

TAX RELIEF for AIR POLLUTION CONTROL FACILITIES

Tax relief to encourage construction of air pollution control facilities is provided under State and Federal law.

A. State Tax Relief

1. Tax Law

- a. A deduction shall be allowed for expenditures paid or incurred during the taxable year for construction, reconstruction or improvement of certified air pollution facilities initiated after January 1, 1966. See Sections 208, 210, 612, 683, and 1083 of the New York State Tax Law.
- b. Machinery and equipment used for disposing of industrial waste, as part of a process for preventing air pollution, are exempt from sales and compensating use tax. See Section 528.13 of Title 10 NYCRR.
- c. Real Property Tax Law - Air pollution control facilities which were constructed or reconstructed in order to comply with the provisions of the environmental conservation law and codes, rules, regulations, permits or orders issued pursuant thereto shall be exempt from taxation and special ad valorem levies to the extent of any increase in value thereof by reason of such construction or reconstruction. See Section 477(a) of the New York State Real Property Tax Law (formerly Section 481).

B. Eligibility for State Tax Relief

An eligible facility must remove, reduce or render less noxious air contaminants which would otherwise be emitted to the outer air from an air contamination source and must be in compliance with the New York State air pollution control rules. Eligibility is limited to that portion of the facility from a point immediately preceding the removal, reduction or treatment device to the point of discharge. Examples of eligible facilities include air cleaning installations, such as scrubbers, afterburners, centrifugal dust collectors, cloth arrestors and electrostatic precipitators, or processes such as desulfurization systems.

Facilities whose primary purpose is the salvage of usable or marketable materials and facilities which rely on dilution, dispersion or assimilation of air contaminants in the ambient air are ineligible.

C. Certification for State Tax Relief

A Certificate of Compliance for Tax Relief for an Air Pollution Control Facility (form 76-20-1) is issued for a completed facility for up to a five-year period and may be renewed by reapplication if the facility is still in operation. A temporary Certificate of Compliance may be issued for a facility under construction, but it shall apply only to those expenditures made in the taxable year for which the certificate is issued.

A person who owns an eligible facility may apply for certification by submitting application form 76-19-7 in triplicate to the NYSDEC Regional Air Pollution Control Engineer. Applications may be obtained from the NYSDEC regional office for the county in which the facility is located. Addresses of the regional offices may be obtained from the Bureau of Stationary Sources at 518-402-8403. [NOTE: Relief from real property taxes is obtained in a similar manner. Source owners need to apply for and obtain a Certification of Compliance for Tax Relief from the NYSDEC Regional Air Pollution Control Engineer. This document is then submitted to the local (city, town or village) government which levies the property tax where the facility is located. Local governmental jurisdictions should have tax codes in place which would allow for such tax relief, consequently the extent of such tax relief may vary depending upon the local jurisdiction. The source owner is advised to contact the appropriate local governmental offices for more information.]

D. Federal Tax Relief

Section 169 of the Internal Revenue Code was added to the Tax Reform Act of 1969, effective December 30, 1969, permitting rapid tax amortization (5-year straight-line depreciation) of air pollution control facilities placed in operation on or after January 1, 1969. See document entitled "Information on Rapid Tax Amortization under Section 169 of the Internal Revenue Code" available from the US Environmental Protection Agency, Region II Office, 290 Broadway, New York, NY 10007-1866.

E. Eligibility for Federal Tax Relief

The rapid amortization deduction is limited to any air pollution control facility which removes, alters, prevents, disposes of or stores air contaminants. Air pollution control facilities eligible for state tax relief are normally also eligible for federal tax relief.

G. Certification for Federal Tax Relief

When filing with the federal Internal Revenue Service, the source owner must also submit separate certification from the New York State Department of

Environmental Conservation (NYSDEC) and the US Environmental Protection Agency (USEPA).

Federal (USEPA) Certification

An applicant must complete and submit USEPA form 3300-1, Application for Certificate of Pollution Control Facility. See USEPA form 3300-1A, Instructions for Completing and Filing USEPA form 3300-1. These forms may be obtained from the USEPA Region II office.

The original of the completed application, with required attachments, must be submitted to the USEPA, Region II Office, 290 Broadway, New York, NY 10006-1866. Qualified applicants will be issued a Notice of Federal Certification (USEPA form 3300-3)

New York State (DEC) Certification

Copies 1 and 2 of USEPA form 3300-1, Application for Certificate of Pollution Control Facility, including required attachments must be submitted to the NYSDEC Regional Air Pollution Control Engineer for the region which includes county where the facility is located.

If the source owner applies or had previously applied for certification pertaining to state tax relief, the issued Certificate of Compliance for Tax Relief for an Air Pollution Control Facility (form 76-20-1) can be used as evidence of State certification. If the source owner is applying for federal tax relief only, he/she will receive, if qualified, a copy of completed USEPA form 3300-2, Notice of State Certification.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Air Resources

625 Broadway, Albany, New York 12233-3250

P: (518) 402-8452 | F: (518) 402-9035

www.dec.ny.gov

Date Issued:

- Three year
- Temporary
- Renewal

Expires:

CERTIFICATE OF COMPLIANCE FOR TAX RELIEF
AIR POLLUTION CONTROL FACILITY, DEC ID. X-XXXX-XXXXX
 Issued Pursuant to §§ 19-0307, 19-0309 of the
 New York State Environmental Conservation Law

Owner / Operator:

Location of facility:

Facility Description:

This is to certify that the owner/operator has completed the construction or reconstruction of an air pollution control facility at the above location, and that this facility is operating in compliance as set forth in section 19-0307 and 19-0309 of the State Environmental Conservation Law.

Conditions:

1. This certificate is subject to revocation if the facility is not operated in compliance with applicable provisions.
2. To continue eligibility for tax relief, the holder of this certificate is required to submit to the field representative a triennial operating report with a renewal application, form 76-19-7 (formerly AIR-108) in triplicate not later than sixty (60) days before this certificate expires.

SIGNED _____



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

**APPLICATION
CERTIFICATE OF COMPLIANCE FOR TAX RELIEF
AIR POLLUTION CONTROL FACILITY**

Please submit inquiries and applications to your Regional Air Pollution Control Engineer.

NAME OF APPLICANT		DATE OF APPLICATION	APPLICATION NO. (Leave blank)	
ADDRESS (Number & Street)		NAME OF PERSON SIGNING APPLICATION		
City, Town or Village State Zip Code		Title		
APPLICATION FOR: <input type="checkbox"/> Three-year Certificate <input type="checkbox"/> Temporary Certificate <input type="checkbox"/> Renewal		IF RENEWAL, INDICATE PREVIOUS CERTIFICATE NO.		
LOCATION OF AIR POLLUTION CONTROL FACILITY				
_____ (Number & Street)		_____ (City, Town, Village)		_____ (County)
1. TYPE (Describe)		2. MANUFACTURER AND MODEL NO.		
3. CAPACITY (SCFM)	COST	4. CERTIFICATE TO OPERATE OR PERMIT Date Issued		No.
		MONTH	DAY	YEAR
1. DATE CONSTRUCTION STARTED		_____	_____	_____
2. DATE CONSTRUCTION COMPLETED		_____	_____	_____
IF NOT COMPLETED, ESTIMATED DATE OF COMPLETION		_____	_____	_____
3. DATE FACILITY BECAME OPERATIONAL		_____	_____	_____
4. NEXT REAL PROPERTY TAXABLE STATUS DATE		_____	_____	_____
5. NEXT INCOME TAX REPORT DUE DATE		_____	_____	_____
THE SALVAGE OF MARKETABLE OR USABLE MATERIALS IS NOT THE PRIMARY PURPOSE OF THIS AIR POLLUTION CONTROL FACILITY				
_____ Signature (Applicant)				
TO BE COMPLETED BY FIELD REPRESENTATIVE				
<input type="checkbox"/> Recommend Approval				
<input type="checkbox"/> Recommend Disapproval (State reasons)				
REMARKS:				
DATE _____		SIGNED _____ Field Representative		