**A** **BILL**

TO AMEND SECTIONS 12‑67‑140 AND 12‑6‑3535, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TAX CREDIT FOR REHABILITATING AN ABANDONED BUILDING OR A CERTIFIED HISTORIC STRUCTURE, RESPECTIVELY, SO AS TO SPECIFY THE MANNER IN WHICH UNUSED CREDIT MAY BE CARRIED FORWARD AND ALLOCATED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 12‑67‑140(B)(3)(a) of the 1976 Code is amended to read:

“(a) The entire credit is earned in the taxable year in which the applicable phase or portion of the building site is placed in service but must be taken in equal installments over a three‑year period beginning with the tax year in which the applicable phase or portion of the building site is placed in service. Unused credit may be carried forward for the succeeding five years at the individual, partnership, or limited liability company level.”

B. Section 12‑67‑140(B)(6) of the 1976 Code is amended to read:

“(6) To the extent that the taxpayer is a partnership or a limited liability company taxed as a partnership, the credit, including any unused credit amount carried forward, may be passed through to the partners or members and may be allocated among any of its partners or members on an annual basis including, without limitation, an allocation of the entire credit or unused carryforward to ~~one~~ any partner or member~~,~~ who was a member or partner at any time in the year in which the credit or unused carryforward is allocated. The allocation must be allowed without regard to any provision of the Internal Revenue Code or regulations promulgated pursuant thereto, that may be interpreted as contrary to the allocation, including, without limitation, the treatment of the allocation as a disguised sale.”

SECTION 2. Section 12‑6‑3535(C) of the 1976 Code is amended to read:

“(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 three‑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 at the individual, partnership, or limited liability company level.

(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, including any unused credit amount carried forward, earned pursuant to this section by a general partnership, limited partnership, limited liability company, or other pass‑through entity, as defined in Section 12‑6‑545, must be passed through to its partners and may be allocated among partners, including, without limitation, an allocation of the entire credit or unused carryforward to ~~one~~ any partner who was a member or partner at any time in the year in which the credit or unused carryforward is allocated, in a manner agreed to by the partners or members. As used in this item the term ‘partner’ means a partner, member, or owner of an interest in the pass‑through entity, as applicable. If the taxpayer makes a pass‑through election under Section 50(d) of the Internal Revenue Code, the taxpayer may elect to pass the credit claimed pursuant to this section to the tenant of the eligible structure or to retain the credit.”

SECTION 3. This act takes effect upon approval by the Governor and first applies to projects placed in service after 2016 and for all tax years for which final returns have not been filed before May 1, 2018.

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