

1983 Legislation

Safe Harbor Leases and Finance Leases

This memorandum should be used in conjunction with TSB-M-83-(3)-I, 1982 Legislation Safe Harbor Leases, for an explanation of the New York State treatment prior to amendments made by Chapter 15 of the Laws of 1983.

Modifications for Safe Harbor Leases

The modifications described in the above memorandum, sections 612(b)(23) and (24) and 612(c)(24) and (25), have been amended by Chapter 15 of the Laws of 1983. The uncoupling provisions of these modifications have been extended for an additional year, through 1984. The amendment also provides that the modifications are only to be made for agreements entered into prior to January 1, 1984. The reference to mass commuting vehicles, as referred to in section 168(f)(8) of the Internal Revenue Code, has been amended to reflect a change made by the federal.

Modifications for Finance Leases

No modifications are to be made for "finance leases" (agreements entered into after December 31, 1983). "Finance leases", which are provided for in IRC section 168(f)(8) as amended by P.L. 97-354 and applicable to agreements entered into after December 31, 1983, replace the "safe harbor lease" provisions.

Investment Credit and Research and Development Credit

Chapter 15 of the Laws of 1983 has amended sections 606(a)(4) and 606(h)(4) to provide that the election made under section 168(f)(8) will only be disregarded for agreements entered into prior to January 1, 1984. Therefore, in the case of finance leases (agreements entered into after December 31, 1983) neither the lessee nor the lessor will be allowed the credits. For safe harbor leases, the investment credit and research and development credit treatment remains the same as outlined in TSB-M-83-(3)-I.

Cross References

See TSB-M-83-(10)-I, Modifications for Federal Accelerated Cost Recovery System, for changes made by Chapter 15 of Laws of 1983.

See TSB-M-83-(11)-I, Item of Tax Preference for Accelerated Cost Recovery Deduction, for changes made by Chapter 15 of Laws of 1983.

Section T46-112.0 of the Administrative Code of the City of New York has been correspondingly amended to conform with the amendments made to section 612 of Article 22 of the Tax Law (sections T46-112.0(b)(24) and (25), T46-112.0(c)(23) and (24)).