S T A T E O F N E W Y O R K

4312

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. FITZPATRICK, QUINN, FINCH, HAYES, RABBITT, McKEVITT, HAWLEY, WALKER -- Multi-Sponsored by -- M. of A. BACALLES, BARCLAY, BARRA, BURLING, CONTE, ERRIGO, GIGLIO, KOLB, McDONOUGH, O'MARA, RAIA, SALADINO, SCOZZAFAVA, TEDISCO, THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a homeownership rehabilitation credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 606 of the tax law is amended by adding a new subsection (o-1) to read as follows:

(O-1) HOMEOWNERSHIP REHABILITATION CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT OF FIFTEEN PERCENT OF THE QUALIFIED REHABILITATION EXPENSES MADE BY THE TAXPAYER WITH RESPECT TO A QUALIFIED RESIDENCE AGAINST THE TAX IMPOSED BY THIS ARTICLE. FOR THE PURPOSES OF THIS SUBSECTION:

(A) "QUALIFIED RESIDENCE" MEANS ANY RESIDENCE WHICH IS LOCATED:

(I) IN A CENSUS TRACT IN WHICH SEVENTY PERCENT OR MORE OF THE FAMILIES HAVE INCOME THAT IS LESS THAN NINETY PERCENT OF THE GREATER OF AREA OR STATEWIDE MEDIAN GROSS INCOME;

(II) IN A RURAL AREA AS DEFINED UNDER SECTION 520 OF THE FEDERAL HOUSING ACT OF 1949;

(III) ON A RESERVATION FOR A FEDERALLY RECOGNIZED INDIAN TRIBE, OR

(IV) IN AN AREA OF CHRONIC ECONOMIC DISTRESS, AS DEFINED BY SECTION 143 OF THE INTERNAL REVENUE CODE.

(B) "RESIDENCE" MEANS:

(I) A SINGLE FAMILY HOME CONTAINING ONE TO FOUR HOUSING UNITS, OR

(II) A CONDOMINIUM UNIT, OR STOCK IN A COOPERATIVE HOUSING CORPORATION,

(III) THAT IS OWNED OR PURCHASED BY A TAXPAYER OR HIS OR HER PRINCIPAL RESIDENCE AND IS AT LEAST FORTY YEARS OLD IN THE CASE OF A SINGLE FAMILY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD02884-01-9

HOME OR IN THE CASE OF A MULTIPLE DWELLING CONTAINING CONDOMINIUM OR COOPERATIVE HOUSING UNITS THE EXTERIOR IS AT LEAST FORTY YEARS OLD.

(C) "QUALIFIED REHABILITATION EXPENSES" MEANS ANY AMOUNT PROPERLY CHARGEABLE TO CAPITAL ACCOUNT THAT EXCEEDS FIVE THOUSAND DOLLARS FOR BOTH INTERIOR AND EXTERIOR WORK.

(2) THE QUALIFIED RESIDENCE MUST BE USED BY THE TAXPAYER AS HIS OR HER PRINCIPAL RESIDENCE DURING THE TAXABLE YEAR IN WHICH THE TAXPAYER CLAIMS THE CREDIT.

(3) IN THE CASE OF A QUALIFIED PURCHASED RESIDENCE, THE TAXPAYER SHALL BE TREATED AS HAVING MADE, ON THE DATE OF PURCHASE, THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE SELLER OF SUCH HOME. EXPENDITURES MADE BY THE SELLER SHALL BE DEEMED QUALIFIED REHABILITATION EXPENDITURES OF SUCH EXPENDITURES IF MADE BY THE PURCHASER WOULD HAVE SO QUALIFIED.

(A) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED PURCHASED RESIDENCE" MEANS ANY REHABILITATED RESIDENCE PURCHASED BY THE TAXPAYER IF:

(I) THE TAXPAYER IS THE FIRST PURCHASER OF SUCH STRUCTURE AFTER THE DATE REHABILITATION IS COMPLETED AND THE PURCHASE OCCURS WITHIN FIVE YEARS AFTER SUCH DATE;

(II) THE STRUCTURE OR A PORTION THEREOF SHALL, WITHIN A REASONABLE PERIOD, BE THE PRINCIPAL RESIDENCE OF THE TAXPAYER;

(III) NO CREDIT WAS ALLOWED TO THE SELLER UNDER THIS PARAGRAPH WITH RESPECT TO SUCH REHABILITATION; AND

(IV) THE TAXPAYER IS FURNISHED WITH SUCH INFORMATION AS THE COMMISSIONER DECIDES IS NECESSARY TO DETERMINE THE CREDIT UNDER THIS PARAGRAPH.

(4)(A) IF BEFORE THE END OF THE FIVE-YEAR PERIOD BEGINNING ON THE DATE IN WHICH THE REHABILITATION OF THE RESIDENCE IS COMPLETED OR, IF PARAGRAPH THREE OF THIS SUBSECTION APPLIES, THE DATE OF PURCHASE OF SUCH BUILDING BY THE TAXPAYER, (I) THE TAXPAYER DISPOSES OF SUCH TAXPAYER'S INTEREST IN SUCH BUILDING, OR (II) SUCH BUILDING CEASES TO BE USED AS THE PRINCIPAL RESIDENCE OF THE TAXPAYER, THE TAXPAYER'S TAX IMPOSED BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSATION OCCURS SHALL BE INCREASED BY THE RECAPTURE PERCENTAGE OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT TO SUCH REHABILITATION.

(B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE PERCENTAGE SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS THE NUMBER OF MONTHS THE BUILDING IS USED AS THE TAXPAYER'S PRINCIPAL RESIDENCE AND THE DENOMINATOR OF WHICH IS SIXTY.

(5) IF THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR AND THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME FOR SUCH YEAR DOES NOT EXCEED ONE HUNDRED THOUSAND DOLLARS, THE EXCESS CREDIT SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON. IF THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME FOR SUCH YEAR EXCEEDS ONE HUNDRED THOUSAND DOLLARS, THE EXCESS CREDIT MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(6) THE COMMISSIONER SHALL PRESCRIBE SUCH REGULATIONS AS MAY BE APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS SUBSECTION, INCLUDING, BUT NOT LIMITED TO, REGULATIONS CONCERNING VALID PROOF OF REHABILITATION

EXPENSES BY A TAXPAYER AND REGULATIONS WHERE MORE THAN ONE TAXPAYER USES THE SAME DWELLING UNIT ON THEIR PRINCIPAL RESIDENCE.

S 2. This act shall take effect immediately and shall apply to taxable years commencing on and after the first of January in the year in which this act shall have become a law.