

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-83 (10)C
Corporation Tax
May 3, 1983

1983 Amendments to Tax Law
Chapter 15 Laws of 1983
Article 9-A and Article 27

<u>Law Section</u>	<u>Bill Section</u>	<u>Summary</u>
208.9(a)(9)& 208.9(a)(10)	59	Safe harbor lease modifications applicable to taxable years beginning in 1982 and 1983 also applicable to taxable years beginning in 1984 under agreements entered into prior to January 1, 1984.
208.9(a)(11)	60	Provides for allowing a deduction from entire net income for depreciation which would have been allowed under Sec. 167 I.R.C. which would have applied to property placed in service on December 31, 1980. (See bill Sec. 63 pertaining to amendment for Sec. 208.9(j).
208.9(a)(12)	60	On disposition of ACRS property upon which a taxpayer was allowed an IRC Sec. 167 deduction, a deduction will be allowed for the excess of the ACRS deductions over the Sec. 167 deductions.
208.9(b)(8) & 208.9(b)(9)	61	Safe harbor lease modifications applicable to taxable years beginning in 1982 and 1983, also applicable to taxable years beginning in 1984, under agreements entered into prior to January 1, 1984.
208.9(b)(11)	62	Upon disposition of ACRS property an add back will be required where allowable Sec. 167 IRC deductions exceeded ACRS deductions
208.9(j)	63	For taxable years beginning in 1982, 1983 and 1984 where a taxpayer was required to add back the ACRS deduction, and where the deduction has not been excluded from the determination of entire net income, because of a "safe harbor lease" transaction, a taxpayer will be allowed a deduction which would have applied under Section 167 of the IRC to property placed in service on December 31, 1980.

<u>Law Section</u>	<u>Bill Section</u>	<u>Summary</u>
210.11(a)	64	On or after 4/1/83 the eligible business facility credit will only be allowed where a taxpayer has received a certificate of eligibility, or a renewal or extension thereof, for such facility from the Job Incentive Board prior to 4/1/83, or has received a certificate of eligibility or a renewal or extension thereof, from the State Tax Commission subsequent to such date pursuant to par. (h) of this subdivision. (See Sect. 210.11(h), Bill Sect. 68).
210.11(b)(1) & 210.11(b)(2)	65	Eliminates reference to Job Incentive Board
210.11(d)(ii)	66	Technical change in reference to Commerce Law
210.11(f) and (g)	67	Eliminates reference to Commerce Law and Job Incentive Board
210.11(h)	68	On or after 4/1/83 the State Tax Commission will be empowered to issue a certificate of eligibility to a taxpayer for an eligible business facility with regard to which the taxpayer has prior to 7/1/83, received from the JIB initial approval of an application for such certificate, or a letter of intent. The State Tax Commission will also be empowered to renew, extend, revoke or modify a certificate of eligibility for tax credits as was issued under section 120 of the Commerce Law as such section existed on 3/31/83.
210.12(d)	69	Provisions pertaining to Investment Tax Credit on leased property applicable to safe harbor leases apply to agreements entered into prior to January 1, 1984.
210.18(d)	70	Provisions pertaining to credit for research and development property in safe harbor leases extended to apply to agreements entered into prior to January 1, 1984
1084(d)*	86	Provisions providing for no interest on interest repealed. (Sec. 96 of bill provides for new section 1096(e)(3) providing for daily compounding of interest. (See Bill Section 96 applicable to interest accruing on or after 9/1/83).

*Items indicated by asterisk pertain to Article 27 which applies equally to Articles 9, 9-A, 32 and 33.

<u>Law Section</u>	<u>Bill Section</u>	<u>Summary</u>
1084(f)*	87	Tax reduced by carryback - If the amount of tax under Art. 9-A for any taxable year is reduced by reason of a carryback of a net operating loss or a capital loss, the reduction in tax shall not affect the computation of interest for the period ending with the <u>filing date</u> for the taxable year in which the net operating loss or capital loss arises. Such <u>filing date shall be determined without regard to extensions of time to file.</u> (applicable to interest accruing on or after 9/1/83) (also see Bill Section 94, Law Section 1088(d))
1085(c)*	88	Estimated tax payments are required to equal 90% of the tax shown for the taxable year. Changed from 80% of the tax shown. In any case where there would be no underpayment if 80% were substituted for the new amount of 90%, the addition to tax shall be equal to 75% of the amount otherwise determined. (For years beginning after 12/31/82)
1085(d)(3)(A)*	89	Section pertaining to additions for underpayment of estimated tax amended to reflect change to 90% from prior 80% requirement. (For years beginning after 12/31/82)
1085(d)(3)(B)*	89	New provisions for annualizing items of receipts, income and expenses for purpose of estimated tax. (For years beginning after 12/31/82)
1085(e)*	90	A corporation, or a predecessor corporation, which had entire net income, or the portion thereof allocated within the state, of \$1 million or more, for any taxable year during the three taxable years immediately preceding the taxable year involved, shall, in no event, pay less than 75% of the tax shown on the return for the taxable year beginning in 1983, or if no return was filed, 75% of the tax for such year. Subsections (e),(f),(g),(h) and (i) of sect. 1085 were renumbered as (f),(g),(h),(i) and (j).
1085(h)(i)* and (j)*	91	Change to references because of change of lettering of subsections.

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<u>Law Section</u>	<u>Bill Section</u>	<u>Summary</u>
1085(k)*	92	<p>Penalty for substantial understatement of tax liability. If there is a substantial understatement of tax for any taxable year, there shall be added to the tax 10% of the amount of any underpayment attributable to the understatement. There will be a substantial understatement of the tax if the amount of the understatement exceeds the greater of 10% of the tax required to be shown on the return or \$10,000, except that for an electing small business corporation a substantial understatement exists if the understatement exceeds 10% of the tax or \$5,000. The term "understatement" means the excess of the amount of the tax required to be shown on the return, over the amount of the tax imposed which is shown on the return. The Tax Commission may waive all or any part of the penalty where there was a reasonable cause for the understatement.</p> <p>The amount of understatement shall be reduced by that portion of the understatement which is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.</p>
1088(a)(3)*	93	<p>Pertains to computation of interest on overpayments on late returns. Determined with regard to extensions, no interest will be allowed or paid for any day before the date on which the return is filed. (applicable to returns filed on or after 9/1/83).</p>
1088(d)*	94	<p>The amendment provides that any overpayment of tax resulting from a carryback of a net operating loss, or a net capital loss, shall be deemed not to have been made prior to the filing date for the taxable year of the loss. Such filing date shall be determined without regard to extensions of time to file.</p>

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<u>Law Section</u>	<u>Bill Section</u>	<u>Summary</u>
		<p>The amendment also provides that for the purpose of Section 1088(c) (tax refund within three months of due date of tax) any overpayment of tax due to a net operating loss or capital loss carryback will be treated as an overpayment for the loss year and the provisions of Section 1088(c) will apply to the overpayment by treating the return for the loss year as not being filed before the claim for the overpayment based on the net operating loss or capital loss carryback was filed. The term "loss year" means the taxable year in which the loss arises. Under these provisions no interest will be allowed if the overpayment is refunded within three months after the claim for refund was filed. (Applicable to taxable years beginning after December 31, 1982, for interest accruing on or after September 1, 1983)</p>
1088(e)*	95	<p>Sec. 1088(e) relettered to 1088(f) and a new Sect. 1088(e) is added. No interest on overpayment until return is in processible form. (applicable to returns filed on or after 9/1/83)</p>
1096(e)(3)*	96	<p>Provides for daily compounding of interest except on payments of estimated tax under Section 1085(c). (Eff. 9/1/83 for interest accruing on or after 9/1/83).</p>

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