



## Additional Revisions to the Real Property Tax Credit For Qualified New York Manufacturers

This memorandum explains recent amendments to the Tax Law relating to the manufacturer's real property tax credit for taxpayers subject to tax under Article 9-A.

### Manufacturer's real property tax credit

#### *Background*

Chapter 59 of the Laws of 2014 created the manufacturer's real property tax credit for qualified New York manufacturers subject to tax under Article 9-A (franchise tax on business corporations). The provision allows qualified New York manufacturers a credit against tax due for eligible real property taxes paid.

To qualify for the credit, the real property taxes must be paid by the taxpayer in the year the taxes become a lien on the real property and must be for real property located in New York that is:

- owned by the manufacturer, or leased by the manufacturer from an unrelated party where the manufacturer is the lessee, and
- principally used during the tax year for manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing.

For more information, see [TSB-M-15\(3\)C, \(3\)l](#), *Real Property Tax Credit and Reduction of Tax Rates for Qualified New York Manufacturers*, and [TSB-M-15\(3.1\)C, \(3.1\)l](#), *Revised Information on the Real Property Tax Credit and Reduction of the Capital Base Tax Rate for Qualified New York Manufacturers*.

#### ***Amended provision for certain farmers and commercial fishermen subject to tax under Article 9-A***

Chapter 60 of the Laws of 2016 (Part MM) amended Tax Law section 210-B(43)(b)(2) to allow corporations that are qualified New York manufacturers principally engaged in the production of goods by farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing to claim the credit for eligible real property taxes paid on property leased from a **related** party<sup>1</sup>, provided:

- the taxes are paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and

<sup>1</sup> Any person that meets the definition of a related person under section 465(b)(3)(C) of the Internal Revenue Code. See Appendix I of TSB-M-15(3)C, (3)l.

- the taxpayer as lessee has paid such taxes directly to the taxing authority and has received a written receipt for payment of taxes from the taxing authority.

In the case of an Article 9-A combined group that meets the definition of a qualified New York manufacturer, the conditions in the preceding paragraph are satisfied if one corporation in the combined group is the lessee and another corporation in the combined group makes the payments to the taxing authority.

This amendment expanded the definition of eligible real property taxes for Article 9-A agricultural businesses and commercial fishermen to include real property taxes paid on property leased from a **related** party. Prior to this amendment, eligible real property taxes only included taxes paid on property leased from an unrelated party.

**Example:** *Farm A, Inc., a qualified New York manufacturer, is engaged in farming on property in New York State that is leased from a related party, Farm B, LLC. For tax purposes, Farm A, Inc., is taxed as a corporation and Farm B, LLC, is taxed as a partnership. Farm A, Inc., will be eligible to claim the credit if it paid the real property taxes pursuant to explicit requirements in the written lease, directly to the taxing authority and received a written receipt for payment of the taxes from the taxing authority.*

This amendment applies to tax years beginning on or after January 1, 2014. A qualified taxpayer who filed a 2014 or 2015 corporation tax return prior to this legislative change may file an amended return to claim the credit for tax years beginning in 2014 or 2015.

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.