

STATE OF NEW YORK

2642--B

2017-2018 Regular Sessions

IN SENATE

January 13, 2017

Introduced by Sens. RANZENHOFER, FUNKE, LARKIN, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- 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 residential properties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

3 (ccc) Credit for rehabilitation of distressed residential properties.
4 (1) For taxable years beginning on or after January first, two thousand
5 eighteen, a taxpayer shall be allowed a credit as hereinafter provided,
6 against the tax imposed by this article, in an amount equal to thirty
7 percent of the qualified rehabilitation expenditures made by the taxpay-
8 er with respect to a qualified distressed residential property.
9 Provided, however, the credit shall not exceed one hundred thousand
10 dollars.

11 (2) Tax credits allowed pursuant to this subsection shall be allowed
12 in the taxable year in which the property is deemed a certified rehabil-
13 itation.

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

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1 (3) If the amount of the credit allowable under this subsection for
2 any taxable year shall exceed the taxpayer's tax for such year, the
3 excess may be carried over to the following year or years, and may be
4 applied against the taxpayer's tax for such year or years.

5 (4) (A) The term "qualified rehabilitation expenditure" means, for
6 purposes of this subsection, any amount properly chargeable to a capital
7 account:

8 (i) in connection with the certified rehabilitation of a qualified
9 distressed residential property, and

10 (ii) for property for which depreciation would be allowable under
11 section 168 of the internal revenue code.

12 (B) Such term shall not include (i) the cost of acquiring any building
13 or interest therein, (ii) any expenditure attributable to the enlarge-
14 ment of an existing building, or (iii) any expenditure made prior to
15 January first, two thousand eighteen or after December thirty-first, two
16 thousand twenty-three.

17 (5) The term "certified rehabilitation" means, for purposes of
18 distressed residential property in this subsection, any rehabilitation
19 of a certified distressed residential property which has been approved
20 and certified by a local government as being completed, with a certifi-
21 cate of occupancy issued, and that the costs are consistent with the
22 work completed. Such certification shall be acceptable as proof that the
23 expenditures related to such rehabilitation qualify as qualified reha-
24 bilitation expenditures for purposes of the credit allowed under para-
25 graph one of this subsection.

26 (6) (A) The term "qualified residential property" means, for purposes
27 of this subsection, a distressed residential property located within New
28 York state:

29 (i) which has been substantially rehabilitated,

30 (ii) which was constructed prior to January first, nineteen hundred
31 sixty-two,

32 (iii) which is owned by the taxpayer, and

33 (iv) which is located within a distressed residential or mixed-use
34 area, as identified by each locality through local law, that is deemed
35 an area in need of community renewal due to dilapidation and vacancies.

36 (B) If the distressed residential property is rental property, such
37 property shall have been vacant for at least six months while actively
38 marketed for lease.

39 (C) A building shall be treated as having been "substantially rehabil-
40 itated" if the qualified rehabilitation expenditures in relation to such
41 building total ten thousand dollars or more.

42 (7) (A) If the taxpayer disposes of such taxpayer's interest in the
43 qualified distressed residential property, or such property ceases to be
44 used as a residential property of the taxpayer within five years of
45 receiving the credit under this subsection, the taxpayer's tax imposed
46 by this article for the taxable year in which such disposition or cessa-
47 tion occurs shall be increased by the recapture portion of the credit
48 allowed under this subsection for all prior taxable years with respect
49 to such rehabilitation.

50 (B) For purposes of subparagraph (A) of this paragraph, the recapture
51 portion shall be the product of the amount of credit claimed by the
52 taxpayer multiplied by a ratio, the numerator of which is equal to sixty
53 less the number of months the building is owned or used as residential
54 property by the taxpayer and the denominator of which is sixty.

1 (8) Any expenditure for which a credit is claimed under this
 2 subsection shall not be eligible for any other credit under this chap-
 3 ter.

4 § 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 5 of the tax law is amended by adding a new clause (xliv) to read as
 6 follows:

7 <u>(xliv) Credit for rehabilitation</u>	<u>Amount of credit</u>
8 <u>of distressed residential</u>	<u>under subdivision fifty-three</u>
9 <u>properties under subsection (ccc)</u>	<u>of section two hundred ten-B</u>

10 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
 11 sion 53 to read as follows:

12 53. Credit for rehabilitation of distressed residential properties.

13 (1) For taxable years beginning on or after January first, two thousand
 14 eighteen, a taxpayer shall be allowed a credit as hereinafter provided,
 15 against the tax imposed by this article, in an amount equal to thirty
 16 percent of the qualified rehabilitation expenditures made by the taxpay-
 17 er with respect to a qualified distressed residential property.
 18 Provided, however, the credit shall not exceed one hundred thousand
 19 dollars.

20 (2) Tax credits allowed pursuant to this subdivision shall be allowed
 21 in the taxable year in which the property is deemed a certified rehabil-
 22 itation.

23 (3) If the amount of the credit allowable under this subdivision for
 24 any taxable year shall exceed the taxpayer's tax for such year, the
 25 excess may be carried over to the following year or years, and may be
 26 applied against the taxpayer's tax for such year or years, but shall not
 27 exceed twenty-five thousand dollars.

28 (4) (A) The term "qualified rehabilitation expenditure" means, for
 29 purposes of this subdivision, any amount properly chargeable to a capi-
 30 tal account:

31 (i) in connection with the certified rehabilitation of a qualified
 32 residential property, and

33 (ii) for property for which depreciation would be allowable under
 34 section 168 of the internal revenue code.

35 (B) Such term shall not include (i) the cost of acquiring any building
 36 or interest therein, (ii) any expenditure attributable to the enlarge-
 37 ment of an existing building, or (iii) any expenditure made prior to
 38 January first, two thousand eighteen or after December thirty-first, two
 39 thousand twenty-three.

40 (5) The term "certified rehabilitation" means, for purposes of this
 41 subdivision, any rehabilitation of a certified distressed residential
 42 property which has been approved and certified by a local government as
 43 being completed, with a certificate of occupancy issued, and that the
 44 costs are consistent with the work completed. Such certification shall
 45 be acceptable as proof that the expenditures related to such rehabili-
 46 tation qualify as qualified rehabilitation expenditures for purposes of
 47 the credit allowed under paragraph one of this subdivision.

48 (6) (A) The term "qualified residential property" means, for purposes
 49 of this subdivision, a distressed residential property located within
 50 New York state:

51 (i) which has been substantially rehabilitated,

52 (ii) which was constructed prior to January first, nineteen hundred
 53 sixty-two,

54 (iii) which is owned by the taxpayer, and

1 (iv) which is located within a distressed residential or mixed-use
2 area, as identified by each locality through local law, that is deemed
3 an area in need of community renewal due to dilapidation and vacancies.

4 (B) If the distressed residential property is rental property, such
5 property shall have been vacant for at least six months while actively
6 marketed for lease.

7 (C) A building shall be treated as having been "substantially rehabil-
8 itated" if the qualified rehabilitation expenditures in relation to such
9 building total ten thousand dollars or more.

10 (7) (A) If the taxpayer disposes of such taxpayer's interest in the
11 qualified distressed residential property, or such property ceases to be
12 used as a residential property of the taxpayer within five years of
13 receiving the credit under this subdivision, the taxpayer's tax imposed
14 by this article for the taxable year in which such disposition or cessa-
15 tion occurs shall be increased by the recapture portion of the credit
16 allowed under this subdivision for all prior taxable years with respect
17 to such rehabilitation.

18 (B) For purposes of subparagraph (A) of this paragraph, the recapture
19 portion shall be the product of the amount of credit claimed by the
20 taxpayer multiplied by a ratio, the numerator of which is equal to sixty
21 less the number of months the building is owned or used as residential
22 property by the taxpayer and the denominator of which is sixty.

23 (8) Any expenditure for which a credit is claimed under this subdivi-
24 sion shall not be eligible for any other credit under this chapter.

25 § 4. This act shall take effect immediately and shall apply to taxable
26 years beginning on or after January 1, 2018.