

# STATE OF NEW YORK

8238

## IN SENATE

February 7, 2022

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law and the parks, recreation and historic preservation law, in relation to extending 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. Paragraph (a) of subdivision 26 of section 210-B of the tax  
2 law, as amended by section 2 of part RR of chapter 59 of the laws of  
3 2018, subparagraph (i) as amended by section 2 of part CCC of chapter 59  
4 of the laws of 2021, and clause (B) of subparagraph (ii) as added by  
5 section 17 of part A of chapter 59 of the laws of 2014, is amended and a  
6 new paragraph (g) is added to read as follows:

7 (a) Application of credit. (i) For taxable years beginning on or  
8 after January first, two thousand ten, and before January first, two  
9 thousand [~~twenty-five~~] thirty-two, a taxpayer shall be allowed a credit  
10 as hereinafter provided, against the tax imposed by this article, in an  
11 amount equal to one hundred percent of the amount of credit allowed the  
12 taxpayer for the same taxable year with respect to a certified historic  
13 structure, and one hundred fifty percent of the amount of credit allowed  
14 the taxpayer with respect to a certified historic structure that is a  
15 small project, under internal revenue code section 47(c)(3), determined  
16 without regard to ratably allocating the credit over a five year period  
17 as required by subsection (a) of such section 47, with respect to a  
18 certified historic structure located within the state. Provided, howev-  
19 er, the credit shall not exceed five million dollars.

20 (ii) (A) For taxable years beginning on or after January first, two  
21 thousand [~~twenty-five~~] thirty-two, a taxpayer shall be allowed a credit  
22 as hereinafter provided, against the tax imposed by this article, in an  
23 amount equal to thirty percent of the amount of credit allowed the  
24 taxpayer for the same taxable year determined without regard to ratably  
25 allocating the credit over a five year period as required by subsection  
26 (a) of section 47 of the internal revenue code, with respect to a certi-  
27 fied historic structure under subsection (c)(3) of section 47 of the

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

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1 internal revenue code with respect to a certified historic structure  
2 located within the state. Provided, however, the credit shall not exceed  
3 one hundred thousand dollars.

4 (B) If the taxpayer is a partner in a partnership or a shareholder in  
5 a New York S corporation, then the credit caps imposed in [~~subparagraph~~  
6 ~~clause~~ (A) of this [~~paragraph~~ subparagraph] shall be applied at the  
7 entity level, so that the aggregate credit allowed to all the partners  
8 or shareholders of each such entity in the taxable year does not exceed  
9 the credit cap that is applicable in that taxable year.

10 (g) The commissioner shall report annually, on or before the first day  
11 of November, on the aggregate amount of credits claimed and awarded  
12 pursuant to this subdivision on returns filed during the preceding  
13 calendar year. Such report shall be provided to the governor, temporary  
14 president of the senate, speaker of the assembly, chair of the senate  
15 finance committee and chair of the assembly ways and means committee and  
16 shall be made publicly available on the department's website.

17 § 2. Section 14.05 of the parks, recreation and historic preservation  
18 law is amended by adding a new subdivision 5 to read as follows:

19 5. (a) The commissioner shall report annually, on or before the  
20 first day of November, on the tax credit projects applied for in  
21 accordance with subdivision twenty-six of section two hundred ten-B,  
22 subsection (oo) of section six hundred six, and subdivision (y) of  
23 section one thousand five hundred eleven of the tax law on returns  
24 filed during the preceding calendar year. Such report shall be  
25 provided to the governor, temporary president of the senate, speaker  
26 of the assembly, chair of the senate finance committee and chair of  
27 the assembly ways and means committee, shall be made publicly available  
28 on the office's website, and shall include the following information:

29 (i) the number and value of tax credit projects applied for during the  
30 state fiscal year, organized by municipality and county, and project  
31 size;

32 (ii) the number and value of tax credit projects certified by the  
33 national park service during the state fiscal year, organized by munici-  
34 pality and county, and project size;

35 (iii) the total value of credits certified annually for each of the  
36 taxable years beginning on or after January first, two thousand seven to  
37 the present, by municipality and county;

38 (iv) the number of housing units before and after rehabilitation;

39 (v) the number of low-moderate housing units before and after rehabil-  
40 itation; and

41 (vi) the number of projects certified for both federal and state cred-  
42 its, and the number of projects certified for federal credits only.

43 (b) The commissioner shall report annually, on or before the first  
44 day of November, on the tax credit projects applied for pursuant to  
45 subdivision (pp) of section six hundred six of the tax law on returns  
46 filed during the preceding calendar year. Such report shall be  
47 provided to the governor, temporary president of the senate, speaker  
48 of the assembly, chair of the senate finance committee and chair of  
49 the assembly ways and means committee, shall be made publicly available  
50 on the office's website, and shall include the following information:

51 (i) the number and value of tax credit projects applied for during the  
52 state fiscal year, organized by municipality and county, and project  
53 size;

54 (ii) the number and value of tax credit projects certified by  
55 the office during the state fiscal year, organized by municipality and  
56 county, and project size;

(iii) the total value of credits certified annually for each of the taxable years beginning on or after January first, two thousand seven to the present, by municipality and county;

(iv) the number of housing units before and after rehabilitation; and

(v) the number of projects certified for state credits by the office.

§ 3. Subparagraph (A) of paragraph 1 of subsection (oo) of section 606 of the tax law, as amended by section 1 of part CCC of chapter 59 of the laws of 2021, is amended and a new paragraph 7 is added to read as follows:

(A) For taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~twenty-five~~] thirty-two, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure, and one hundred fifty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure that is a small project, under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state. Provided, however, the credit shall not exceed five million dollars. For taxable years beginning on or after January first, two thousand [~~twenty-five~~] thirty-two, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to thirty percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state; provided, however, the credit shall not exceed one hundred thousand dollars.

(7) The commissioner shall report annually, on or before the first day of November, on the aggregate amount of credits claimed and awarded pursuant to this subsection on returns filed during the preceding calendar year. Such report shall be provided to the governor, temporary president of the senate, speaker of the assembly, chair of the senate finance committee and chair of the assembly ways and means committee and shall be made publicly available on the department's website.

§ 4. Paragraph 2 of subsection (pp) of section 606 of the tax law, as amended by section 4 of part RR of chapter 59 of the laws of 2018, is amended and a new paragraph 13 is added to read as follows:

(2) (A) With respect to any particular residence of a taxpayer, the credit allowed under paragraph one of this subsection shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~twenty-five~~] thirty-two and twenty-five thousand dollars for taxable years beginning on or after January first, two thousand [~~twenty-five~~] thirty-two. In the case of a husband and wife, the amount of the credit shall be divided between them equally or in such other manner as they may both elect. If a taxpayer incurs qualified rehabilitation expenditures in relation to more than one residence in the same year, the total amount of credit allowed under paragraph one of this subsection for all such expenditures shall not exceed fifty thousand dollars for taxable years beginning on or after January first, two thousand ten and before January first, two thousand [~~twenty-five~~] thirty-two and twenty-five thousand

1 dollars for taxable years beginning on or after January first, two thou-  
2 sand [~~twenty-five~~] ~~thirty-two~~.

3 (B) For taxable years beginning on or after January first, two thou-  
4 sand ten and before January first, two thousand [~~twenty-five~~]  
5 ~~thirty-two~~, if the amount of credit allowable under this subsection  
6 shall exceed the taxpayer's tax for such year, and the taxpayer's New  
7 York adjusted gross income for such year does not exceed sixty thousand  
8 dollars, the excess shall be treated as an overpayment of tax to be  
9 credited or refunded in accordance with the provisions of section six  
10 hundred eighty-six of this article, provided, however, that no interest  
11 shall be paid thereon. If the taxpayer's New York adjusted gross income  
12 for such year exceeds sixty thousand dollars, the excess credit that may  
13 be carried over to the following year or years and may be deducted from  
14 the taxpayer's tax for such year or years. For taxable years beginning  
15 on or after January first, two thousand [~~twenty-five~~] ~~thirty-two~~, if the  
16 amount of credit allowable under this subsection shall exceed the  
17 taxpayer's tax for such year, the excess may be carried over to the  
18 following year or years and may be deducted from the taxpayer's tax for  
19 such year or years.

20 (13) The commissioner shall report annually, on or before the first  
21 day of November, on the aggregate amount of credits claimed and awarded  
22 pursuant to this subsection on returns filed during the preceding calen-  
23 dar year. Such report shall be provided to the governor, temporary pres-  
24 ident of the senate, speaker of the assembly, chair of the senate  
25 finance committee and chair of the assembly ways and means committee and  
26 shall be made publicly available on the department's website.

27 § 5. Subparagraph (A) of paragraph 1 of subdivision (y) of section  
28 1511 of the tax law, as amended by section 3 of part CCC of chapter 59  
29 of the laws of 2021, is amended and a new paragraph 7 is added to read  
30 as follows:

31 (A) For taxable years beginning on or after January first, two thou-  
32 sand ten and before January first, two thousand [~~twenty-five~~]  
33 ~~thirty-two~~, a taxpayer shall be allowed a credit as hereinafter  
34 provided, against the tax imposed by this article, in an amount equal to  
35 one hundred percent of the amount of credit allowed the taxpayer with  
36 respect to a certified historic structure, and one hundred fifty percent  
37 of the amount of credit allowed the taxpayer with respect to a certified  
38 historic structure that is a small project, under internal revenue code  
39 section 47(c)(3), determined without regard to ratably allocating the  
40 credit over a five year period as required by subsection (a) of such  
41 section 47, with respect to a certified historic structure located with-  
42 in the state. Provided, however, the credit shall not exceed five  
43 million dollars. For taxable years beginning on or after January first,  
44 two thousand [~~twenty-five~~] ~~thirty-two~~, a taxpayer shall be allowed a  
45 credit as hereinafter provided, against the tax imposed by this article,  
46 in an amount equal to thirty percent of the amount of credit allowed the  
47 taxpayer with respect to a certified historic structure under internal  
48 revenue code section 47(c)(3), determined without regard to ratably  
49 allocating the credit over a five year period as required by subsection  
50 (a) of such section 47 with respect to a certified historic structure  
51 located within the state. Provided, however, the credit shall not  
52 exceed one hundred thousand dollars.

53 (7) The commissioner shall report annually, on or before the first day  
54 of November, on the aggregate amount of credits claimed and awarded  
55 pursuant to this subdivision on returns filed during the preceding  
56 calendar year. Such report shall be provided to the governor, temporary

1 president of the senate, speaker of the assembly, chair of the senate  
2 finance committee and chair of the assembly ways and means committee and  
3 shall be made publicly available on the department's website.

4 § 6. This act shall take effect immediately.