

114TH CONGRESS
2D SESSION

S. 2655

To amend the Internal Revenue Code of 1986 to improve the historic rehabilitation tax credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2016

Mr. CARDIN (for himself and Ms. COLLINS) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to improve the historic rehabilitation tax credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Historic Tax Credit
5 Improvement Act of 2015”.

6 **SEC. 2. INCREASE IN THE REHABILITATION CREDIT FOR**
7 **CERTAIN SMALL PROJECTS.**

8 (a) IN GENERAL.—Section 47 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

1 “(e) SPECIAL RULE REGARDING CERTAIN SMALL
2 PROJECTS.—

3 “(1) IN GENERAL.—In the case of any qualified
4 rehabilitated building or portion thereof—

5 “(A) which is placed in service after the
6 date of the enactment of this subsection, and

7 “(B) which is a small project,
8 subsection (a)(2) shall be applied by substituting ‘30
9 percent’ for ‘20 percent’.

10 “(2) MAXIMUM CREDIT.—The credit under this
11 section (after application of this subsection) with re-
12 spect to any project for all taxable years shall not
13 exceed \$750,000.

14 “(3) SMALL PROJECT.—

15 “(A) IN GENERAL.—For purposes of this
16 subsection, the term ‘small project’ means any
17 certified historic structure or portion thereof
18 if—

19 “(i) the total qualified rehabilitation
20 expenditures taken into account for pur-
21 poses of this section with respect to the re-
22 habilitation do not exceed \$3,750,000, and

23 “(ii) no credit was allowed under this
24 section for either of the two immediately

1 preceding taxable years with respect to
 2 such building.

3 “(B) PROGRESS EXPENDITURES.—Credit
 4 allowable by reason of subsection (d) shall not
 5 be taken into account under subparagraph
 6 (A)(ii).”.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply to periods after the date of the
 9 enactment of this Act, under rules similar to the rules of
 10 section 48(m) of the Internal Revenue Code of 1986 (as
 11 in effect on the day before the date of the enactment of
 12 the Revenue Reconciliation Act of 1990).

13 **SEC. 3. ALLOWANCE FOR THE TRANSFER OF CREDITS FOR**
 14 **CERTAIN SMALL PROJECTS.**

15 (a) IN GENERAL.—Section 47(e) of the Internal Rev-
 16 enue Code of 1986, as added by section 2, is amended
 17 by adding at the end the following new paragraph:

18 “(4) TRANSFER OF SMALL PROJECT CREDIT.—

19 “(A) IN GENERAL.—Subject to subpara-
 20 graph (B) and such regulations or other guid-
 21 ance as the Secretary may provide, the taxpayer
 22 may transfer to any other taxpayer all or a por-
 23 tion of the credit allowable to the taxpayer
 24 under subsection (a) for a small project.

“(B) CERTIFICATION.—A transfer under subparagraph (A) shall be accompanied by a certificate which includes—

“(i) the certification for the certified historic structure,

“(ii) the taxpayer’s name, address, and tax identification number,

“(iii) the transferee’s name, address, and tax identification number,

“(iv) the date of project completion and the amount of credit being transferred, and

“(v) such other information as may be required by the Secretary.

“(C) CREDIT MAY ONLY BE TRANSFERRED ONCE.—A credit transferred under subparagraph (A) is not transferable by the transferee to any other taxpayer.

“(D) TAX TREATMENT OF TRANSFER.—

“(i) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for any amount of consideration paid or incurred by the transferee in return for the transfer of any credit under this paragraph.

1 “(ii) ALLOWANCE OF CREDIT.—The
2 amount of credit transferred under sub-
3 paragraph (A)—

4 “(I) shall not be allowed to the
5 transferor for any taxable year, and

6 “(II) shall be allowable to the
7 transferee as a credit under this sec-
8 tion for the taxable year of the trans-
9 feree in which such credit is trans-
10 ferred.

11 “(E) RECAPTURE AND OTHER SPECIAL
12 RULES.—For purposes of section 50, the trans-
13 feree of a credit with respect to a smaller
14 project under this paragraph shall be treated as
15 the taxpayer with respect to the smaller project.

16 “(F) INFORMATION REPORTING.—The
17 transferor and the transferee shall each make
18 such reports regarding the transfer of an
19 amount of credit under paragraph (A), and con-
20 taining such information, as the Secretary may
21 require. The reports required by this subpara-
22 graph shall be filed at such time and in such
23 manner as may be required by the Secretary.”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to periods after December 31,
 3 2015.

4 **SEC. 4. INCREASING THE TYPE OF BUILDINGS ELIGIBLE**
 5 **FOR REHABILITATION.**

6 (a) IN GENERAL.—Section 47(c)(1)(C)(i)(I) of the
 7 Internal Revenue Code of 1986 is amended by inserting
 8 “50 percent of” before “the adjusted basis”.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 subsection (a) shall apply to taxable years beginning after
 11 December 31, 2015.

12 **SEC. 5. REDUCTION OF BASIS ADJUSTMENT FOR REHABILI-**
 13 **TATION PROPERTY.**

14 (a) IN GENERAL.—Section 50(c) of the Internal Rev-
 15 enue Code of 1986 is amended by adding at the end the
 16 following:

17 “(6) SPECIAL RULE RELATING TO THE REHA-
 18 BILITATION CREDIT.—In the case of any rehabilita-
 19 tion credit—

20 “(A) only 50 percent of such credit shall
 21 be taken into account under paragraph (1), and

22 “(B) only 50 percent of any recapture
 23 amount attributable to such credit shall be
 24 taken into account under paragraph (2).”.

1 (b) COORDINATION WITH BASIS ADJUSTMENT.—
 2 Subsection (d) of section 50 of the Internal Revenue Code
 3 of 1986 is amended by adding at the end the following
 4 new sentence: “For purposes of paragraph (5), in applying
 5 the provisions of section 48(d)(5)(B) (as so in effect) to
 6 a lease of property eligible for the credit under section 47,
 7 gross income of the lessee of such property shall include,
 8 ratably over the shortest recovery period applicable to such
 9 property under section 168, an amount equal to 50 per-
 10 cent of the amount of the credit allowable under section
 11 38 to such lessee with respect to such property.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 the date of the enactment of this Act.

15 **SEC. 6. SPECIAL RULES FOR DISPOSITIONS OF STATE HIS-**
 16 **TORIC TAX CREDITS.**

17 (a) IN GENERAL.—Part III of subchapter B of chap-
 18 ter 1 of the Internal Revenue Code of 1986 is amended
 19 by inserting after section 139F the following new section:
 20 **“SEC. 139G. DISPOSITIONS OF STATE HISTORIC TAX CRED-**
 21 **ITS.**

22 **“(a) EXCLUSION FROM INCOME; BASIS REDUC-**
 23 **TION.—**

24 **“(1) IN GENERAL.—**In the case of a taxpayer
 25 who receives a State historic tax credit and transfers

such credit by sale, allocation, or otherwise, or receives a refund of all or a portion of such credit—

“(A) no portion of the net proceeds of such allocation, disposition, or refund of such credit shall constitute income to such taxpayer under section 61(a), and

“(B) the taxpayer’s basis for purposes of this title in the property with respect to which the State historic tax credit is allowed shall be reduced by the net proceeds of such sale, allocation, disposition, or refund under the rules of paragraph (2).

“(2) APPLICATION OF REDUCTION IN BASIS.—

“(A) IN GENERAL.—The reduction in basis under paragraph (1)(b) shall be applied—

“(i) first, against the basis in the land,

“(ii) second, against so much of the basis of any building or interest therein as was not treated as a qualified rehabilitation expenditure by reason of clause (ii) or (iii) of section 47(c)(2)(B), and

“(iii) third, against the remaining basis in the property.

1 “(B) ADJUSTMENT IN BASIS OF INTEREST
2 IN PARTNERSHIP OR S CORPORATION.—The ad-
3 justed basis of—

4 “(i) a partner’s interest in a partner-
5 ship, or

6 “(ii) stock in an S corporation (as de-
7 fined in section 1361(a)(1)), shall be ap-
8 propriately adjusted to take into account
9 adjustments made under this paragraph in
10 the basis of property held by the partner-
11 ship or S corporation (if any).

12 “(b) ELECTION TO INCLUDE IN INCOME.—

13 “(1) IN GENERAL.—In the case of a taxpayer
14 who elects to have this subsection apply in lieu of
15 subsection (a)—

16 “(A) the net proceeds of the allocation, dis-
17 position, or refund described in subsection
18 (a)(1) shall constitute income to the taxpayer
19 under section 61(a), and

20 “(B) subsection (a)(1)(B) shall not apply.

21 “(2) MAKING OF ELECTION.—An election under
22 this subsection shall be made at such time and in
23 such manner as the Secretary may by regulation
24 prescribe. Such election shall apply for the taxable
25 year for which it is made and for all subsequent tax-

1 able years and may be revoked only with the consent
2 of the Secretary of the Treasury.

3 “(c) EFFECT ON QUALIFIED REHABILITATION EX-
4 PENDITURES AND REHABILITATION CREDITS.—For pur-
5 poses of determining the rehabilitation credit allowable to
6 a taxpayer under section 47, the transfer or allocation of
7 State historic tax credits with respect to any property by
8 a taxpayer shall not affect or reduce the amount of quali-
9 fied rehabilitation expenditures (as defined in section
10 47(c)(2)) taken into account with such property, nor shall
11 such transfer or disposition, or any basis adjustment
12 under subsection (a), be treated as an early disposition
13 of investment credit property for purposes of the recapture
14 provisions of section 50.

15 “(d) STATE HISTORIC TAX CREDIT.—For purposes
16 of this section, the term ‘State historic tax credit’ means
17 any credit against State or local tax liabilities which—

18 “(1) is allowable under the laws of any State or
19 political subdivision thereof to a taxpayer with re-
20 spect to expenditures made for the rehabilitation of
21 property identified by such laws, and

22 “(2) can be allocated, disposed, or refunded
23 under such laws.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for part III of subchapter B of chapter 1 of the Internal

1 Revenue Code of 1986 is amended by inserting after the
 2 item relating to section 139F the following new item:

“Sec. 139G. Dispositions of State historic tax credits.”.

3 (c) EFFECTIVE DATE.—This section shall apply to
 4 transfers or dispositions made, or refunds received, after
 5 the date of the enactment of this Act.

6 **SEC. 7. MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT**
 7 **USE PROPERTY.**

8 (a) IN GENERAL.—Section 47(c)(2)(B)(v)(I) of the
 9 Internal Revenue Code of 1986 is amended by inserting
 10 “, and subclauses (I), (II), and (III) of section
 11 168(h)(1)(B)(ii) shall not apply” after “thereof”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to property placed in service after
 14 the date of the enactment of this Act.

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