

1981 Legislation

Amendment to the Additional Investment Tax Credit

Section 21 of Chapter 103 of the Laws of 1981 amended Section 210.12-A(a) of Article 9-A of the New York State Tax Law.

For taxable years beginning on or after January 1, 1981, the ADDITIONAL INVESTMENT TAX CREDIT (Section 210.12-A) will be allowed to a taxpayer that was not subject to the corporation franchise tax under Article 9-A and did not have a taxable year, for New York State, immediately preceding the year in which the investment tax credit (Section 210.12) is claimed provided the corporation can meet their specific employment qualifications.

In order for the corporation to qualify for the ADDITIONAL INVESTMENT TAX CREDIT, the average number of employees in New York State of the corporation in the taxable year in which the ADDITIONAL INVESTMENT TAX CREDIT is claimed must be at least 101% of the average number of employees in New York State of the corporation in the taxable year in which the investment tax credit (Section 210.12) was claimed. (See Example 1)

This information should be cross referenced to Section 5 of TSB-M-78(14)C Memorandum

Please note that corporations, that were taxable in the year immediately preceding the year in which the investment tax is claimed, must meet the original employment qualifications. This allows the corporation to qualify for the ADDITIONAL INVESTMENT TAX CREDIT if the average number of employees in New York State in the taxable year of the ADDITIONAL INVESTMENT TAX CREDIT is at least 101% of the average number of employees in New York States in the taxable year immediately preceding the taxable year in which the investment tax credit is claimed. (See Example 2)

EXAMPLE 1

<u>Years</u>	<u>Corporation's Average Number of Employees In N. Y.S.</u>	<u>Percentage Computation</u>	<u>Qualifies</u>
1980*	-0-	Not Applicable	Not Applicable
1981*	100	Not Applicable	Not Applicable
1982	102	102/100 = 102%	Yes
1983	90	90/100 = 90%	No
1984	103	103/100 = 103%	Yes
1985	104	Not Applicable	Not Applicable***

EXAMPLE 2

<u>Years</u>	<u>Corporation's Average Number of Employees in N.Y.S.</u>	<u>Percentage Qualification</u>	<u>Qualifies</u>
1979	80	Not Applicable	Not Applicable
1980	90	Not Applicable	Not Applicable
1981*	100	Not Applicable	Not Applicable
1982	102	102/90 = 113%	Yes
1983	90	90/90 = 100%	No
1984	103	103/90 = 114%	Yes
1985	104	Not Applicable	Not Applicable***

* not taxable in New York State for Corporation Franchise Tax under Article 9-A

** year the investment tax credit was claimed

*** Section 210.12-A allows the credit to be claimed for each of the next three years following the year in which the investment tax credit is claimed.