



## Revised Information on the Real Property Tax Credit and Reduction of the Capital Base Tax Rate 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 22 and the capital base tax rate for qualified New York manufacturers 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 Articles 9-A (franchise tax on business corporations) and 22 (personal income tax) of the Tax Law. The credit 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 (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, \(3\)I](#), *Real Property Tax Credit and Reduction of Tax Rates for Qualified New York Manufacturers*.

**Revised information for certain farmers and commercial fishermen subject to tax under Article 22.** Chapter 59 of the Laws of 2015 (Part I, section 8) amended section 606(xx) of the Tax Law. Under the amendment, a sole proprietor, partnership, estate, or trust principally engaged in the production of goods by farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing can claim the credit for eligible real property taxes paid on property leased from a **related or unrelated** third party, provided:

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

Prior to this amendment, taxes paid on real property leased from a related third party did not qualify for this credit.

**Example:** *Farm A, LLC, 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, LLC, is taxed as a partnership and Farm B, LLC, is taxed as a corporation. Farm A, LLC, will be eligible to claim the credit if the taxes are paid by Farm A, LLC, pursuant to explicit requirements in the written lease, and Farm A, LLC, has paid such taxes directly to the taxing authority and has received a written receipt for payment of the taxes from the taxing authority.*

**Note:** The third party that is leasing the real property to the sole proprietor, partnership, estate, or trust does not need to be subject to tax under Article 22.

This amendment is effective for tax years beginning on or after January 1, 2014. Qualified taxpayers who filed a 2014 income tax return prior to this legislative change must file an amended return to claim the credit for tax year 2014.

### **Revised capital base tax rate for qualified New York manufacturers for tax year 2015**

Chapter 59 of the Laws of 2015 (Part T, section 18) amended section 210.1(b) of the Tax Law. Under the amendment, the tax rate on the capital base for qualified New York manufacturers has been decreased from .15% to .132% for tax years beginning on or after January 1, 2015, and before January 1, 2016.

**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.