

STATE OF NEW YORK

5761

2019-2020 Regular Sessions

IN ASSEMBLY

February 15, 2019

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

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

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

1 Section 1. Subdivision 26 of section 210-B of the tax law is amended
2 by adding three new paragraphs (f), (g) and (h) to read as follows:

3 (f) If a credit is allowed under this subdivision for rehabilitation
4 of a certified historic structure with multiple owners, such credit
5 shall be passed through to such owners, or persons designated as part-
6 ners or members of such owners, pro rata or pursuant to an agreement
7 among such owners, or persons designated as partners or members of such
8 owners, documenting an alternative distribution method without regard to
9 other tax or economic attributes of such owners.

10 (g) (i) Any owner entitled to a credit under this subdivision may
11 sell, assign, or otherwise transfer such credit, in whole or in part, to
12 one or more persons provided any credit, after issuance, may be sold,
13 assigned or otherwise transferred, in whole or in part, not more than
14 three times. Such person shall be entitled to offset the tax imposed
15 under this article as if such transferee had incurred the qualified
16 rehabilitation expenditure.

17 (ii) For the purposes of this subdivision, (A) "person" means any
18 individual, partnership, company, limited liability company, public or
19 private corporation, society, association, trustee, executor, adminis-
20 trator or other fiduciary or custodian and (B) "qualified rehabilitation
21 expenditure" means any costs incurred for the physical construction
22 involved in the rehabilitation of a certified historic structure,
23 excluding: (1) The owner's personal labor, (2) the cost of a new addi-
24 tion, except as required to comply with any provision of the state

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

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1 uniform fire prevention and building code, and (3) any nonconstruction
2 cost such as architectural fees, legal fees and financing fees.

3 (h) If a credit under this subdivision is sold, assigned or otherwise
4 transferred, whether by the owner or any subsequent transferee, the
5 transferor and transferee shall jointly submit written notification of
6 such transfer to the department not later than thirty days after such
7 transfer. The notification after each transfer shall include the credit
8 voucher number, the date of transfer, the amount of such credit trans-
9 ferred, the tax credit balance before and after the transfer, the tax
10 identification numbers for both the transferor and the transferee, and
11 any other information required by the department. Failure to comply with
12 this paragraph shall result in a disallowance of the tax credit until
13 there is full compliance on the part of the transferor and the transfer-
14 ee, and for a second or third transfer, on the part of all subsequent
15 transferors and transferees.

16 § 2. Subsection (oo) of section 606 of the tax law is amended by
17 adding three new paragraphs 6, 7 and 8 to read as follows:

18 (6) If a credit is allowed under this subsection for rehabilitation of
19 a certified historic structure with multiple owners, such credit shall
20 be passed through to such owners, or persons designated as partners or
21 members of such owners, pro rata or pursuant to an agreement among such
22 owners, or persons designated as partners or members of such owners,
23 documenting an alternative distribution method without regard to other
24 tax or economic attributes of such owners.

25 (7) (A) Any owner entitled to a credit under this subsection may sell,
26 assign, or otherwise transfer such credit, in whole or in part, to one
27 or more persons provided any credit, after issuance, may be sold,
28 assigned or otherwise transferred, in whole or in part, not more than
29 three times. Such person shall be entitled to offset the tax imposed
30 under this article as if such transferee had incurred the qualified
31 rehabilitation expenditure.

32 (B) For the purposes of this subsection, (i) "person" means any indi-
33 vidual, partnership, company, limited liability company, public or
34 private corporation, society, association, trustee, executor, adminis-
35 trator or other fiduciary or custodian, and (ii) "qualified rehabili-
36 tation expenditure" means any costs incurred for the physical
37 construction involved in the rehabilitation of a certified historic
38 structure, excluding: (1) the owner's personal labor, (2) the cost of a
39 new addition, except as required to comply with any provision of the
40 state uniform fire prevention and building code, and (3) any noncon-
41 struction cost such as architectural fees, legal fees and financing
42 fees.

43 (8) If a credit under this subsection is sold, assigned or otherwise
44 transferred, whether by the owner or any subsequent transferee, the
45 transferor and transferee shall jointly submit written notification of
46 such transfer to the department not later than thirty days after such
47 transfer. The notification after each transfer shall include the credit
48 voucher number, the date of transfer, the amount of such credit trans-
49 ferred, the tax credit balance before and after the transfer, the tax
50 identification numbers for both the transferor and the transferee, and
51 any other information required by the department. Failure to comply with
52 this paragraph shall result in a disallowance of the tax credit until
53 there is full compliance on the part of the transferor and the transfer-
54 ee, and for a second or third transfer, on the part of all subsequent
55 transferors and transferees.

1 § 3. Subdivision (y) of section 1511 of the tax law, is amended by
2 adding three new paragraphs 6, 7, and 8 to read as follows:

3 (6) If a credit is allowed under this subdivision for rehabilitation
4 of a certified historic structure with multiple owners, such credit
5 shall be passed through to such owners, or persons designated as part-
6 ners or members of such owners, pro rata or pursuant to an agreement
7 among such owners, or persons designated as partners or members of such
8 owners, documenting an alternative distribution method without regard to
9 other tax or economic attributes of such owners.

10 (7) (A) Any owner entitled to a credit under this subdivision may
11 sell, assign, or otherwise transfer such credit, in whole or in part, to
12 one or more persons provided any credit, after issuance, may be sold,
13 assigned or otherwise transferred, in whole or in part, not more than
14 three times. Such person shall be entitled to offset the tax imposed
15 under this article as if such transferee had incurred the qualified
16 rehabilitation expenditure.

17 (B) For the purposes of this subdivision, (i) "person" means any indi-
18 vidual, partnership, company, limited liability company, public or
19 private corporation, society, association, trustee, executor, adminis-
20 trator or other fiduciary or custodian, and (ii) "qualified rehabili-
21 tation expenditure" means any costs incurred for the physical
22 construction involved in the rehabilitation of a certified historic
23 structure, excluding: (1) the owner's personal labor, (2) the cost of a
24 new addition, except as required to comply with any provision of the
25 state uniform fire prevention and building code, and (3) any noncon-
26 struction cost such as architectural fees, legal fees and financing
27 fees.

28 (8) If a credit under this subdivision is sold, assigned or otherwise
29 transferred, whether by the owner or any subsequent transferee, the
30 transferor and transferee shall jointly submit written notification of
31 such transfer to the department not later than thirty days after such
32 transfer. The notification after each transfer shall include the credit
33 voucher number, the date of transfer, the amount of such credit trans-
34 ferred, the tax credit balance before and after the transfer, the tax
35 identification numbers for both the transferor and the transferee, and
36 any other information required by the department. Failure to comply with
37 this paragraph shall result in a disallowance of the tax credit until
38 there is full compliance on the part of the transferor and the transfer-
39 ee, and for a second or third transfer, on the part of all subsequent
40 transferors and transferees.

41 § 4. This act shall take effect immediately and shall apply to taxable
42 years beginning on and after January 1, 2019.