

STATE OF NEW YORK

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IN SENATE

January 13, 2017

Introduced by Sens. RANZENHOFER, FELDER, FUNKE, LARKIN, RITCHIE, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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

3 (jjj) Credit for rehabilitation of distressed commercial 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 commercial property. Provided,
9 however, the credit shall not exceed one hundred thousand dollars.

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

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

4 (3) If the amount of the credit allowable under this subsection for
5 any taxable year shall exceed the taxpayer's tax for such year, the
6 excess may be carried over to the following year or years, and may be
7 applied against the taxpayer's tax for such year or years provided that
8 the total amount of the credit applied against the taxpayer's tax for a
9 given year shall not exceed twenty-five thousand dollars.

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

13 (i) in connection with the certified rehabilitation of a qualified
14 distressed commercial property, and

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

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

22 (5) The term "certified rehabilitation" means, for purposes of this
23 subsection, any rehabilitation of a certified distressed commercial
24 property which has been approved and certified by a local government as
25 being completed, with a certificate of occupancy issued, and that the
26 costs are consistent with the work completed. Such certification shall
27 be acceptable as proof that the expenditures related to such rehabili-
28 tation qualify as qualified rehabilitation expenditures for purposes of
29 the credit allowed under paragraph one of this subsection.

30 (6) (A) The term "qualified distressed commercial property" means, for
31 purposes of this subsection, a distressed commercial property located
32 within New York state:

33 (i) which has been substantially rehabilitated,

34 (ii) which is owned by the taxpayer, and

35 (iii) which is located within a distressed commercial area, as identi-
36 fied by each locality through local law, that is deemed an area in need
37 of community renewal due to dilapidation and vacancies.

38 (B) If the distressed commercial property is rental property, such
39 property shall have been more than thirty percent vacant for twelve
40 months while actively marketed for lease.

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

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

52 (B) For purposes of subparagraph (A) of this paragraph, the recapture
53 portion shall be the product of the amount of credit claimed by the
54 taxpayer multiplied by a ratio, the numerator of which is equal to sixty
55 less the number of months the building is owned or used as commercial
56 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 (xliv) Credit for rehabilitation Amount of credit under
 8 of distressed commercial properties subdivision fifty-three
 9 under subsection (jjj) of section two hundred ten-B

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 commercial properties. (1)
 13 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 commercial property. Provided,
 18 however, the credit shall not exceed one hundred thousand dollars.

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

22 (3) If the amount of the credit allowable under this subdivision for
 23 any taxable year shall exceed the taxpayer's tax for such year, the
 24 excess may be carried over to the following year or years, and may be
 25 applied against the taxpayer's tax for such year or years, provided that
 26 the total amount of the credit applied against the taxpayer's tax for a
 27 given year shall not 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 commercial 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 commercial
 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 distressed commercial property" means, for
 49 purposes of this subdivision, a distressed commercial property located
 50 within New York state:

51 (i) which has been substantially rehabilitated,

52 (ii) which is owned by the taxpayer, and

53 (iii) which is located within a distressed commercial area, as identi-
 54 fied by each locality through local law, that is deemed an area in need
 55 of community renewal due to dilapidation and vacancies.

1 (B) If the distressed commercial property is rental property, such
2 property shall have been more than thirty percent vacant for twelve
3 months while actively marketed for lease.

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

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

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

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

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