

New York State's Tax Reform and Reduction Act of 1987
Business Tax Reform and Reduction Act of 1987

New York State Credits

The Tax Reform and Reduction Act of 1987 (Chapter 28) was amended by the Business Tax Reform and Rate Reduction Act of 1987 (Chapter 817), preventing the scheduled repeal of various provisions of the Tax Law concerning many of the income tax credits. An explanation of the changes to the investment credit, household credit, child care credit, special additional mortgage recording tax credit, research and development credit, and S corporation credit, follows. For the changes affecting the economic development zone credits, see TSB-M-86-(5)I Revised, Economic Development Zones.

Investment Credit - Section 606(a)

General

Section 606(a), as amended, retains at a reduced rate the investment tax credit for investments in manufacturing, production, and retail enterprise property, and provides that the credit for investments in research and development property is now part of the investment tax credit. In addition, the new law makes it clear that investments in industrial waste treatment property, air pollution control facilities and research and development property that no longer qualify for optional expense modifications (see TSB-M-87-(20)I, New York State Additions and Subtractions), remain eligible for the investment tax credit.

Effective date

The changes to the investment tax credit, except where otherwise indicated, are effective for property placed in service in New York State on or after January 1, 1987.

Investment tax credit rate and investment tax credit base

The investment tax credit rate has been reduced to 4% for all qualified property, except for research and development property, which is 7%. In addition, the new law provides that the amount of the credit is computed using the investment credit base of the qualified property.

The investment credit base is the cost or other basis of the qualified property for federal income tax purposes. If the qualified property is purchased using nonqualified nonrecourse financing, the investment credit base must be reduced by the amount of financing that would be excludable from the credit base pursuant to Section 46(c)(8) of the Internal Revenue Code.

If, at the close of a taxable year following the taxable year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to the property, the net decrease is to be treated as the cost or other basis of qualified property acquired, constructed, reconstructed or erected during the year of the decrease.

Carryover of unused investment credit

Tax Reform has restricted the number of years that the investment credit may be carried forward. The unused portion of an investment credit allowable for a taxable year beginning after 1986 may be carried forward only to the following seven years, and any amount of unused credit allowable for a tax year prior to 1987 may not be carried forward to taxable years beginning after 1993.

Refundable unused investment credit

A sole proprietor or member of a partnership who qualifies as an owner of a new business may elect to receive a refund of the unused credit. The refundable investment credit has been expanded to include research and development investments.

Tax on early dispositions

The new law has added the following situations where the tax on early dispositions must be computed:

- 1) If a certificate of compliance for an air pollution control facility is revoked.
- 2) If there is a change of use whereby an air pollution control facility or an industrial waste treatment facility is used primarily for the salvaging of materials that are usable in the manufacturing process or are marketable.
- 3) If there is an increase in nonqualified nonrecourse financing. The tax only applies to the amount of the increase.

For purposes of computing the tax on early dispositions, New York depreciable life is used for property for which accelerated cost recovery system depreciation was not allowed for New York purposes. In addition, taxpayers subject to a tax on early disposition for any type of property must add to their income tax an additional amount, computed by multiplying the tax on early dispositions by the interest rate in effect on the last day of the taxable year. The interest rate is not compounded.

The changes affecting the tax on early dispositions are applicable to taxable years beginning on or after January 1, 1987.

Household Credit - Section 606(b)

Taxpayers are allowed the full household credit for taxable years beginning in 1987, 1988, and 1989, and 50 percent of the credit for taxable years beginning in 1990. For taxable years beginning after 1990, the credit is eliminated.

For taxable years beginning after 1986, federal adjusted gross income is used to compute the household credit. Under prior law, the credit was computed using the sum of New York adjusted gross income and minimum taxable income.

Child Care Credit - Section 606(c)

Section 606(c), as finally amended by tax reform, has retained the child care credit in full.

Special Additional Mortgage Recording Tax Credit - Section 606(f)

The special additional mortgage recording tax credit has been repealed for taxable years beginning after 1987. Taxpayers may carry over the unused portion of the credit allowable for taxable years prior to 1988 until absorbed.

Research and Development Credit - Section 606(h)

The 10% credit for investments in research and development property is repealed for taxable years beginning after 1986. However, investment in research and development property qualifies for the investment tax credit, and is eligible for a special credit rate of 7%.

Carryovers of any unused research and development credit from tax years prior to 1987 cannot be carried over to taxable years beginning after 1993.

S Corporation Credit - section 606(i)

Section 606(i), as amended, retains the pass through of the investment credit, special additional mortgage recording tax credit and economic development zone tax credits to shareholders of electing New York S corporations. However, the amount of the flow-through investment tax credit and economic development zone investment tax credit must be computed using the credit rates applicable to individual taxpayers (4% or 7% for the investment tax credit and 8% for the economic development zone investment tax credit).

The portion of any unused S corporation credit attributable to an investment credit or research and development credit allowable for a year prior to 1987 may not be carried over to a taxable year beginning after 1993. The portion of any unused S corporation credit attributable to an investment credit allowable for a taxable year beginning after 1986 may only be carried forward to the following seven years. To determine what portion of an unused S corporation credit is attributable to the investment credit or research and development credit, the credits are to be applied in the following order:

1. Economic development zone capital corporation tax credit
2. Economic development zone wage tax credit (including carryover)
3. Investment credit or research and development credit carryovers from pre-1987 years
4. Investment tax credit allowable for current year
5. Special additional mortgage recording tax credit.

A shareholder of an electing New York S corporation that qualifies as a new business may elect to receive a refund of the portion of an unused S corporation credit that is attributable to the investment credit. The refundable investment credit has been expanded to include research and development investments.