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

1627

2009-2010 Regular Sessions

I N S E N A T E

February 3, 2009

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing a tax credit for rehabilitation of historic properties; and 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 relating to repealing certain administrative requirements relating thereto

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

Section 1. Subsection (oo) of section 606 of the tax law, as added by chapter 547 of the laws of 2006, is amended to read as follows:

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

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

(3) CREDITS ALLOWED TO A PARTNERSHIP, A LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP OR MULTIPLE OWNERS OF PROPERTY SHALL BE PASSED THROUGH TO THE PERSONS DESIGNATED, MEMBERS OR OWNERS, RESPECTIVELY PRO

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

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RATA OR PURSUANT TO AN EXECUTED AGREEMENT AMONG THE PERSONS DESIGNATED AS PARTNERS, MEMBERS OR OWNERS DOCUMENTING AN ALTERNATE DISTRIBUTION METHOD WITHOUT REGARD TO THEIR SHARING OF OTHER TAX OR ECONOMIC ATTRIBUTES OF THE ENTITY.

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

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

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

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

(B) If the amount of credit allowable under this subsection shall exceed the taxpayer's tax for such year, AND THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME FOR SUCH YEAR DOES NOT EXCEED SIXTY THOUSAND DOLLARS, the excess 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 SIXTY THOUSAND DOLLARS, THE EXCESS CREDIT THAT may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

(iv) which is in whole or in part a targeted area residence within the meaning of section 143(j) of the internal revenue code [and located within an area of a city, town or village whose governing body has identified by resolution that such area is in need of community renewal because of deteriorated and/or vacant buildings and, by local law, has adopted a historic preservation and community renewal program to preserve and/or revitalize such area. A historic preservation and community renewal program is a program that coordinates all applicable governmental benefits and programs with the aims of preserving and/or revitalizing neighborhoods, encouraging property owners to complete substantial rehabilitation projects and promoting smart growth economic development. Such local laws shall be filed with the office of parks, recreation and historic preservation. The office of parks, recreation and historic preservation shall assist local governments in developing historic preservation and community renewal programs] OR IS LOCATED WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR BELOW NINETY

PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE MOST RECENT FEDERAL CENSUS.

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

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

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

(3) CREDITS ALLOWED TO A PARTNERSHIP, A LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP OR MULTIPLE OWNERS OF PROPERTY SHALL BE PASSED THROUGH TO THE PERSONS DESIGNATED, MEMBERS OR OWNERS, RESPECTIVELY PRO RATA OR PURSUANT TO AN EXECUTED AGREEMENT AMONG THE PERSONS DESIGNATED AS PARTNERS, MEMBERS OR OWNERS DOCUMENTING AN ALTERNATE DISTRIBUTION METHOD WITHOUT REGARD TO THEIR SHARING OF OTHER TAX OR ECONOMIC ATTRIBUTES OF THE ENTITY.

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

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

S 4. 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, is REPEALED.

S 5. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2010.