such taxpayers, and such other provisions as deemed necessary and appropriate. Notwithstanding any other provisions to the contrary in the state administrative procedure act, such rules and regulations may be adopted on an emergency basis if necessary to meet such January first, two thousand twenty deadline. The aggregate amount of tax credits allowed under this subsection in any taxable year shall be twenty-five million dollars. Such aggregate amount of credits shall be allocated among taxpayers in order of priority based upon the date of filing an application for the credit. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this section, such excess shall be treated as having been applied for on the first day of the subsequent year.

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

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