

# STATE OF NEW YORK

2124

2025-2026 Regular Sessions

## IN SENATE

January 15, 2025

Introduced by Sens. KAVANAGH, MAY, SERRANO -- 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 authorizing the pass-through or transfer of the credits 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 two new paragraphs (g) and (h) to read as follows:

3 (g) (i) The allocation of the credit established by this subdivision  
4 may be made without regard to and in a separate manner from any federal  
5 rehabilitation credit that may be allocated with respect to a certified  
6 historic structure under section forty-seven of the internal revenue  
7 code by written agreement of the taxpayer otherwise entitled to claim  
8 such credit or by written agreement of a pass-through entity that may  
9 report such credit or otherwise elect to pass the federal rehabilitation  
10 tax credit through to a tenant taxpayer in accordance with applicable  
11 federal law.

12 (ii) With respect to certified historic structures that are subject to  
13 a lease arrangement whereby the landlord elects to pass the federal  
14 rehabilitation credit through to the tenant taxpayer, not only may the  
15 New York state rehabilitation credit be passed down to the tenant  
16 taxpayer and then allocated without regard to and in a separate manner  
17 from any federal rehabilitation credit that may be allocated, but the  
18 landlord may also opt to retain the New York state rehabilitation cred-  
19 it. For purposes of this section, a "landlord" means the owner of the  
20 certified historic structure for federal tax purposes.

21 (iii) The New York state rehabilitation credit may be transferred as  
22 provided for in article fourteen-A of the parks, recreation and historic  
23 preservation law.

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

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1 (h) The commissioner shall report annually, on or before the first day  
2 of November, on the aggregate amount of credits claimed pursuant to this  
3 subdivision on returns filed during the preceding calendar year. Such  
4 report shall be provided to the governor, temporary president of the  
5 senate, speaker of the assembly, chairs of the senate committees on  
6 finance and on housing, construction and community development, and  
7 chairs of the assembly committees on ways and means and on housing and  
8 shall be made publicly available on the department's website.

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

11 (7) (A) The allocation of the credit established by this subsection  
12 may be made without regard to and in a separate manner from any federal  
13 rehabilitation credit that may be allocated with respect to a certified  
14 historic structure under section forty-seven of the internal revenue  
15 code by written agreement of the taxpayer otherwise entitled to claim  
16 such credit or by written agreement of a pass-through entity that may  
17 report such credit or otherwise elect to pass the federal rehabilitation  
18 tax credit through to a tenant taxpayer in accordance with applicable  
19 federal law.

20 (B) With respect to certified historic structures that are subject to  
21 a lease arrangement whereby the landlord elects to pass the federal  
22 rehabilitation credit through to the tenant taxpayer, not only may the  
23 New York state rehabilitation credit be passed down to the tenant  
24 taxpayer and then allocated without regard to and in a separate manner  
25 from any federal rehabilitation credit that may be allocated, but the  
26 landlord may also opt to retain the New York state rehabilitation cred-  
27 it. For purposes of this section, a "landlord" means the owner of the  
28 certified historic structure for federal tax purposes.

29 (C) The New York state rehabilitation credit may be transferred as  
30 provided for in article fourteen-A of the parks, recreation and historic  
31 preservation law.

32 (8) The commissioner shall report annually, on or before the first day  
33 of November, on the aggregate amount of credits claimed pursuant to this  
34 subdivision on returns filed during the preceding calendar year. Such  
35 report shall be provided to the governor, temporary president of the  
36 senate, speaker of the assembly, chairs of the senate committees on  
37 finance and on housing, construction and community development, and  
38 chairs of the assembly committees on ways and means and on housing and  
39 shall be made publicly available on the department's website.

40 § 3. Subdivision (y) of section 1511 of the tax law, as added by chap-  
41 ter 472 of the laws of 2010, is amended by adding two new paragraphs 7  
42 and 8 to read as follows:

43 (7) (A) The allocation of the credit established by this subdivision  
44 may be made without regard to and in a separate manner from any federal  
45 rehabilitation credit that may be allocated with respect to a certified  
46 historic structure under section forty-seven of the internal revenue  
47 code by written agreement of the taxpayer otherwise entitled to claim  
48 such credit or by written agreement of a pass-through entity that may  
49 report such credit or otherwise elect to pass the federal rehabilitation  
50 tax credit through to a tenant taxpayer in accordance with applicable  
51 federal law.

52 (B) With respect to certified historic structures that are subject to  
53 a lease arrangement whereby the landlord elects to pass the federal  
54 rehabilitation credit through to the tenant taxpayer, not only may the  
55 New York state rehabilitation credit be passed down to the tenant  
56 taxpayer and then allocated without regard to and in a separate manner

1 from any federal rehabilitation credit that may be allocated, but the  
2 landlord may also opt to retain the New York state rehabilitation cred-  
3 it. For purposes of this section, a "landlord" means the owner of the  
4 certified historic structure for federal tax purposes.

5 (C) The New York state rehabilitation credit may be transferred as  
6 provided for in article fourteen-A of the parks, recreation and historic  
7 preservation law.

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

16 § 4. The parks, recreation and historic preservation law is amended by  
17 adding a new article 14-A to read as follows:

18 ARTICLE 14-A

19 HISTORIC REHABILITATION TAX CREDIT TRANSFER PROGRAM

20 Section 14.15 Definitions.

21 14.16 Transfer of rehabilitation credit.

22 14.17 Reporting.

23 14.18 Regulations, coordination with federal rehabilitation  
24 credit provisions.

25 § 14.15 Definitions. As used in this article, the following terms  
26 shall have the following meanings:

27 1. "Federal rehabilitation credit" means the federal credit that may  
28 be allocated with respect to a certified historic structure under  
29 section forty-seven of the internal revenue code. References in this  
30 article to section forty-seven of the internal revenue code shall mean  
31 such section as amended from time to time.

32 2. "Pass-through entity" means an entity that is not a taxpayer under  
33 federal or state tax law, such as a limited liability company, a part-  
34 nership, an S Corporation, or any other entity as determined by the  
35 commissioner of taxation and finance which is deemed to be a reporting  
36 entity for income tax purposes and files annual information returns  
37 passing through items of income, loss, credits and certain other tax  
38 attributes to each partner, member or shareholder as applicable.

39 3. "Qualified rehabilitation expenditures" shall have the same meaning  
40 as in section forty-seven of the internal revenue code.

41 4. "Regulations" means regulations adopted by the commissioner, in  
42 consultation with the commissioner of the department of taxation and  
43 finance, pursuant to section 14.18 of this article.

44 5. "Rehabilitation credit" means the credit provided for under subdi-  
45 vision twenty-six of section two hundred ten-B, subsection (oo) of  
46 section six hundred six or subdivision (y) of section fifteen hundred  
47 eleven of the tax law.

48 6. "Transferee" means a taxpayer or a pass-through entity that  
49 receives a transfer of the rehabilitation credit. A transferee need not  
50 own an interest in the certified historic structure or in an entity with  
51 an ownership interest in the certified historic structure to receive a  
52 transfer of a rehabilitation credit.

53 7. "Non-profit transferee" means a non-profit entity that receives a  
54 transfer of the rehabilitation credit.

55 § 14.16 Transfer of rehabilitation credit. Either a 1. taxpayer or  
56 pass-through entity that may report the rehabilitation credit or other-

1 wise elect to pass the federal rehabilitation credit through to a tenant  
2 taxpayer in accordance with applicable federal law or 2. non-profit  
3 transferee may, with prior notice in accordance with the regulations,  
4 transfer the rehabilitation credit, in whole or in part, to any trans-  
5 feree or non-profit transferee with the same effect as if the transferee  
6 or non-profit transferee had incurred the qualified rehabilitation  
7 expenditures itself; provided that no partial transfer of the rehabili-  
8 tation credit may be for less than twenty-five percent of the full reha-  
9 bilitation credit claimed by the taxpayer. A transferee shall use or  
10 report the rehabilitation credit in the year it is allowed and may not  
11 transfer the rehabilitation credit on to yet another transferee. A  
12 transfer of rehabilitation credit to a non-profit transferee, where the  
13 non-profit transferee is solely acting as a go-between to further trans-  
14 fer the rehabilitation credit to a transferee, shall not constitute a  
15 transfer for purposes of determining the single transfer limitation of  
16 this section.

17 § 14.17 Reporting. If a taxpayer or a pass-through entity that may  
18 report the credit or otherwise elect to pass the federal rehabilitation  
19 credit through to a tenant taxpayer in accordance with applicable feder-  
20 al law elects to transfer the credit as provided for in section 14.16 of  
21 this article, prior to filing any tax returns claiming the rehabili-  
22 tation credit, a taxpayer or a pass-through entity that may report the  
23 rehabilitation credit or otherwise elect to pass the federal rehabili-  
24 tation credit through to a tenant taxpayer in accordance with applicable  
25 federal law shall provide an information statement to the commissioner  
26 in accordance with the department's regulations. Such information state-  
27 ment shall include, but may not be limited to, the identity and tax  
28 identification information of any non-profit transferee and the identity  
29 and tax identification information of any transferee that will claim the  
30 credit.

31 § 14.18 Regulations, coordination with federal rehabilitation credit  
32 provisions. The commissioner, in consultation with the commissioner of  
33 the department of taxation and finance, shall promulgate rules and regu-  
34 lations necessary to administer the provisions of this article.

35 § 5. This act shall take effect immediately and shall apply to taxable  
36 years beginning on and after January 1, 2026.