

STATE OF NEW YORK

6630

2021-2022 Regular Sessions

IN ASSEMBLY

March 23, 2021

Introduced by M. of A. BARCLAY, FITZPATRICK, NORRIS, TAGUE, FRIEND, MORINELLO, BLANKENBUSH, HAWLEY, PALMESANO, M. MILLER, MANKTELOW, B. MILLER, ASHBY, BRABENEC, MONTESANO, J. M. GIGLIO, SMULLEN, GOODELL, SALKA, SCHMITT, BYRNES, DiPIETRO, RA, DeSTEFANO, McDONOUGH, SIMPSON, GALLAHAN, LEMONDES, LAWLER -- Multi-Sponsored by -- M. of A. BROWN, WALSH -- 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.

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

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

3 (b) For taxable years beginning on or after January first, two thou-
4 sand twenty-one and before January first, two thousand twenty-two, a
5 taxpayer shall be allowed a credit, to be computed as hereinafter
6 provided, against the tax imposed by this article. The amount of the
7 credit shall be equal to the loss of rental income related to the
8 inability of residential tenants and small business commercial tenants
9 to pay rent as a result of government ordered restrictions in response
10 to the coronavirus disease two thousand nineteen (COVID-19). Such credit
11 shall be granted to any taxpayer with income derived from the rental of
12 a covered property who has seen a partial or total loss of such income.

13 (c) A taxpayer applying for such credit shall do so according to an
14 application as established by the commissioner in consultation with the
15 commissioner of the division of homes and community renewal. Provided,
16 such application would include the requirement of the taxpayer to
17 provide supporting documentation establishing the loss of rental income
18 as prescribed by the commissioner, including, but not limited to, an
19 enforceable residential tenant lease agreement or commercial tenant
20 lease agreement.

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

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

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

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

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

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

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

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

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

55 (b) For taxable years beginning on or after January first, two thou-
56 sand twenty-one and before January first, two thousand twenty-two, a

1 taxpayer shall be allowed a credit, to be computed as hereinafter
2 provided, against the tax imposed by this article. The amount of the
3 credit shall be equal to the loss of rental income related to the
4 inability of residential tenants and small business commercial tenants
5 to pay rent as a result of government ordered restrictions in response
6 to the coronavirus disease two thousand nineteen (COVID-19). Such credit
7 shall be granted to any taxpayer with income derived from the rental of
8 a covered property who has seen a partial or total loss of such income.

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

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

22 § 3. This act shall take effect immediately.