

SECTION 12-6-3535. Income tax credit for making qualified rehabilitation expenditures for a certified historic structure.

(A) A taxpayer who is allowed a federal income tax credit pursuant to Section 47 of the Internal Revenue Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed to claim a credit against income taxes and license fees imposed by this title. For the purposes of this section, "qualified rehabilitation expenditures" and "certified historic structure" are defined as provided in the Internal Revenue Code Section 47 and the applicable treasury regulations. The amount of the credit is ten percent of the expenditures that qualify for the federal credit. To claim the credit allowed by this subsection, a taxpayer filing a paper return must attach a copy of the section of the federal income tax return showing the credit claimed, along with other information that the Department of Revenue determines is necessary for the calculation of the credit provided by this subsection.

(B) A taxpayer who is not eligible for a federal income tax credit under Section 47 of the Internal Revenue Code and who makes rehabilitation expenses for a certified historic residential structure located in this State is allowed to claim a credit against the tax imposed by this chapter. The amount of the credit is twenty-five percent of the rehabilitation expenses. To claim the credit allowed by this subsection, a taxpayer filing a paper return must attach a copy of the certification obtained from the State Historic Preservation Officer verifying that the historic structure has been rehabilitated in accordance with this subsection, along with all information that the Department of Revenue determines is necessary for the calculation of the credit provided by this subsection. A taxpayer filing an electronic return shall keep a copy of the certification with his tax records.

For the purposes of subsections (B) through (F):

(1) "Certified historic residential structure" means an owner-occupied residence that is:

(a) listed individually in the National Register of Historic Places;

(b) considered by the State Historic Preservation Officer to contribute to the historic significance of a National Register Historic District;

(c) considered by the State Historic Preservation Officer to meet the criteria for individual listing in the National Register of Historic Places; or

(d) an outbuilding of an otherwise eligible property considered by the State Historic Preservation Officer to contribute to the historic significance of the property.

(2) "Certified rehabilitation" means repairs or alterations consistent with the Secretary of the Interior's Standards for Rehabilitation and certified as such by the State Historic Preservation Officer before commencement of the work. The review by the State Historic Preservation Officer shall include all repairs, alterations, rehabilitation, and new construction on the certified historic residential structure and the property on which it is located. To qualify for the credit, the taxpayer shall receive documentation from the State Historic Preservation Officer verifying that the completed project was rehabilitated in accordance with the standards for rehabilitation. The rehabilitation expenses must, within a thirty-six-month period, exceed fifteen thousand dollars. A taxpayer shall not take more than one credit on the same certified historic residential structure within ten years.

(3) "Rehabilitation expenses" means expenses incurred by the taxpayer in the certified rehabilitation of a certified historic residential structure that are paid before the credit is claimed including preservation and rehabilitation work done to the exterior of a certified historic residential structure, repair and stabilization of historic structural systems, restoration of historic plaster, energy efficiency measures except insulation in frame walls, repairs or rehabilitation of heating, air-conditioning, or ventilating systems, repairs or rehabilitation of electrical or plumbing systems exclusive of new electrical appliances and electrical or plumbing fixtures, and architectural and engineering fees.

"Rehabilitation expenses" do not include the cost of acquiring or marketing the property, the cost of new construction beyond the volume of the existing certified historic residential structure, the value of an owner's personal labor, or the cost of personal property.

(4) "State Historic Preservation Officer" means the Director of the Department of Archives and History or the director's designee who administers the historic preservation programs within the State.

(5) "Owner-occupied residence" means a building or portion of a building in which the taxpayer has an ownership interest, in whole or in part, in fee, by life estate, or as the income beneficiary of a property trust, that is, after being placed in service, the residence of the taxpayer and is not:

(a) actively used in a trade or business;

(b) held for the production of income; or

(c) held for sales or disposition in the ordinary course of the taxpayer's trade or business.

(C)(1) The entire credit may not be taken for the taxable year in which the property is placed in service but must be taken in equal installments over a five-year period beginning with the year in which the property is placed in service. "Placed in service" means the rehabilitation is completed and allows for the intended use. Any unused portion of any credit installment may be carried forward for the succeeding five years.

(2) The credit earned pursuant to this section by an "S" corporation owing corporate level income tax must be used first at the entity level. Remaining credit passes through to each shareholder in a percentage equal to each shareholder's percentage of stock ownership. The credit earned pursuant to this section by a general partnership, limited partnership, limited liability company, or other entity taxed as a partnership must be passed through to its partners and may be allocated among partners, including without limitation, an allocation of the entire credit to one partner, in a manner agreed by the partners that is consistent with Subchapter K of the Internal Revenue Code. As used in this item the term "partner" means a partner, member, or owner of an interest in the pass-through entity, as applicable.

(D) Additional work done by the taxpayer while the credit is being claimed, for a period of up to five years, must be consistent with the Secretary of the Interior's Standards for Rehabilitation. During this period the State Historic Preservation Officer may review additional work to the certified historic structure or certified historic residential structure and has the right to inspect certified historic structures and certified historic residential structures. If additional work is not consistent with the Standards for Rehabilitation, the taxpayer and Department of Revenue must be notified in writing and any unused portion of the credit, including carry forward, is forfeited.

(E) The South Carolina Department of Archives and History shall develop an application and may promulgate regulations, including the establishment of fees, needed to administer the certification

process. The Department of Revenue may promulgate regulations, including the establishment of fees, to administer the tax credit.

(F) A taxpayer may appeal a decision of the State Historic Preservation Officer to a committee of the State Review Board appointed by the chairperson.

HISTORY: 2002 Act No. 229, Section 2, eff May 1, 2002; 2003 Act No. 69, Section 3.GG.1, eff June 18, 2003; 2005 Act No. 138, Sections 1, 2, eff June 7, 2005, applicable to tax periods beginning after 2004; 2006 Act No. 386, Sections 12.A, 12.B, eff June 14, 2006 applicable to tax years beginning in 2006; 2007 Act No. 110, Sections 15, eff June 21, 2007; 2007 Act No. 116, Section 21, eff June 28, 2007, applicable for tax years beginning after 2007.