

# STATE OF NEW YORK

10396

## IN ASSEMBLY

May 4, 2020

Introduced by M. of A. BARCLAY, FITZPATRICK -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing the rental real estate income relief tax credit

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

Section 1. Section 210-B of the tax law is amended by adding a new subdivision 55 to read as follows:

55. Rental real estate income relief tax credit. (a) For the purposes of this subdivision, the following terms shall have the following meanings:

(1) "Residential tenant" shall have the same meaning as paragraph (a) of subdivision one of section two hundred thirty-five-f of the real property law, those who otherwise pay for the use and occupancy of a residential dwelling, or occupants as defined by paragraph (b) of subdivision one of section two hundred thirty-five-f of the real property law.

(2) "Commercial tenant" shall mean a person or entity lawfully occupying a covered property pursuant to a lease or other rental agreement.

(3) "Covered property" shall mean any building or portion of a building:

(i) that is lawfully used for buying, selling or otherwise providing goods or services, or for other lawful business, commercial or professional services, or manufacturing activities; and

(ii) for which a certificate of occupancy authorizing residential use of such building or such portion of a building has not been issued.

(4) "Small business" shall have the same meaning as section one hundred thirty-one of the economic development law.

(b) For taxable years beginning on or after January first, two thousand twenty and before January first, two thousand twenty-one, a taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this article. The amount of the credit shall be equal to the loss of rental income related to the inability of residential tenants and small business commercial tenants to pay rent as a

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

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1 result of government ordered restrictions in response to the coronavirus  
2 disease two thousand nineteen (COVID-19). Such credit shall be granted  
3 to any taxpayer with income derived from the rental of a covered proper-  
4 ty who has seen a partial or total loss of such income.

5 (c) A taxpayer applying for such credit shall do so according to an  
6 application as established by the commissioner in consultation with the  
7 commissioner of the division of homes and community renewal. Provided,  
8 such application would include the requirement of the taxpayer to  
9 provide supporting documentation establishing the loss of rental income  
10 as prescribed by the commissioner, including, but not limited to, an  
11 enforceable residential tenant lease agreement or commercial tenant  
12 lease agreement.

13 (d) The credit allowed under this subdivision for any taxable year  
14 shall not reduce the tax due for such year to less than the fixed dollar  
15 minimum amount prescribed in paragraph (d) of subdivision one of section  
16 two hundred ten of this article. However, if the amount of credit  
17 allowed under this subdivision for any taxable year reduces the tax to  
18 such amount or if the taxpayer otherwise pays tax based on the fixed  
19 dollar minimum amount, any amount of credit thus not deductible in such  
20 taxable year shall be treated as an overpayment of tax to be credited or  
21 refunded in accordance with the provisions of section one thousand  
22 eighty-six of this chapter. Provided, however, the provisions of  
23 subsection (c) of section one thousand eighty-eight of this chapter  
24 notwithstanding, no interest shall be paid thereon.

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

27 (mmm) Rental real estate income relief tax credit. (a) For the  
28 purposes of this subsection, the following terms shall have the follow-  
29 ing meanings:

30 (1) "Residential tenant" shall have the same meaning as paragraph (a)  
31 of subdivision one of section two hundred thirty-five-f of the real  
32 property law, those who otherwise pay for the use and occupancy of a  
33 residential dwelling, or occupants as defined by paragraph (b) of subdi-  
34 vision one of section two hundred thirty-five-f of the real property  
35 law.

36 (2) "Commercial tenant" shall mean a person or entity lawfully occupy-  
37 ing a covered property pursuant to a lease or other rental agreement.

38 (3) "Covered property" shall mean any building or portion of a build-  
39 ing:

40 (i) that is lawfully used for buying, selling or otherwise providing  
41 goods or services, or for other lawful business, commercial or profes-  
42 sional services, or manufacturing activities; and

43 (ii) for which a certificate of occupancy authorizing residential use  
44 of such building or such portion of a building has not been issued.

45 (4) "Small business" shall have the same meaning as section one  
46 hundred thirty-one of the economic development law.

47 (b) For taxable years beginning on or after January first, two thou-  
48 sand twenty and before January first, two thousand twenty-one, a taxpay-  
49 er shall be allowed a credit, to be computed as hereinafter provided,  
50 against the tax imposed by this article. The amount of the credit shall  
51 be equal to the loss of rental income related to the inability of resi-  
52 dential tenants and small business commercial tenants to pay rent as a  
53 result of government ordered restrictions in response to the coronavirus  
54 disease two thousand nineteen (COVID-19). Such credit shall be granted  
55 to any taxpayer with income derived from the rental of a covered proper-  
56 ty who has seen a partial or total loss of such income.

1     (c) A taxpayer applying for such credit shall do so according to an  
2     application as established by the commissioner in consultation with the  
3     commissioner of the division of homes and community renewal. Provided,  
4     such application would include the requirement of the taxpayer to  
5     provide supporting documentation establishing the loss of rental income  
6     as prescribed by the commissioner, including, but not limited to, an  
7     enforceable residential tenant lease agreement or commercial tenant  
8     lease agreement.

9     (d) If the amount of the credit allowed under this subsection for any  
10    taxable year shall exceed the taxpayer's tax for such year, the excess  
11    shall be treated as an overpayment of tax to be credited or refunded in  
12    accordance with the provisions of section six hundred eighty-six of this  
13    article, provided, however, that no interest shall be paid thereon.

14    § 3. This act shall take effect immediately.