

STATE OF NEW YORK

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Rec. No. 977

IN ASSEMBLY

June 20, 2008

Senate Bill Pr. No. 5425-A, Rec. No. 977 by Senators PADAVAN, DeFRANCISCO, GRIFFO, SEWARD, WINNER, YOUNG -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing a tax credit for rehabilitation of historic properties; and 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 relating to repealing certain administrative requirements relating thereto

The People of the State of New York, represented in Senate and Assembly, 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~~ nine, [~~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~~ fifty percent of the amount of credit allowed the
9 taxpayer for the same taxable year with respect to a certified historic
10 structure under subsection (c) [~~(3)~~] (2) of section 47 of the federal
11 internal revenue code with respect to a certified historic structure
12 located within the state. Provided, however, the credit shall not exceed
13 [~~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) Credits allowed to a partnership, a limited liability company
18 taxed as a partnership or multiple owners of property shall be passed
19 through to the persons designated, members or owners, respectively pro
20 rata or pursuant to an executed agreement among the persons designated
21 as partners, members or owners documenting an alternate distribution

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

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1 method without regard to their sharing of other tax or economic attri-
2 butes of the entity.

3 ~~(4)~~ If the credit allowed the taxpayer pursuant to [~~subsection (c) (3)~~
4 ~~of~~] section 47 of the internal revenue code with respect to a qualified
5 rehabilitation is recaptured pursuant to subsection (a) of section 50 of
6 the internal revenue code, a portion of the credit allowed under this
7 subsection must be added back in the same taxable year and in the same
8 proportion as [~~such recapture equal to thirty percent times the amount~~
9 ~~of~~] the federal recapture.

10 [~~(3)~~] (5) If the amount of the credit allowable under this subsection
11 for any taxable year shall exceed the taxpayer's tax for such year, the
12 excess may be carried over to the following year or years, and may be
13 [~~deducted from~~] applied against the taxpayer's tax for such year or
14 years.

15 § 2. Subparagraphs (A) and (B) of paragraph 2, and clause (iv) of
16 subparagraph (A) of paragraph 5 of subsection (pp) of section 606 of the
17 tax law, as added by chapter 547 of the laws of 2006, are amended to
18 read as follows:

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

28 (B) If the amount of credit allowable under this subsection shall
29 exceed the taxpayer's tax for such year, and the taxpayer's New York
30 adjusted gross income for such year does not exceed sixty thousand
31 dollars, the excess shall be treated as an overpayment of tax to be
32 credited or refunded in accordance with the provisions of section six
33 hundred eighty-six of this article, provided, however, that no interest
34 shall be paid thereon. If the taxpayer's New York adjusted gross income
35 for such year exceeds sixty thousand dollars, the excess credit that may
36 be carried over to the following year or years and may be deducted from
37 the taxpayer's tax for such year or years.

38 (iv) which is in whole or in part a targeted area residence within the
39 meaning of section 143(j) of the internal revenue code [~~and located~~
40 ~~within an area of a city, town or village whose governing body has iden-~~
41 ~~tified by resolution that such area is in need of community renewal~~
42 ~~because of deteriorated and/or vacant buildings and, by local law, has~~
43 ~~adopted a historic preservation and community renewal program to~~
44 ~~preserve and/or revitalize such area. A historic preservation and commu-~~
45 ~~nity renewal program is a program that coordinates all applicable~~
46 ~~governmental benefits and programs with the aims of preserving and/or~~
47 ~~revitalizing neighborhoods, encouraging property owners to complete~~
48 ~~substantial rehabilitation projects and promoting smart growth economic~~
49 ~~development. Such local laws shall be filed with the office of parks,~~
50 ~~recreation and historic preservation. The office of parks, recreation~~
51 ~~and historic preservation shall assist local governments in developing~~
52 ~~historic preservation and community renewal programs] or is located
53 within a census tract which is identified as being at or below ninety
54 percent of the state median family income in the most recent federal
55 census.~~

1 § 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~~] nine, [~~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~~] fifty percent of the amount of credit allowed the
9 taxpayer for the same taxable year with respect to a certified historic
10 structure under subsection (c) [~~(3)~~] (2) of section 47 of the federal
11 internal revenue code with respect to a certified historic structure
12 located within the state. Provided, however, the credit shall not exceed
13 [~~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) Credits allowed to a partnership, a limited liability company
18 taxed as a partnership or multiple owners of property shall be passed
19 through to the persons designated, members or owners, respectively pro
20 rata or pursuant to an executed agreement among the persons designated
21 as partners, members or owners documenting an alternate distribution
22 method without regard to their sharing of other tax or economic attri-
23 butes of the entity.

24 (4) If the credit allowed the taxpayer pursuant to [~~subsection (c) (3)~~
25 ~~of~~] section 47 of the internal revenue code with respect to a qualified
26 rehabilitation is recaptured pursuant to subsection (a) of section 50 of
27 the internal revenue code, a portion of the credit allowed under this
28 subsection must be added back in the same taxable year and in the same
29 proportion as [~~such recapture equal to thirty percent times~~] such cred-
30 it.

31 [~~(3)~~] (5) If the amount of the credit allowable under this subdivision
32 for any taxable year shall exceed the taxpayer's tax for such year, the
33 excess may be carried over to the following year or years, and may be
34 [~~deducted from~~] applied from the taxpayer's tax for such year or years.

35 § 4. Section 5 of chapter 547 of the laws of 2006, amending the tax
36 law and the parks, recreation and historic preservation law, relating to
37 establishing a credit against income tax for the rehabilitation of
38 historic properties, is REPEALED.

39 § 5. This act shall take effect immediately and shall apply to taxable
40 years beginning on and after January 1, 2009.

S5425 A30000 PADAVAN

No Same as

Tax Law

TITLE....Provides a tax credit for the rehabilitation of historic properties; repealer

04/25/07 REFERRED TO INVESTIGATIONS AND GOVERNMENT OPERATIONS
06/05/07 REPORTED AND COMMITTED TO FINANCE
06/07/07 AMEND (T) AND RECOMMIT TO FINANCE
06/07/07 PRINT NUMBER 5425A
06/12/07 COMMITTEE DISCHARGED AND COMMITTED TO RULES
06/12/07 ORDERED TO THIRD READING CAL.1654
06/14/07 PASSED SENATE
06/14/07 DELIVERED TO ASSEMBLY
06/14/07 referred to ways and means
01/09/08 died in assembly
01/09/08 returned to senate
01/09/08 REFERRED TO INVESTIGATIONS AND GOVERNMENT OPERATIONS
01/15/08 REPORTED AND COMMITTED TO FINANCE
01/16/08 AMEND AND RECOMMIT TO FINANCE
01/16/08 PRINT NUMBER 5425B
06/11/08 REPORTED AND COMMITTED TO RULES
06/12/08 ORDERED TO THIRD READING CAL.1715
06/12/08 PASSED SENATE
06/12/08 DELIVERED TO ASSEMBLY
06/12/08 referred to ways and means
06/20/08 amend and recommit to ways and means
06/20/08 assembly reprint number a30000
06/23/08 reported referred to rules
06/23/08 reported
06/23/08 rules report cal.647
06/23/08 ordered to third reading rules cal.647
06/23/08 passed assembly
06/23/08 returned to senate
06/24/08 SENATE CONCURS IN ASSEMBLY AMENDMENTS
06/24/08 RESTORED TO THIRD READING
06/24/08 REPASSED SENATE
06/24/08 RETURNED TO ASSEMBLY
06/24/08 returned to senate
09/15/08 DELIVERED TO GOVERNOR