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:

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

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

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

(ii) For the purposes of this subdivision, (A) "person" means any individual, partnership, company, limited liability company, public or private corporation, society, association, trustee, executor, administrator or other fiduciary or custodian and (B) "qualified rehabilitation expenditure" means any costs incurred for the physical construction involved in the rehabilitation of a certified historic structure, excluding: (1) The owner's personal labor, (2) the cost of a new addition, 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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uniform fire prevention and building code, and (3) any nonconstruction cost such as architectural fees, legal fees and financing fees.

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

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

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

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

(B) For the purposes of this subsection, (i) "person" means any individual, partnership, company, limited liability company, public or private corporation, society, association, trustee, executor, administrator or other fiduciary or custodian, and (ii) "qualified rehabilitation expenditure" means any costs incurred for the physical construction involved in the rehabilitation of a certified historic structure, excluding: (1) the owner's personal labor, (2) the cost of a new addition, except as required to comply with any provision of the state uniform fire prevention and building code, and (3) any nonconstruction cost such as architectural fees, legal fees and financing fees.

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

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

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

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

(B) For the purposes of this subdivision, (i) "person" means any individual, partnership, company, limited liability company, public or private corporation, society, association, trustee, executor, administrator or other fiduciary or custodian, and (ii) "qualified rehabilitation expenditure" means any costs incurred for the physical construction involved in the rehabilitation of a certified historic structure, excluding: (1) the owner's personal labor, (2) the cost of a new addition, except as required to comply with any provision of the state uniform fire prevention and building code, and (3) any nonconstruction cost such as architectural fees, legal fees and financing fees.

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

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