

6056

2009-2010 Regular Sessions

I N S E N A T E

June 23, 2009

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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.

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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.