

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-81 (8)C
Corporation Tax
December 25, 1981

This memorandum supersedes memorandum TSB-M-81(8)C, dated July 29, 1981, which should be destroyed. The new material has been underlined for quick reference.

1981 Legislation

Refundable Credit for New Businesses

Section 17 and 18 of Chapter 103, as amended by Chapters 1043, of the Laws of 1981 amended Section 210.12(e) and added Section 210.12(j), respectively, of Article 9-A of the New York State Tax Law.

The law allows a "New Business", as defined in Section 210.12(j) of Article 9-A (Bill Section 18), to have the amount of unused investment tax credit refunded to the corporation in lieu of it being carry forward to the next taxable period. This option applies only to the investment tax credit (Section 210.12) and does not apply to the additional investment tax credit (Section 210.12-A) or any other tax credits allowed under Article 9-A. All the unused investment tax credit must be refunded or carried forward. It can not be split up.

The amendment to Section 210.12(e) also provided that no interest shall be paid on the refund of the unused investment tax credit.

A "NEW BUSINESS" is defined as any corporation except a corporation which:

1. over 50% of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned by a taxpayer subject to the tax under Article 9-A; Section 183, 184, 185 or 186 of Article 9; Article 32 or Article 33 of the Tax Law
2. is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under Article 9-A; Section 183, 184, 185 or 186 of Article 9; Article 32 or Article 33 or which would have been subject to the tax under Article 23, as such article was in effect on January 1, 1980, or the income (or losses) of which is (or was) includable under Article 22 of the New York State Tax Law.
3. has been subject to tax under Article 9-A for more than 4 taxable years (excluding short periods) prior to the taxable year during which the taxpayer first becomes eligible for the investment tax credit.

These changes apply to taxable years beginning on or after January 1, 1982.