

1979 Legislation

Hotels, Motels and Other Resort Facilities May

Qualify for Eligible Business Facility Tax Credit

or Investment Tax Credit

Chapter 62 of the Laws of 1979 amended Section 118 (b) of the Commerce Law to include hotels, motels and other resort facilities located in New York State as eligible business facilities with respect to which a credit can be claimed against the Franchise Tax on Business Corporations imposed by Article 9-A of the Tax Law.

In order to qualify as an eligible business facility, the hotel, motel or other resort facility must offer overnight accommodations and they must be used for the encouragement, stimulation or promotion of tourist, travel, resort or vacation business. A facility, located in New York State, will be deemed to meet the requirement of Section 118(b) of the Commerce Law if it is used primarily in the encouragement, stimulation or promotion of tourist, travel, resort or vacation business within the eligible area and counties outside such eligible area but adjacent to the eligible area. In addition, the hotel, motel or other resort facility must also meet the other requirements of Section 118 of the Commerce Law.

Once the corporation receives the certificate of eligibility from the New York Job Incentive Board, the corporation can claim an eligible business facility tax credit in accordance with Article 9-A, Section 210.11 of the Tax Law. At the option of the taxpayer and pursuant to Article 9-A, Section 210.12(f), the eligible business facility may be treated as property principally used in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. Therefore, the property could be claimed as investment tax credit, in lieu of the eligible business facility tax credit as long as the property otherwise qualifies under Article 9-A, Section 210.12(b) of the Tax Law.

This act took effect on April 17, 1979.

This information should be cross referenced to the section on the eligible business facility tax credit and the section on the investment tax credit in the TSB-M-78(14)C memorandum.

In addition, the second to last sentence of Section 5-1.1 of the Regulation with respect to the Franchise Tax on Business Corporations imposed by Article 9-A of the Tax Law should be crossed referenced to this bulletin until this section of the regulations can be updated.