

STATE OF NEW YORK

2963

2017-2018 Regular Sessions

IN SENATE

January 18, 2017

Introduced by Sen. HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Commerce, Economic Development and Small Business

AN ACT to amend the economic development law and the tax law, in relation to a restaurant renovation incentive program

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

Section 1. The economic development law is amended by adding a new article 23 to read as follows:

ARTICLE 23

RESTAURANT RENOVATION TAX INCENTIVE PROGRAM

Section 450. Definitions.

451. Administration.

452. Tax incentive.

453. Application and approval process.

454. Cap on tax credits.

Section 450. Definitions. As used in this section, the following terms shall have the following meanings:

1. "Actual project costs" means costs attributable to a project that are incurred by a qualified applicant between the commencement and completion dates specified by the department pursuant to section four hundred fifty-three of this article.

2. "Applicant" means a person, corporation, or other entity that owns and operates a restaurant.

3. "Project" means the renovation, improvement, repair or upgrade of an existing restaurant. The term does not include new construction.

4. "Qualified applicant" means an applicant that has been issued a certificate by the department under section four hundred fifty-three of this article.

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

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1 5. "Restaurant" means a public food service establishment registered
2 to collect tax as required by section eleven hundred thirty-four of the
3 tax law.

4 § 451. Administration. There is created in the department a restaurant
5 renovation tax incentive program. The department shall develop, imple-
6 ment, and administer the program. The department and the department of
7 taxation and finance are authorized to adopt rules and publish forms
8 necessary to administer and enforce this article.

9 § 452. Tax incentive. 1. An applicant may receive a credit against the
10 taxes imposed by article nine-A or twenty-two of the tax law in an
11 amount certified by the department as provided in section four hundred
12 fifty-three of this article, if the applicant completes a project that
13 is a renovation, improvement, repair or upgrade of dining areas, rest-
14 rooms, kitchens, common areas or the exterior of a restaurant with total
15 expenditures of at least one hundred thousand dollars.

16 2. A qualified applicant meeting the requirements of this section
17 shall receive a tax credit equal to twenty-five percent of the qualified
18 applicant's actual project costs for approved projects. Following
19 approval by the commissioner of an application to participate in the
20 renovation incentive program under this article, the commissioner shall
21 issue a certificate of tax credit to the applicant upon its demonstrat-
22 ing successful completion of such eligible project to the satisfaction
23 of the commissioner. The tax credits shall be claimed by the qualified
24 applicant as specified in subdivision forty-nine of section two hundred
25 ten-B and subsection (ccc) of section six hundred six of the tax law.

26 § 453. Application and approval process. 1. An applicant seeking a
27 credit under this program shall submit an application to the department
28 before commencement of the project. The application must include:

29 (a) plans for the proposed project and estimated project costs; and
30 (b) a detailed description of the proposed project, including esti-
31 imated commencement and completion dates.

32 2. The department shall review each submitted application for
33 completeness and provide preliminary approval or disapproval within
34 sixty days after receiving the application. The department shall issue a
35 certificate to each preliminarily approved applicant that:

36 (a) designates the applicant as a qualified applicant eligible to
37 receive a tax credit under this article; and

38 (b) Specifies project commencement and completion dates. The period
39 between the commencement and completion dates specified by the depart-
40 ment may not exceed twelve months for a proposed project described in
41 subdivision one of section four hundred fifty-two of this article.

42 3. (a) Each qualified applicant shall, upon completion of its project,
43 provide documentation to the department demonstrating actual project
44 costs. Such costs shall be verified by an independent certified public
45 accountant licensed in this state at the expense of the qualified appli-
46 cant.

47 (b) The department shall verify that actual project costs meet the
48 expenditure requirements provided in this article. A qualified applicant
49 that fails to meet the expenditure requirements may not receive a tax
50 credit under this program.

51 § 454. Cap on tax credits. The total amount of tax credits listed on
52 certificates of tax credit issued by the commissioner for any taxable
53 year may not exceed two hundred fifty million dollars.

54 § 2. Section 210-B of the tax law is amended by adding a new subdivi-
55 sion 49 to read as follows:

1 49. Restaurant renovation credit. (a) Allowance of credit. A taxpayer
2 who is eligible pursuant to article twenty-three of the economic devel-
3 opment law shall be allowed a credit to be computed as provided in such
4 article against the tax imposed by this article.

5 (b) Application of credit. The credit allowed under this subdivision
6 for any taxable year shall not reduce the tax due for such year to less
7 than the fixed dollar minimum amount prescribed in paragraph (d) of
8 subdivision one of section two hundred ten of this article. Provided,
9 however, that if the amount of the credit allowable under this subdivi-
10 sion for any taxable year reduces the tax to such amount or if the
11 taxpayer otherwise pays tax based on the fixed dollar minimum amount,
12 the excess shall be treated as an overpayment of tax to be credited or
13 refunded in accordance with the provisions of section one thousand
14 eighty-six of this chapter. Provided, however, the provisions of
15 subsection (c) of section one thousand eighty-eight of this chapter
16 notwithstanding, no interest shall be paid thereon.

17 § 3. Section 606 of the tax law is amended by adding a new subsection
18 (ccc) to read as follows:

19 (ccc) Restaurant renovation credit. (1) Allowance of credit. A taxpay-
20 er who is eligible pursuant to article twenty-three of the economic
21 development law shall be allowed a credit to be computed as provided in
22 such article against the tax imposed by this article.

23 (2) Application of credit. If the amount of the credit allowable under
24 this subsection for any taxable year excess the taxpayer's tax for such
25 year, the excess shall be treated as an overpayment of tax to be credit-
26 ed or refunded as provided in section six hundred eighty-six of this
27 article, provided, however, that no interest shall be paid therein.

28 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
29 of the tax law is amended by adding a new clause (xliii) to read as
30 follows:

31 (xliii) Restaurant
32 renovation incentive
33 program credit under
34 subsection (ccc)

Amount of credit
under subdivision
forty-nine of section
two hundred ten-B

35 § 5. This act shall take effect January 1, 2018 and shall apply to
36 taxable years beginning on and after such date; provided, however, that
37 effective immediately, the addition, amendment and/or repeal of any rule
38 or regulation necessary for the implementation of this act on its effec-
39 tive date are authorized to be made and completed on or before such
40 date.