

9023

2009-2010 Regular Sessions

I N A S S E M B L Y

June 19, 2009

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

AN ACT to amend the tax law, in relation to providing a tax credit  
for  
rehabilitation of historic properties; to repeal section 5 of  
chapter  
547 of the laws of 2006 amending the tax law and the parks,  
recreation  
and historic preservation law, relating to establishing a  
credit  
against income tax for the rehabilitation of historic properties,  
in  
relation to repealing certain administrative requirements  
relating  
thereto; and providing for the repeal of such provisions upon  
expira-  
tion thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND  
ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (oo) of section 606 of the tax law, as added  
by  
2 chapter 547 of the laws of 2006, is amended to read as follows:  
3 (oo) Credit for rehabilitation of historic properties. (1) For  
taxable  
4 years beginning on or after January first, two thousand [seven] TEN,  
[a  
5 taxpayer] ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY  
COMPANY,  
6 CORPORATION OR OTHER BUSINESS ENTITY shall be allowed a credit as  
here-  
7 inafter provided, against the tax imposed by this article, in an  
amount  
8 equal to [thirty] ONE HUNDRED percent of the amount of credit  
allowed  
9 the taxpayer for the same taxable year with respect to a  
certified  
10 historic structure under subsection (c)[(3)](2) of section 47 of  
the

11 federal internal revenue code with respect to a certified  
historic  
12 structure located within the state. Provided, however, the credit  
shall

13 not exceed [one hundred thousand] FIVE MILLION dollars.

14 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE  
ALLOWED

15 IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED  
IN

16 SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.

17 (3) If the credit allowed the taxpayer pursuant to [subsection  
(c) (3)

18 of] section 47 of the internal revenue code WITH RESPECT TO A  
QUALIFIED

19 REHABILITATION is recaptured pursuant to subsection (a) of section 50  
of

EXPLANATION--Matter in ITALICS (underscored) is new; matter in  
brackets

[ ] is old law to be omitted.

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2

1 the internal revenue code, a portion of the credit allowed under  
this

2 subsection must be added back in the same taxable year AND IN THE  
SAME

3 PROPORTION as [such recapture equal to thirty percent times the  
amount

4 of] the federal recapture.

5 [(3)] (4) If the amount of the credit allowable under this  
subsection

6 for any taxable year shall exceed the taxpayer's tax for such year,  
the

7 excess may be carried over to the following year or years, and may  
be

8 [deducted from] APPLIED AGAINST the taxpayer's tax for such year  
or

9 years.

10 (5) TO BE ELIGIBLE FOR THE CREDIT ALLOWABLE UNDER THIS SUBSECTION  
THE

11 REHABILITATION PROJECT SHALL BE IN WHOLE OR IN PART A TARGETED  
AREA

12 RESIDENCE WITHIN THE MEANING OF SECTION 143(J) OF THE INTERNAL  
REVENUE

13 CODE OR LOCATED WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT  
OR

14 BELOW ONE HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE  
MOST

15 RECENT FEDERAL CENSUS.

16 S 2. Subparagraphs (A) and (B) of paragraph 2 and clause (iv)  
of

17 subparagraph (A) of paragraph 5 of subsection (pp) of section 606 of  
the

18 tax law, as added by chapter 547 of the laws of 2006, are amended  
to

19 read as follows:

20 (A) With respect to any particular residence of a taxpayer, the  
credit  
21 allowed under paragraph one of this subsection shall not exceed  
[twen-  
22 ty-five] FIFTY thousand dollars. In the case of a husband and wife,  
the  
23 amount of the credit shall be divided between them equally or in  
such  
24 other manner as they may both elect. If a taxpayer incurs  
qualified  
25 rehabilitation expenditures in relation to more than one residence  
in  
26 the same year, the total amount of credit allowed under paragraph one  
of  
27 this subsection for all such expenditures shall not exceed twenty-  
five  
28 thousand dollars.

29 (B) If the amount of credit allowable under this subsection  
shall  
30 exceed the taxpayer's tax for such year, AND THE TAXPAYER'S NEW  
YORK  
31 ADJUSTED GROSS INCOME FOR SUCH YEAR DOES NOT EXCEED SIXTY  
THOUSAND  
32 DOLLARS, the excess SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO  
BE  
33 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
SIX  
34 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO  
INTEREST  
35 SHALL BE PAID THEREON. IF THE TAXPAYER'S NEW YORK ADJUSTED GROSS  
INCOME  
36 FOR SUCH YEAR EXCEEDS SIXTY THOUSAND DOLLARS, THE EXCESS CREDIT THAT  
may  
37 be carried over to the following year or years and may be deducted  
from  
38 the taxpayer's tax for such year or years.

39 (iv) which is in whole or in part a targeted area residence within  
the  
40 meaning of section 143(j) of the internal revenue code [and  
located  
41 within an area of a city, town or village whose governing body has  
iden-  
42 tified by resolution that such area is in need of community  
renewal  
43 because of deteriorated and/or vacant buildings and, by local law,  
has  
44 adopted a historic preservation and community renewal program  
to  
45 preserve and/or revitalize such area. A historic preservation and  
commu-  
46 nity renewal program is a program that coordinates all  
applicable  
47 governmental benefits and programs with the aims of preserving  
and/or  
48 revitalizing neighborhoods, encouraging property owners to  
complete

49 substantial rehabilitation projects and promoting smart growth  
economic  
50 development. Such local laws shall be filed with the office of  
parks,  
51 recreation and historic preservation. The office of parks,  
recreation  
52 and historic preservation shall assist local governments in  
developing  
53 historic preservation and community renewal programs] OR IS  
LOCATED  
54 WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR BELOW  
ONE  
55 HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME IN THE MOST  
RECENT  
56 FEDERAL CENSUS.  
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1 S 3. Subdivision 40 of section 210 of the tax law, as added by  
chapter  
2 547 of the laws of 2006, is amended to read as follows:  
3 40. Credit for rehabilitation of historic properties. (1) For  
taxable  
4 years beginning on or after January first, two thousand [seven] TEN,  
[a  
5 taxpayer] ANY PERSON, FIRM, PARTNERSHIP, LIMITED LIABILITY  
COMPANY,  
6 CORPORATION OR OTHER BUSINESS ENTITY shall be allowed a credit as  
here-  
7 inafter provided, against the tax imposed by this article, in an  
amount  
8 equal to [thirty] ONE HUNDRED percent of the amount of credit  
allowed  
9 the taxpayer for the same taxable year with respect to a  
certified  
10 historic structure under subsection (c)[(3)](2) of section 47 of  
the  
11 federal internal revenue code with respect to a certified  
historic  
12 structure located within the state. Provided, however, the credit  
shall  
13 not exceed [one hundred thousand] FIVE MILLION dollars.  
14 (2) TAX CREDITS ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE  
ALLOWED  
15 IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED  
IN  
16 SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.  
17 (3) If the credit allowed the taxpayer pursuant to [subsection  
(c) (3)  
18 of] section 47 of the internal revenue code WITH RESPECT TO A  
QUALIFIED  
19 REHABILITATION is recaptured pursuant to subsection (a) of section 50  
of  
20 the internal revenue code, a portion of the credit allowed under  
this  
21 subsection must be added back in the same taxable year AND IN THE  
SAME

22 PROPORTION as [such recapture equal to thirty percent times] such  
cred-  
23 it.

24 [(3)] (4) If the amount of the credit allowable under this  
subdivision

25 for any taxable year shall exceed the taxpayer's tax for such year,  
the

26 excess may be carried over to the following year or years, and may  
be

27 [deducted from] APPLIED FROM the taxpayer's tax for such year or  
years.

28 S 4. Section 5 of chapter 547 of the laws of 2006, amending the  
tax

29 law and the parks, recreation and historic preservation law, relating  
to

30 establishing a credit against income tax for the rehabilitation  
of

31 historic properties is REPEALED.

32 S 5. This act shall take effect immediately and shall apply to  
taxable

33 years beginning on and after January 1, 2010 and shall expire and  
be

34 deemed repealed December 31, 2014; provided, however, that the  
credit

35 shall be applied to any rehabilitation project commenced on or  
before

36 the date on which that act shall be deemed repealed.