

Order of Application of Tax Credits

This memorandum updates the order of application of tax credits shown in TSB-M-87(10)C dated December 17, 1987. The Business Tax Reform and Rate Reduction Act of 1987 created many changes relating to credits.

Since some taxpayers may be eligible to claim more than one of the tax credits available, an order of application of tax credits has been established. The order has been established according to criteria mentioned in the Tax Law (Article 9-A) and availability of carry forwards. The following order of application of tax credits has been established:

Article 9-A

- (1) Eligible Business Facility Tax Credit (section 210.11) may be claimed in the current tax year only - no carryforward. No credit is allowed for tax years beginning after Dec. 31, 1999. See TSB M 88(6)C. Use form CT 45.
- (2) Economic Development Zone Capital Corporation Tax Credit (section 210.20) - may be claimed in current tax year only - no carryforward. Use form DTF-602.
- (3) Economic Development Zone Wage Tax Credit (section 210.19) - to be deducted after any tax credit that may not be carried forward and before any tax credit that may be carried forward. May be carried forward indefinitely. Use form DTF-601.
- (4) Pre 1987 Investment Tax Credit Carry forwards- Pre 1987 (section 210.12) - may be carried forward 7 years to 1993. Use form CT46.
- (5) Pre 1987(01d) Employment Incentive Tax Credit Carry forwards- (section 210.12-A) - may be carried forward 7 years to 1993. Use form CT46.
- (6) Pre 1987 Research and Development Tax Credit Carry forwards- (section 210.18) - may be carried forward 7 years to 1993. Use form CT42.
- (7) (Old) Employment Incentive Tax Credits (section 210.12A) (Pre 1987) may be claimed for 3 years after original investment tax credit. May be carried forward 7 years. Use form CT46.
- (8) Investment Tax Credit- 1987 and later tax years (section 210.12) - may be carried forward 7 years. Use form CT46.
- (9) New Employment Incentive Tax Credits (section 210.12-D) - may be carried forward 7 years. First allowable in 1988 on 1987 investment tax credit property. Use form CT46.
- (10) Economic Development Zone Investment Tax Credit (section 210.12-B)- no limit on carryforward. Use form DTF-603.

- (11) Economic Development Zone Employment Incentive Tax Credit (section 210.12C) - no limit on carryforward. Use form DTF-601.
- (12) Special Additional Mortgage Recording Tax Credit (section 210.17) - any credit claimed for years beginning before January 1, 1986 may not be carried forward. For credits claimed for years beginning on or after January 1, 1986 the credit may be carried forward indefinitely. The credit is not allowed on residential mortgages recorded on or after May 1, 1987 if the property is located in one of the counties comprising the Metropolitan Commuter Transportation District or Erie County. Use form CT43.

Note: For taxable years beginning on or after January 1, 1986 through periods beginning before January 1, 1990, taxpayers entitled to the special additional mortgage recording tax credit (section 210.17) may elect, in lieu of carryover, to treat the unused portion of the special additional mortgage recording tax credit as an overpayment of tax to be credited or refunded. Use form CT43.1.

Also, certain new businesses as defined in Tax Law section 210.12(j) may elect to receive a refund of its unused investment tax credit instead of carrying the credit forward. Use form CT46.

Article 32

- (1) Eligible Business Facility Tax Credit (section 1456(b)) - may be claimed in current tax year only - no carryforward. No credit is allowed for tax years beginning after December 31, 1999. Use Form CT45.
- (2) Economic Development Zone Capital Corporation Credit (section 1456(d)) may be claimed in current year only - no carryforward. Use form DTF-602.
- (3) Tax Credit for Servicing Mortgages (section 1456(a))- may be claimed in current year only - no carryforward. No form available, attach rider showing computations.
- (4) Economic Development Zone Credit (section 1456(e))- (Wage Tax Credit) - may be carried forward indefinitely. Use form DTF-601.
- (5) Special Additional Mortgage Recording Tax Credit (section 1456(c))- unused special additional mortgage tax credits may be carried forward indefinitely. (See Article 9A - item #2). Use form CT43 or CT43.1. Additional information may be found in TSB-M-86(13)C dated October 15, 1987.

Article 33

- (1) Economic Development Zone Capital Stock Corporation Credit- (section 1511(h)) - may be claimed in current tax year only - no carryforward. May be deducted before application of the limitation of tax. Use form DTF-602.
- (2) Economic Development Zone Wage Tax Credit- (section 1511(g)) may be carried forward indefinitely. Deducted before the application of the limitation of tax. Use form DTF-601.
- (3) Eligible Business Facility Tax Credit- (section 1511(d)) may be claimed in current year only - no carryforward. No credit is allowed for tax years beginning after December 31, 1999. Use form CT45.
- (4) Credit for certain other premium taxes- (section 1511(a)) - this credit is limited to the highest tax less the economic development zone capital corporation credit, the economic development zone wage tax credit, and the eligible business facility tax credit claimed. No carryover. No form available, attach rider showing computations.
- (5) Credit Against Reciprocal taxes imposed by New York State.- (section 1511(c)) - No carryforward. Excess may be credited or refunded. Use form CT33 - Schedule J.
- (6) Special Additional Mortgage Recording Tax Credit- (section 1511(e)) claimed in current year. Unused special additional mortgage recording tax credits may be carried forward indefinitely. See Article 9A, item #12. Use form CT43 or form CT43.1
- (7) Credit Relating to Life Insurance Guaranty Corporation Assessments- (section 1511(f)) Claimed in current year. - may be carried forward. See TSB-M 85(6)C Revised, dated Sept. 19, 1986. No form available, attach rider showing computations.