

# STATE OF NEW YORK

3645--A

2019-2020 Regular Sessions

## IN SENATE

February 11, 2019

Introduced by Sens. KENNEDY, METZGER, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to the rehabilitation of historic properties tax credit

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

1 Section 1. Subparagraph (A) of paragraph 1 of subsection (oo) of  
2 section 606 of the tax law, as amended by section 1 of part RR of chap-  
3 ter 59 of the laws of 2018, is amended and two new paragraphs 6 and 7  
4 are added to read as follows:  
5 (A) For taxable years beginning on or after January first, two thou-  
6 sand ten and before January first, two thousand twenty-five, a taxpayer  
7 shall be allowed a credit as hereinafter provided, against the tax  
8 imposed by this article, in an amount equal to one hundred percent of  
9 the amount of credit allowed the taxpayer with respect to a certified  
10 historic structure, and one hundred ten percent of the amount of credit  
11 allowed the taxpayer with respect to a certified historic structure that  
12 is a small project, under internal revenue code section 47(c)(3), deter-  
13 mined without regard to ratably allocating the credit over a five year  
14 period as required by subsection (a) of such section 47, with respect to  
15 a certified historic structure located within the state. Provided,  
16 however, the credit shall not exceed five million dollars. For taxable  
17 years beginning on or after January first, two thousand twenty-five, a  
18 taxpayer shall be allowed a credit as hereinafter provided, against the  
19 tax imposed by this article, in an amount equal to thirty percent of the  
20 amount of credit allowed the taxpayer with respect to a certified  
21 historic structure under internal revenue code section 47(c)(3), deter-  
22 mined without regard to ratably allocating the credit over a five year  
23 period as required by subsection (a) of such section 47, with respect to

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

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1 a certified historic structure located within the state; provided,  
2 however, the credit shall not exceed one hundred thousand dollars.

3 (6) A taxpayer is permitted to transfer such credit allowed under this  
4 subsection, in whole or in part, to any individual or entity, without  
5 the requirement of transferring any ownership interest in the certified  
6 historic structure or any interest in the entity which owns the certi-  
7 fied historic structure; provided, however, that a taxpayer may only  
8 transfer such credit once. Any individual or entity to whom the credit  
9 was transferred may not transfer the credit, in whole or in part, to any  
10 other party but may claim it against the tax imposed by this article.  
11 Such transfer shall not affect the time schedule for claiming the credit  
12 transferred. Any credit recaptured shall be the liability of the taxpay-  
13 er who actually claimed the credit. The claim of a transferee shall be  
14 permitted in the same manner and subject to the same provisions of this  
15 subsection as applied to the taxpayer to whom the credit was originally  
16 allowed.

17 (7) For purposes of this subsection the term "small project" means  
18 qualified rehabilitation expenditures totaling five million dollars or  
19 less.

20 § 2. Subparagraph (i) of paragraph (a) of subdivision 26 of section  
21 210-B of the tax law, as amended by section 2 of part RR of chapter 59  
22 of the laws of 2018, is amended and a new paragraph (f) is added to read  
23 as follows:

24 (i) For taxable years beginning on or after January first, two thou-  
25 sand ten, and before January first, two thousand twenty-five, a taxpayer  
26 shall be allowed a credit as hereinafter provided, against the tax  
27 imposed by this article, in an amount equal to one hundred percent of  
28 the amount of credit allowed the taxpayer for the same taxable year with  
29 respect to a certified historic structure, and one hundred ten percent  
30 of the amount of credit allowed the taxpayer with respect to a certified  
31 historic structure that is a small project, under internal revenue code  
32 section 47(c)(3), determined without regard to ratably allocating the  
33 credit over a five year period as required by subsection (a) of such  
34 section 47, with respect to a certified historic structure located with-  
35 in the state. Provided, however, the credit shall not exceed five  
36 million dollars.

37 (f) For purposes of this subdivision "small project" means qualified  
38 rehabilitation expenditures totaling five million dollars or less.

39 § 3. Subparagraph (A) of paragraph 1 of subdivision (y) of section  
40 1511 of the tax law, as amended by section 3 of part RR of chapter 59 of  
41 the laws of 2018, is amended and a new paragraph 6 is added to read as  
42 follows:

43 (A) For taxable years beginning on or after January first, two thou-  
44 sand ten and before January first, two thousand twenty-five, a taxpayer  
45 shall be allowed a credit as hereinafter provided, against the tax  
46 imposed by this article, in an amount equal to one hundred percent of  
47 the amount of credit allowed the taxpayer with respect to a certified  
48 historic structure, and one hundred ten percent of the amount of credit  
49 allowed the taxpayer with respect to a certified historic structure that  
50 is a small project, under internal revenue code section 47(c)(3), deter-  
51 mined without regard to ratably allocating the credit over a five year  
52 period as required by subsection (a) of such section 47, with respect to  
53 a certified historic structure located within the state. Provided,  
54 however, the credit shall not exceed five million dollars. For taxable  
55 years beginning on or after January first, two thousand twenty-five, a  
56 taxpayer shall be allowed a credit as hereinafter provided, against the

1 tax imposed by this article, in an amount equal to thirty percent of the  
2 amount of credit allowed the taxpayer with respect to a certified  
3 historic structure under internal revenue code section 47(c)(3), deter-  
4 mined without regard to ratably allocating the credit over a five year  
5 period as required by subsection (a) of such section 47 with respect to  
6 a certified historic structure located within the state. Provided,  
7 however, the credit shall not exceed one hundred thousand dollars.

8 (6) For purposes of this subdivision "small project" means qualified  
9 rehabilitation expenditures totaling five million dollars or less.

10 § 4. This act shall take effect immediately and shall apply to taxable  
11 years beginning on and after January 1, 2020.