

2762--A

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sens. RANZENHOFER, FELDER, LANZA, LARKIN, LATIMER, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a credit against income tax for the rehabilitation of distressed commercial properties

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

1 Section 1. Subsections (yy) and (zz) of section 606 of the tax law, as
2 relettered by section 5 of part H of chapter 1 of the laws of 2003, are
3 relettered subsections (yyy) and (zzz) and a new subsection (xx) is
4 added to read as follows:
5 (XX) CREDIT FOR REHABILITATION OF DISTRESSED COMMERCIAL PROPERTIES.
6 (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
7 FOURTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,
8 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY
9 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-
10 ER WITH RESPECT TO A QUALIFIED DISTRESSED COMMERCIAL PROPERTY. PROVIDED,
11 HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.
12 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED
13 IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-
14 ITATION.
15 (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR
16 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
17 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE
18 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT
19 EXCEED TWENTY-FIVE THOUSAND DOLLARS.

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

LBD05241-04-4

1 (4) (A) THE TERM "QUALIFIED REHABILITATION EXPENDITURE" MEANS, FOR
 2 PURPOSES OF THIS SUBSECTION, ANY AMOUNT PROPERLY CHARGEABLE TO A CAPITAL
 3 ACCOUNT:

4 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED
 5 DISTRESSED COMMERCIAL PROPERTY, AND

6 (II) FOR PROPERTY FOR WHICH DEPRECIATION WOULD BE ALLOWABLE UNDER
 7 SECTION 168 OF THE INTERNAL REVENUE CODE.

8 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING
 9 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-
 10 MENT OF AN EXISTING BUILDING, OR (III) ANY EXPENDITURE MADE PRIOR TO
 11 JANUARY FIRST, TWO THOUSAND FOURTEEN OR AFTER DECEMBER THIRTY-FIRST, TWO
 12 THOUSAND NINETEEN.

13 (5) THE TERM "CERTIFIED REHABILITATION" MEANS, FOR PURPOSES OF THIS
 14 SUBSECTION, ANY REHABILITATION OF A CERTIFIED DISTRESSED COMMERCIAL
 15 PROPERTY WHICH HAS BEEN APPROVED AND CERTIFIED BY A LOCAL GOVERNMENT AS
 16 BEING COMPLETED, WITH A CERTIFICATE OF OCCUPANCY ISSUED, AND THAT THE
 17 COSTS ARE CONSISTENT WITH THE WORK COMPLETED. SUCH CERTIFICATION SHALL
 18 BE ACCEPTABLE AS PROOF THAT THE EXPENDITURES RELATED TO SUCH REHABILI-
 19 TATION QUALIFY AS QUALIFIED REHABILITATION EXPENDITURES FOR PURPOSES OF
 20 THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION.

21 (6) (A) THE TERM "QUALIFIED DISTRESSED COMMERCIAL PROPERTY" MEANS, FOR
 22 PURPOSES OF THIS SUBSECTION, A DISTRESSED COMMERCIAL PROPERTY LOCATED
 23 WITHIN NEW YORK STATE:

24 (I) WHICH HAS BEEN SUBSTANTIALLY REHABILITATED,

25 (II) WHICH IS OWNED BY THE TAXPAYER, AND

26 (III) WHICH IS LOCATED WITHIN A DISTRESSED COMMERCIAL AREA, AS IDENTI-
 27 FIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED AN AREA IN NEED
 28 OF COMMUNITY RENEWAL DUE TO DILAPIDATION AND VACANCIES.

29 (B) IF THE DISTRESSED COMMERCIAL PROPERTY IS RENTAL PROPERTY, SUCH
 30 PROPERTY SHALL HAVE BEEN MORE THAN THIRTY PERCENT VACANT FOR TWELVE
 31 MONTHS WHILE ACTIVELY MARKETED FOR LEASE.

32 (C) A BUILDING SHALL BE TREATED AS HAVING BEEN "SUBSTANTIALLY REHABIL-
 33 ITATED" IF THE QUALIFIED REHABILITATION EXPENDITURES IN RELATION TO SUCH
 34 BUILDING TOTAL TEN THOUSAND DOLLARS OR MORE.

35 (7) (A) IF THE TAXPAYER DISPOSES OF SUCH TAXPAYER'S INTEREST IN THE
 36 QUALIFIED DISTRESSED COMMERCIAL PROPERTY, OR SUCH PROPERTY CEASES TO BE
 37 USED AS A COMMERCIAL PROPERTY OF THE TAXPAYER WITHIN FIVE YEARS OF
 38 RECEIVING THE CREDIT UNDER THIS SUBSECTION, THE TAXPAYER'S TAX IMPOSED
 39 BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSA-
 40 TION OCCURS SHALL BE INCREASED BY THE RECAPTURE PORTION OF THE CREDIT
 41 ALLOWED UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WITH RESPECT
 42 TO SUCH REHABILITATION.

43 (B) FOR PURPOSES OF SUBPARAGRAPH (A) OF THIS PARAGRAPH, THE RECAPTURE
 44 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE
 45 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY
 46 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS COMMERCIAL
 47 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

48 S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 49 of the tax law is amended by adding a new clause (xxxvii) to read as
 50 follows:

51 (XXXVII) CREDIT FOR REHABILITATION	AMOUNT OF CREDIT UNDER
52 OF DISTRESSED COMMERCIAL PROPERTIES	SUBDIVISION FORTY-EIGHT
53 UNDER SUBSECTION (XX)	OF SECTION TWO HUNDRED TEN

54 S 3. Section 210 of the tax law is amended by adding a new subdivision
 55 48 to read as follows:

1 48. CREDIT FOR REHABILITATION OF DISTRESSED COMMERCIAL PROPERTIES. (1)
2 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
3 FOURTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED,
4 AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY
5 PERCENT OF THE QUALIFIED REHABILITATION EXPENDITURES MADE BY THE TAXPAY-
6 ER WITH RESPECT TO A QUALIFIED DISTRESSED COMMERCIAL PROPERTY. PROVIDED,
7 HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

8 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE ALLOWED
9 IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS DEEMED A CERTIFIED REHABIL-
10 ITATION.

11 (3) IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR
12 ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
13 EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE
14 APPLIED AGAINST THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS, BUT SHALL NOT
15 EXCEED TWENTY-FIVE THOUSAND DOLLARS.

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19 (I) IN CONNECTION WITH THE CERTIFIED REHABILITATION OF A QUALIFIED
20 COMMERCIAL PROPERTY, AND

21 (II) FOR PROPERTY FOR WHICH DEPRECIATION WOULD BE ALLOWABLE UNDER
22 SECTION 168 OF THE INTERNAL REVENUE CODE.

23 (B) SUCH TERM SHALL NOT INCLUDE (I) THE COST OF ACQUIRING ANY BUILDING
24 OR INTEREST THEREIN, (II) ANY EXPENDITURE ATTRIBUTABLE TO THE ENLARGE-
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29 SUBDIVISION, ANY REHABILITATION OF A CERTIFIED DISTRESSED COMMERCIAL
30 PROPERTY WHICH HAS BEEN APPROVED AND CERTIFIED BY A LOCAL GOVERNMENT AS
31 BEING COMPLETED, WITH A CERTIFICATE OF OCCUPANCY ISSUED, AND THAT THE
32 COSTS ARE CONSISTENT WITH THE WORK COMPLETED. SUCH CERTIFICATION SHALL
33 BE ACCEPTABLE AS PROOF THAT THE EXPENDITURES RELATED TO SUCH REHABILI-
34 TATION QUALIFY AS QUALIFIED REHABILITATION EXPENDITURES FOR PURPOSES OF
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42 FIED BY EACH LOCALITY THROUGH LOCAL LAW, THAT IS DEEMED AN AREA IN NEED
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44 (B) IF THE DISTRESSED COMMERCIAL PROPERTY IS RENTAL PROPERTY, SUCH
45 PROPERTY SHALL HAVE BEEN MORE THAN THIRTY PERCENT VACANT FOR TWELVE
46 MONTHS WHILE ACTIVELY MARKETED FOR LEASE.

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51 QUALIFIED DISTRESSED COMMERCIAL PROPERTY, OR SUCH PROPERTY CEASES TO BE
52 USED AS A COMMERCIAL PROPERTY OF THE TAXPAYER WITHIN FIVE YEARS OF
53 RECEIVING THE CREDIT UNDER THIS SUBDIVISION, THE TAXPAYER'S TAX IMPOSED
54 BY THIS ARTICLE FOR THE TAXABLE YEAR IN WHICH SUCH DISPOSITION OR CESSA-
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4 PORTION SHALL BE THE PRODUCT OF THE AMOUNT OF CREDIT CLAIMED BY THE
5 TAXPAYER MULTIPLIED BY A RATIO, THE NUMERATOR OF WHICH IS EQUAL TO SIXTY
6 LESS THE NUMBER OF MONTHS THE BUILDING IS OWNED OR USED AS COMMERCIAL
7 PROPERTY BY THE TAXPAYER AND THE DENOMINATOR OF WHICH IS SIXTY.

8 S 4. This act shall take effect immediately and shall apply to taxable
9 years beginning on or after January 1, 2014.