

1982 Legislation

Safe Harbor Leases

Sections 1 and 2 of Chapter 55 of the Laws of 1982 amended Article 9-A of the Tax Law by adding subparagraphs 9 and 10 to Section 208.9(a) and subparagraphs 8 and 9 to Section 208.9(b). Sections 33, 34, 35 and 36 of Chapter 55 of the Laws of 1982 amended both Articles 32 and 33 of the Tax Law by adding paragraphs 7 and 8 to Section 1453(b), paragraphs 5 and 6 to Section 1453(e), subparagraphs (F) and (G) to Section 1503(b)(1) and subparagraphs (K) and (L) to Section 1503(b)(2). These amendments require additions to and deductions from Federal taxable income, with regards to safe harbor leases, when computing entire net income for New York State tax purposes. The effect of these amendments is to nullify federal safe harbor lease provisions in the computation of entire net income by requiring the taxpayer to exclude any amounts which were included in the computation of federal taxable income as a result of a "safe harbor" lease and to include any amounts which were excluded in the computation of federal taxable income as a result of a "safe harbor" lease.

The required additions are as follows:

(1) any amount which the taxpayer claimed as a deduction in computing its federal taxable income solely as a result of an election made pursuant to the provisions of paragraph 8 of subsection (f) of section 168 of the Internal Revenue Code; and

(2) any amount which the taxpayer would have been required to include in the computation of its federal taxable income had it not made the election permitted pursuant to the provisions of paragraph 8 of subsection (f) of section 168 of the Internal Revenue Code.

The required deductions are as follows:

(1) any amount which is included in the taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of paragraph 8 of subsection (f) of section 168 of the Internal Revenue Code; and

(2) any amount which the taxpayer could have excluded from federal taxable income had it not made the election provided for in paragraph 8 of subsection (f) of section 168 of the Internal Revenue Code.

Exempt from these amendments are "safe harbor" leases for qualified mass commuting vehicles (as defined in section 103(b)(9) of the Internal Revenue Code) which are financed in whole or in part by obligations, the interest on which is excludible from income under section 103(a) of the Internal Revenue Code.

These amendments apply to taxable periods beginning in 1982 and 1983. These amendments will not be required in taxable periods beginning in 1981 or 1984 and subsequent years.