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A Credit For Rehabilitation Of Historic Barns

General

The investment tax credit under Article 9-A, (the business corporation franchise tax) and Article 22 (the personal income tax) has been expanded to include expenditures paid or incurred for the rehabilitation of certain historic barns. The amount of the credit is 25 % of the taxpayer's **qualifying rehabilitation expenditures** paid or incurred for any barn located in New York State that is a **qualified rehabilitated building**. For purposes of this credit, a barn is a building originally designed and used for storing farm equipment or agricultural products, or for housing livestock. No rehabilitation credit is allowed for barns converted to residences, nor is a rehabilitation credit allowed for any rehabilitation that materially alters the historic appearance of the barn (based on the sections below entitled "**Work That Does Not Materially Alter Historic Appearance**" and "**Work That Would Materially Alter Historic Appearance**"). The historic barns credit is effective for taxable years beginning on or after January 1, 1997. Accordingly, a taxpayer satisfying all the necessary criteria may first claim a credit for 1997 if the rehabilitation is completed and the rehabilitated barn placed in service in 1997, even though the rehabilitation was started prior to 1997.

If an Article 9-A or Article 22 taxpayer is allowed a federal rehabilitation credit of 10% or 20% for a barn that has been rehabilitated on or after January 1, 1997 and the historic appearance of the barn has not been materially altered, the rehabilitation will qualify for the 25% historic barns credit..

Qualified Rehabilitated Building

The applicable definition of a **qualified rehabilitated building** is contained in section 47(c)(1) of the Internal Revenue Code. A barn will be a **qualified rehabilitated building** if the barn (and its structural components) satisfies the following criteria.

1. The barn is a certified historic structure or was first placed in service before 1936 (exceptions: see number 4 below).
2. The barn has been substantially rehabilitated. A barn will be considered to be substantially rehabilitated only if the expenditures incurred during the 24-month period selected by the taxpayer and ending with or within the taxable year exceed the greater of the adjusted basis of the barn or \$5,000. Under certain circumstances, the rehabilitation work may extend over a number of taxable years. In the case of any rehabilitation which may reasonably be expected to be completed in phases (as set forth in architectural plans and specifications completed before the rehabilitation begins), a 60-month rehabilitation period is allowed. Rehabilitation includes reconstruction. The adjusted basis will be determined generally as of the first day of the period selected by the taxpayer. The period selected by the taxpayer may start prior to January 1, 1997, provided it ends in a taxable year beginning on or after January 1, 1997.
3. The barn was placed in service before the beginning of the rehabilitation. A barn qualifies

for the credit if it had been placed in service as a barn, by any person, prior to the rehabilitation even if it is not in service at the time the rehabilitation is done.

4. For barns which are not certified historic structures and which were placed in service before 1936:
 - Fifty percent or more of the existing external walls of the barn are retained in place as external walls;
 - Seventy five percent or more of the existing external walls of the barn are retained in place as internal or external walls; and
 - Seventy five percent or more of the existing internal structural framework of the barn is retained in place.
5. Depreciation (or amortization in lieu of depreciation) is allowable with respect to the barn.

A barn that is newly constructed to replace one that had existed on a site and was destroyed is not a **qualified rehabilitated building**.

Qualified Rehabilitation Expenditures

The applicable definition of a **qualified rehabilitation expenditure** is contained in section 47(c)(2) of the Internal Revenue Code. A qualified rehabilitation expenditure must, among other things, be properly chargeable to a capital account for property which qualifies for depreciation under section 168 of the Internal Revenue Code. These expenditures must be for property which is nonresidential real property, real property with a class life of more than 12.5 years, or an addition or improvement to these types of property, and must be in connection with the rehabilitation of a barn which qualifies as a qualified rehabilitated building. A taxpayer may claim a credit for qualified rehabilitation expenditures that were incurred prior to January 1, 1997.

A **qualified rehabilitation expenditure** does **not** include the following expenditures:

1. any expenditure where the taxpayer does not use the straight-line method of depreciation over a recovery period specified in either section 168(c) or section 168(g) of the Internal Revenue Code, whichever is applicable to the taxpayer;
2. the cost of acquiring the barn or interest therein;
3. any expenditure attributable to the enlargement of a barn;
4. any expenditure attributable to the rehabilitation of a barn which is a certified historic structure. However, expenditures made or incurred for a certified rehabilitation may be included as qualified rehabilitation expenditures (see section that follows entitled "**Certified Rehabilitation and Certification of No Historic Significance**");
5. any expenditure attributable to the rehabilitation of a barn located in a registered historic district, unless:
 - the barn is not of historic significance to the registered historic district and the barn is not a certified historic structure (discussed in section that follows entitled "**Certified**

Rehabilitation and Certification of No Historic Significance”); or

- the rehabilitation of the barn is a certified rehabilitation;
- 6. any expenditure in connection with the rehabilitation of a barn, allocable to the portion of the barn which is or may reasonably be expected to be tax-exempt use property within the meaning of section 168(h) of the Internal Revenue Code;
- 7. any expenditure made by the lessee of a barn if, on the date the rehabilitation is completed, the remaining term of the lease, without regard to any renewal periods, is less than the recovery period determined under section 168(c) of the Internal Revenue Code;
- 8. any expenditure that is included in the computation of the regular investment tax credit.

Additions and Enlargements

Any expenditure attributable to the enlargement of an existing barn is excluded from **qualified rehabilitation expenditures**. A barn is considered enlarged to the extent that the total volume of the barn is increased. An increase in floor space resulting from interior remodeling is not considered an enlargement. Generally, the total volume of a barn is equal to the product of the floor area of the base of the barn and the height from the underside of the lowest floor (including the basement) to the average height of the finished roof (as it exists or existed). For this purpose, floor area is measured from the exterior faces of external walls (other than shared walls that are external walls) and from the centerline of shared walls that are external walls. In addition, a barn is enlarged to the extent of any construction outside the exterior faces of the existing external walls of the barn.

Expenses attributable to construction that results in any portion of an external wall becoming an internal wall or that results in an increase in the height of the barn may qualify as **qualified rehabilitation expenditures** provided that the volume of the barn is not increased. A barn will not be disqualified for purposes of this credit because additions to a barn have been added since 1936. If only some of the expenditures of the rehabilitation are attributable to the enlargement of the barn, the remainder of the expenses of the rehabilitation may qualify as qualified rehabilitation expenditures. In that instance, the expenditures must be apportioned between the original portion of the barn and the enlargement. The apportionment of the rehabilitation of the barn attributable to qualified rehabilitated expenditures is determined by multiplying all of the expenditures incurred in rehabilitating the barn, minus those incurred for the enlargement of the barn, by 25%. The resulting amount is the amount of the historic barns credit.

If the amount of rehabilitation expenditures for the enlargement of the barn cannot be separately determined, then the total amount of rehabilitation expenditures must be multiplied by a percentage. The percentage is determined by dividing the volume of the enlargement by the total volume of the barn, including the enlargement. The total amount of rehabilitation expenditures is multiplied by the resulting percentage to determine the amount of expenditures attributable to the enlargement. The

amount of expenditures attributable to the enlargement is subtracted from total rehabilitation expenditures to determine the amount of qualified rehabilitation expenditures used to compute the historic barns credit.

Certified Rehabilitation and Certification of No Historic Significance

The historic barns credit is allowable on expenditures made on the certified rehabilitation of certified historic structures. A **certified historic structure** means any building (and its structural components) which is listed on the National Register of Historic Places (National Register), or is located in a registered historic district and is certified by the United States Secretary of the Interior to the United States Secretary of the Treasury as being of historic significance to the district. A **certified rehabilitation** means any rehabilitation of a certified historic structure which the United States Secretary of the Interior certifies to the United States Secretary of the Treasury as being consistent with the historic character of the property or the district in which such property is located.

In lieu of certifications from the Secretary of the Interior, the New York State Office of Parks, Recreation and Historic Preservation may certify that the building is of historic significance to the registered historic district and that the rehabilitation of the barn is consistent with the historic character of the property or the district in which the property is located.

If additional information about registered historic districts or the substitution of the certification process by the Office of Parks, Recreation and Historic Preservation for the certification of the Secretary of the Interior is needed or if you have any questions about whether your barn is listed in the National Register or located in a registered historic district, contact the New York State Office of Parks, Recreation and Historic Preservation at P.O. Box 189, Waterford, New York, 12188, or telephone (518) 237-8643. A taxpayer who is undertaking a qualified rehabilitation of a barn that is a certified historic structure may also be eligible for the 20 % federal rehabilitation credit under Internal Revenue Code section 47. However, if the taxpayer does not obtain the certifications from the Secretary of the Interior, he or she will not be eligible for the federal credit.

For a taxpayer owning a barn located in a registered historic district, where the barn is not a certified historic structure, the expenditures attributable to the rehabilitation of the barn will qualify for the historic barns credit if the barn is determined to be of no historical significance to the district. The following standards are used to determine whether or not a barn is of historical significance to a registered historic district.

1. A building contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.
2. A building not contributing to the historic significance of a district is one which does not add to the district's sense of time and place and historical development, or one where

the location, design, setting, materials, workmanship, feeling, and association have been so altered or have so deteriorated that the overall integrity of the building has been irretrievably lost.

3. Ordinarily, buildings that have been built within the past 50 years are not considered to contribute to the significance of a district unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old. However, a barn placed in service in or after 1936 does not qualify for this credit unless it is a certified historic structure.

Some properties are listed in the National Register as a group rather than individually. This type of National Register listing is not conclusive for purposes of determining whether an individual barn is of historical significance to the district. Certifications of “no historical significance” will be made on the appearance and condition of the property before rehabilitation began. If a nonhistoric surface material obscures a facade, it may be necessary for the owner to remove a portion of the surface material for a determination of significance or nonsignificance to the district.

A letter from the New York State Office of Parks, Recreation and Historic Preservation stating that the barn is of no historical significance to the registered historic district will be accepted as conclusive proof of that fact for purposes of the New York State historic barns credit. Such a letter (or additional guidance on this issue) may be requested by contacting the New York State Office of Parks, Recreation and Historic Preservation at P.O. Box 189, Waterford, New York, 12188, or by telephoning (518) 237-8643. In lieu of a letter from the New York State Office of Parks, Recreation and Historic Preservation, the taxpayer may obtain the certification of “no historical significance” from the United States Secretary of the Interior. The taxpayer should be aware that a determination of “no historical significance” from the Secretary of the Interior is needed in order for the taxpayer's rehabilitation to be eligible for the federal rehabilitation credit allowed by section 47(a)(1) of the Internal Revenue Code.

Work That Does Not Materially Alter Historic Appearance

The New York State historic barns credit will not be allowed for any rehabilitation that materially alters the historic appearance of a barn. A rehabilitation materially alters the historic appearance of a barn when it changes or destroys the important character-defining features of the barn. The following kinds of work **do not** materially alter a barn's historic appearance, and therefore do qualify for the credit:

1. roof repairs or replacement with new roofing materials;
2. foundation repairs;
3. minor carpentry repairs and painting;
4. removal of additions built after 1936;
5. repair of existing materials or replacement of deteriorated materials with new materials that match the existing materials (e.g., new wood clapboard to replace rotted wood siding; new red brick to replace a collapsed brick wall section; fieldstone to rebuild a fieldstone

- foundation);
6. moving a barn to or within a working farm;
 7. repair and retention of at least 75% of the existing internal structural framework;
 8. additions to historic barns that retain in place at least 75% of the building's existing external walls, and which retain at least 50% of those walls as external walls; and
 9. restoring missing decorative features documented to have existed through historic photographs. Decorative features may include cupolas and ornamental metal ventilator hoods, decorative paint schemes, patterned slate roofs and "gingerbread" ornament.

Work That Would Materially Alter Historic Appearance

The following kinds of work will be presumed to materially alter the historic appearance of the barn unless the taxpayer provides evidence that the barn's historic appearance has not been materially altered:

1. replacement of existing wood siding or decorative details with synthetic materials (vinyl, steel, aluminum);
2. replacing existing wood windows or doors with non-wood units;
3. adding new or enlarging existing window or door openings, especially if structural components must be cut for the installation;
4. demolition of additions built before 1936;
5. adding decorative elements that never existed on the barn;
6. additions to historic barns that remove more than 25% of existing external walls or which enclose more than 50% of existing external walls; and
7. alterations that remove more than 25% of the existing internal structural framework.

One form of acceptable evidence that the historical appearance of a barn has **not** been materially altered is a letter from the New York State Office of Parks, Recreation and Historic Preservation which states that the work did not materially alter the historical appearance of the barn. To request a letter, or for additional information concerning what type of work materially alters the historical appearance of a barn, contact the New York State Office of Parks, Recreation and Historic Preservation at P.O. Box 189, Waterford, New York, 12188, or telephone (518) 237-8643.

Additional Tax Calculation Information

The credit for the rehabilitation of historic barns shall not reduce the tax for corporations subject to Article 9-A below the minimum tax or the alternative minimum tax, whichever is higher. If there is an excess credit available after reducing the tax to the minimum tax or the alternative minimum tax for Article 9-A taxpayers, or if the credit exceeds the tax due for Article 22 taxpayers, the excess may be carried forward to the next ten taxable years (or fifteen taxable years for Article 9-A taxpayers) following the year in which the credit was allowed. In lieu of carrying over any excess credit, a taxpayer who qualifies as an owner of a new business under Article 22 [section 606(a)(10)] or a new business under Article 9-A [section 210(12)(j)] of the Tax Law may elect to treat the

amount of the carryover as an overpayment of tax. This overpayment can be credited or refunded as provided in section 686 or section 1086 of the Tax Law, whichever is applicable. If a rehabilitated historic barn for which this credit has been allowed is disposed of or ceases to be in qualified use (i.e., converted to a non-business purpose) prior to the end of its useful life (that is the number of months the taxpayer has chosen to depreciate the property for purposes of the Internal Revenue Code), the difference between the credit taken and the credit allowed for actual use must be added back to the tax otherwise due in the year the qualified use ceased or the year of disposition. A barn that has been fully depreciated prior to rehabilitation is still eligible for the credit.

In order to claim the Historic Barns Credit, Schedule B-2 on Form CT-46, Claim for Investment Tax Credit, must be filed by Corporation taxpayers or Parts I, II and III on Form IT-212-ATT, Credit for Rehabilitation of a Historic Barn and Instructions, must be filed by Personal Income taxpayers. This credit is effective for taxable years beginning in or after 1997.