



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
OFFICE OF COUNSEL
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September 10, 2009

Karen R. Kaufmann
General Counsel
NYS Office of Parks, Recreation, and Historic Preservation
Empire State Plaza, Agency Bldg. 1
Albany, New York 12238

Re: Rehabilitation of historic properties credit
Our File No. LBW-12,935

Dear Ms. Kaufman:

This letter is in response to the request you made during our meeting on September 9, 2009, for clarification regarding the credit for the rehabilitation of historic properties provided in Tax Law sections 210.40 and 606(oo) (the commercial credit) on the following two issues.

Issue 1: Would the commercial credit be allocated among partners in a partnership, members of a limited liability company or shareholders in a New York S corporation in the same way as the federal tax credit under section 47 of the Internal Revenue Code? Yes. The allocation of the state tax credit among partners, members or S corporation shareholders must follow the allocation allowed for purposes of the federal tax credit.

Issue 2: Are banks and insurance companies eligible to claim the commercial credit? No. The credit is not allowed under New York State Tax Law Article 32 (the franchise tax on banking corporations) or Article 33 (the franchise tax on insurance companies). The credit is allowed only under Article 9-A (the franchise tax on general business corporations) and Article 22 (the personal income tax).

Sincerely,

A handwritten signature in cursive script that reads "Deborah R. Liebman".

Deborah R. Liebman
Deputy Counsel

cc: Daniel Smirlock, Deputy Commissioner and Counsel
Robert Plattner, Deputy Commissioner, OTPA