

Amendment to Air Pollution Control Facilities

1984 Legislation

Chapter 972 of the Laws of 1984, signed into law on August 6, 1984, has amended section 612(h)(1)(B) of Article 22 of the Tax Law to extend the definition air pollution control facilities to include acid rain deposition equipment and facilities.

The term "air pollution control facilities" has been amended to include "fuel gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities" that conform with the existing definition of air pollution control facilities and which comply with the provisions of the State Acid Deposition Control Act set forth in Title 9 of Article 19 of the Environmental Conservation Law,

Taxpayers may elect to take a subtraction from federal adjusted gross income for the taxable year in which qualified expenditures for air pollution control facilities are paid or incurred. The existing requirement that the facilities be certified as complying with the Environmental Conservation Law by the Commissioner of the Department of Environmental Conservation also applies to the newly qualifying facilities.

For personal income tax purposes, a taxpayer who exercises the election will also have to make the addition modification under section 612(b)(6) and the subtraction modification under section 612(c)(11) since these provisions now include acid deposition equipment and facilities. The amendment also applies to the New York City personal income tax by virtue of section 1301(b) of the Tax Law.

This amendment took effect on August 6, 1984 and applies to qualified expenditures made on or after August 6, 1984.