



Legislation Text

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Int. No. 220-A

By Council Members Weprin, Diaz and Jennings (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to disallowing, for purposes of the city general corporation tax, banking corporation tax and unincorporated business income tax, certain additional accelerated depreciation deductions with respect to certain property acquired after September 10, 2001, allowed by the amendments to the internal revenue code made by section 101 of public law 107-147.

Be it enacted by the Council as follows:

Section 1. Section 11-506 of the administrative code of the city of New York is amended by adding a new subdivision (e) to read as follows:

(e) Upon the disposition of property to which subdivisions twenty and twenty-one of section 11-507 apply, the amount of any gain or loss includible in entire net income shall be adjusted to reflect the modifications provided in such subdivisions attributable to such property.

§ 2. Section 11-507 is amended by adding three new subdivisions 20, 21 and 22 to read as follows:

(20) For taxable years ending after September tenth, two thousand one, in the case of qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property described in subdivision twenty-two of this section, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section fourteen hundred L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), no deduction shall be allowed for the amount allowable as a deduction under section one hundred sixty-seven of the internal revenue code.

(21) For taxable years ending after September tenth, two thousand one, in the case of qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property described in subdivision twenty-two of this section, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section fourteen hundred L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), a deduction shall be allowed with respect to such property equal to the depreciation deduction allowable under section one hundred sixty-seven of the internal revenue code as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one.

(22) For purposes of subdivisions twenty and twenty-one of this section, qualified resurgence zone property shall mean qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code substantially all of the use of which is in the resurgence zone, as defined below, and is in the active conduct of a trade or business by the taxpayer in such zone, and the original use of which in the resurgence zone commences with the taxpayer after September tenth, two thousand one. The resurgence zone shall mean the area of New York county bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, and running thence east to Canal Street, then running along the centerline of Canal Street to the intersection of the Bowery and Canal Street, running thence in a southeasterly direction diagonally across Manhattan Bridge Plaza, to the Manhattan Bridge, and thence along the centerline of the Manhattan Bridge to the point where the centerline of the Manhattan Bridge would intersect with the easterly bank of the East River, and bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel and running thence north along West Avenue to the intersection of Clarkson Street then running east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

§ 3. Subparagraph 10 of paragraph (a) of subdivision 8 of section 11-602 of the administrative code of the city of New York is amended to read as follows:

(10) the amount deductible pursuant to paragraph (j) of this subdivision; [and]

§ 4. Subparagraph 11 of paragraph (a) of subdivision 8 of section 11-602 of the administrative code of the city of New York is amended to read as follows:

(11) upon the disposition of property to which paragraph (j) of this subdivision applies, the amount, if any, by which the aggregate of the amounts described in subparagraph eleven of paragraph (b) of this subdivision attributable to such property exceeds the aggregate of the amounts described in paragraph (j) of this subdivision attributable to such property[.]; and

§ 5. Paragraph (a) of subdivision 8 of section 11-602 of the administrative code of the city of New York is amended by adding a new subparagraph 12 to read as follows:

(12) for taxable years ending after September tenth, two thousand one, the amount deductible pursuant to paragraph (k) of this subdivision.

§ 6. Paragraph (b) of subdivision 8 of section 11-602 of the administrative code of the city of New York is amended by adding a new subparagraph 16 to read as follows:

(16) for taxable years ending after September tenth, two thousand one, in the case of qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property described in paragraph (m) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section fourteen hundred L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), the amount allowable as a deduction under section one hundred sixty-seven of the internal revenue code.

§ 7. Subdivision 8 of section 11-602 of the administrative code of the city of New York is amended by adding three new paragraphs (k), (l) and (m) to read as follows:

(k) for taxable years ending after September tenth, two thousand one, in the case of qualified

property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property described in paragraph (m) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section fourteen hundred L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), the depreciation deduction allowable under section one hundred sixty-seven as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one.

(l) for taxable years ending after September tenth, two thousand one, upon the disposition of property to which paragraph (k) of this subdivision applies, the amount of any gain or loss includible in entire net income shall be adjusted to reflect the inclusions and exclusions from entire net income pursuant to subparagraph twelve of paragraph (a) and subparagraph sixteen of paragraph (b) of this subdivision attributable to such property.

(m) for purposes of paragraphs (l) and (m) of this subdivision, qualified resurgence zone property shall mean qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code substantially all of the use of which is in the resurgence zone, as defined below, and is in the active conduct of a trade or business by the taxpayer in such zone, and the original use of which in the resurgence zone commences with the taxpayer after September tenth, two thousand one. The resurgence zone shall mean the area of New York county bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, and running thence east to Canal Street, then running along the centerline of Canal Street to the intersection of the Bowery and Canal Street, running thence in a southeasterly direction diagonally across Manhattan Bridge Plaza, to the Manhattan Bridge, and thence along the centerline of the Manhattan Bridge to the point where the centerline of the Manhattan Bridge would intersect with the easterly bank of the East River, and bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel and running thence north along West Avenue to the intersection of Clarkson Street then running east along the centerline of Clarkson Street to the intersection of

Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

§ 8. Subdivision b of section 11-641 of the administrative code of the city of New York is amended by adding a new paragraph 13 to read as follows:

(13) for taxable years ending after September tenth, two thousand one, in the case of qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property defined in subdivision (p) of this section, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section fourteen hundred L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), the amount allowable as a deduction under section one hundred sixty-seven of the internal revenue code.

§ 9. Section 11-641 of the administrative code of the city of New York is amended by adding three new subdivisions (n), (o) and (p) to read as follows:

(n) for taxable years ending after September tenth, two thousand one, in the case of qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code, other than qualified resurgence zone property described in subdivision (p) of this section, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section fourteen hundred L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), a taxpayer shall be allowed with respect to such property the depreciation deduction allowable under section one hundred sixty-seven as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one.

(o) for taxable years ending after September tenth, two thousand one, upon the disposition of property to which subdivision (n) of this section applies, the amount of any gain or loss includible in entire net income shall be adjusted to reflect the inclusions and exclusions from entire net income pursuant to paragraph

thirteen of subdivision (b) and subdivision (n) of this section attributable to such property.

(p) for purposes of subdivisions (n) and (o) of this section, qualified resurgence zone property shall mean qualified property described in paragraph two of subsection k of section one hundred sixty-eight of the internal revenue code substantially all of the use of which is in the resurgence zone, as defined below, and is in the active conduct of a trade or business by the taxpayer in such zone, and the original use of which in the resurgence zone commences with the taxpayer after September tenth, two thousand one. The resurgence zone shall mean the area of New York county bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, and running thence east to Canal Street, then running along the centerline of Canal Street to the intersection of the Bowery and Canal Street, running thence in a southeasterly direction diagonally across Manhattan Bridge Plaza, to the Manhattan Bridge, and thence along the centerline of the Manhattan Bridge to the point where the centerline of the Manhattan Bridge would intersect with the easterly bank of the East River, and bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel and running thence north along West Avenue to the intersection of Clarkson Street then running east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

§ 10. If any provisions of sections one through nine of this local law is adjudged by any court of competent jurisdiction to be invalid or unconstitutional, for taxable years ending after September 10, 2001, for purposes of the general corporation tax, banking corporation tax and unincorporated business tax, the depreciation deduction allowable for qualified property described in paragraph 2 of subsection k of section 168 of the internal revenue code, for qualified New York Liberty Zone property described in paragraph 2 of subsection b of section 1400L of the internal revenue code and for qualified New York Liberty Zone leasehold improvement property described in subsection c of such section, shall be limited to the depreciation deduction

allowable under section 167 of the internal revenue code as such section would have applied to such property had it been acquired by the taxpayer on September 10, 2001, and the expense deduction allowable under section 179 of the internal revenue code with respect to such property shall be limited to the deduction allowable under such section as it would have applied to such property had it been acquired by the taxpayer on September 10, 2001, and, for purposes of such taxes, any gain or loss upon the disposition of such property shall be adjusted to reflect such modifications to the allowable depreciation and expense deductions with respect thereto.

§ 11. This local law shall take effect immediately and shall apply to taxable years ending after September 10, 2001.

§ 12. Notwithstanding the provisions of section eleven of this local law, if New York Assembly Bill No. 11817 has not become a law prior to the time that this local law is enacted, then this local law shall take effect immediately upon the enactment into law of such bill and shall then apply as provided in section eleven of this local law.