

9023

2009-2010 Regular Sessions

I N A S S E M B L Y

June 19, 2009

Introduced by M. of A. HOYT -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing a tax credit for rehabilitation of historic properties; to repeal section 5 of chapter 547 of the laws of 2006 amending the tax law and the parks, recreation and historic preservation law, relating to establishing a credit against income tax for the rehabilitation of historic properties, in relation to repealing certain administrative requirements relating thereto; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subsection (oo) of section 606 of the tax law, as added by
2 chapter 547 of the laws of 2006, is amended to read as follows:
3 (oo) Credit for rehabilitation of historic properties. (1) For taxable
4 years beginning on or after January first, two thousand [seven] TEN, [a
5 taxpayer] ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
6 CORPORATION OR OTHER BUSINESS ENTITY shall be allowed a credit as here-
7 inafter provided, against the tax imposed by this article, in an amount
8 equal to [thirty] ONE HUNDRED percent of the amount of credit allowed
9 the taxpayer for the same taxable year with respect to a certified
10 historic structure under subsection (c)[(3)](2) of section 47 of the
11 federal internal revenue code with respect to a certified historic
12 structure located within the state. Provided, however, the credit shall
13 not exceed [one hundred thousand] FIVE MILLION dollars.
14 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED
15 IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED IN
16 SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.
17 (3) If the credit allowed the taxpayer pursuant to [subsection (c)(3)
18 of] section 47 of the internal revenue code WITH RESPECT TO A QUALIFIED
19 REHABILITATION is recaptured pursuant to subsection (a) of section 50 of

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

LBD09868-06-9

1 the internal revenue code, a portion of the credit allowed under this
2 subsection must be added back in the same taxable year AND IN THE SAME
3 PROPORTION as [such recapture equal to thirty percent times the amount
4 of] the federal recapture.

5 [(3)] (4) If the amount of the credit allowable under this subsection
6 for any taxable year shall exceed the taxpayer's tax for such year, the
7 excess may be carried over to the following year or years, and may be
8 [deducted from] APPLIED AGAINST the taxpayer's tax for such year or
9 years.

10 (5) TO BE ELIGIBLE FOR THE CREDIT ALLOWABLE UNDER THIS SUBSECTION THE
11 REHABILITATION PROJECT SHALL BE IN WHOLE OR IN PART A TARGETED AREA
12 RESIDENCE WITHIN THE MEANING OF SECTION 143(J) OF THE INTERNAL REVENUE
13 CODE OR LOCATED WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR
14 BELOW ONE HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE MOST
15 RECENT FEDERAL CENSUS.

16 S 2. Subparagraphs (A) and (B) of paragraph 2 and clause (iv) of
17 subparagraph (A) of paragraph 5 of subsection (pp) of section 606 of the
18 tax law, as added by chapter 547 of the laws of 2006, are amended to
19 read as follows:

20 (A) With respect to any particular residence of a taxpayer, the credit
21 allowed under paragraph one of this subsection shall not exceed [twen-
22 ty-five] FIFTY thousand dollars. In the case of a husband and wife, the
23 amount of the credit shall be divided between them equally or in such
24 other manner as they may both elect. If a taxpayer incurs qualified
25 rehabilitation expenditures in relation to more than one residence in
26 the same year, the total amount of credit allowed under paragraph one of
27 this subsection for all such expenditures shall not exceed twenty-five
28 thousand dollars.

29 (B) If the amount of credit allowable under this subsection shall
30 exceed the taxpayer's tax for such year, AND THE TAXPAYER'S NEW YORK
31 ADJUSTED GROSS INCOME FOR SUCH YEAR DOES NOT EXCEED SIXTY THOUSAND
32 DOLLARS, the excess SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
33 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX
34 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST
35 SHALL BE PAID THEREON. IF THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME
36 FOR SUCH YEAR EXCEEDS SIXTY THOUSAND DOLLARS, THE EXCESS CREDIT THAT may
37 be carried over to the following year or years and may be deducted from
38 the taxpayer's tax for such year or years.

39 (iv) which is in whole or in part a targeted area residence within the
40 meaning of section 143(j) of the internal revenue code [and located
41 within an area of a city, town or village whose governing body has iden-
42 tified by resolution that such area is in need of community renewal
43 because of deteriorated and/or vacant buildings and, by local law, has
44 adopted a historic preservation and community renewal program to
45 preserve and/or revitalize such area. A historic preservation and commu-
46 nity renewal program is a program that coordinates all applicable
47 governmental benefits and programs with the aims of preserving and/or
48 revitalizing neighborhoods, encouraging property owners to complete
49 substantial rehabilitation projects and promoting smart growth economic
50 development. Such local laws shall be filed with the office of parks,
51 recreation and historic preservation. The office of parks, recreation
52 and historic preservation shall assist local governments in developing
53 historic preservation and community renewal programs] OR IS LOCATED
54 WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR BELOW ONE
55 HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE MOST RECENT
56 FEDERAL CENSUS.

1 S 3. Subdivision 40 of section 210 of the tax law, as added by chapter
2 547 of the laws of 2006, is amended to read as follows:

3 40. Credit for rehabilitation of historic properties. (1) For taxable
4 years beginning on or after January first, two thousand [seven] TEN, [a
5 taxpayer] ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY,
6 CORPORATION OR OTHER BUSINESS ENTITY shall be allowed a credit as here-
7 inafter provided, against the tax imposed by this article, in an amount
8 equal to [thirty] ONE HUNDRED percent of the amount of credit allowed
9 the taxpayer for the same taxable year with respect to a certified
10 historic structure under subsection (c)[(3)](2) of section 47 of the
11 federal internal revenue code with respect to a certified historic
12 structure located within the state. Provided, however, the credit shall
13 not exceed [one hundred thousand] FIVE MILLION dollars.

14 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE ALLOWED
15 IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED IN
16 SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.

17 (3) If the credit allowed the taxpayer pursuant to [subsection (c)(3)
18 of] section 47 of the internal revenue code WITH RESPECT TO A QUALIFIED
19 REHABILITATION is recaptured pursuant to subsection (a) of section 50 of
20 the internal revenue code, a portion of the credit allowed under this
21 subsection must be added back in the same taxable year AND IN THE SAME
22 PROPORTION as [such recapture equal to thirty percent times] such cred-
23 it.

24 [(3)] (4) If the amount of the credit allowable under this subdivision
25 for any taxable year shall exceed the taxpayer's tax for such year, the
26 excess may be carried over to the following year or years, and may be
27 [deducted from] APPLIED FROM the taxpayer's tax for such year or years.

28 S 4. Section 5 of chapter 547 of the laws of 2006, amending the tax
29 law and the parks, recreation and historic preservation law, relating to
30 establishing a credit against income tax for the rehabilitation of
31 historic properties is REPEALED.

32 S 5. This act shall take effect immediately and shall apply to taxable
33 years beginning on and after January 1, 2010 and shall expire and be
34 deemed repealed December 31, 2014; provided, however, that the credit
35 shall be applied to any rehabilitation project commenced on or before
36 the date on which that act shall be deemed repealed.