

Recapture of 18-Year and 19-Year Real Property

General

Chapter 258 of the Laws of 1986 was enacted on July 1, 1986. This chapter amends the provisions of the business corporation franchise tax relating to recapture of investment credit (Tax Law §210.18) on ACRS property other than buildings or their structural components, to provide references to 18-year and 19-year real property. These types of property were created respectively by the Tax Reform Act of 1984 (P.L. 98-369) and by the Simplification of Imputed Interest Rules Act (P.L. 99-121).

Summary of Provisions of Amended Law

Where 18-year and 19-year real property is disposed of or ceases to be in qualified use prior to the end of the taxable year in which the investment tax credit is to be taken, the amount of credit allowed is that portion of the credit provided under § 210.12 which represents the ratio which the months of qualified use bears to 60. In other words, the credit is calculated by taking months of qualified use, divided by 60 months, times the original credit taken. Where property remains in qualified use for more than five years (60 months), there is no recapture of any portion of the credit originally allowed.

Effective Dates

The provision of Chapter 258 concerning 18-year real property applies to taxable years ending after March 15, 1984. The provision concerning 19-year real property applies to taxable years ending after May 8, 1985.