
State of South Carolina
Department of Revenue
300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214

SC PRIVATE LETTER RULING #14-3

SUBJECT: The Abandoned Buildings Revitalization Act – Demolition and New Construction Costs
(Income or Property Tax)

REFERENCES: Chapter 67, Title 12 (Supp. 2013)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2014)
S. C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

SCOPE: A Private Letter Ruling is an advisory opinion issued to a specific taxpayer by the Department to apply principles of law to a specific set of facts or a particular tax situation. It is the Department’s opinion limited to the specific facts set forth, and is binding on agency personnel only with respect to the person to whom it was issued and only until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion, providing the representations made in the request reflect an accurate statement of the material facts and the transaction was carried out as proposed.

Questions:

1. Is Taxpayer eligible for a tax credit under the “South Carolina Abandoned Buildings Revitalization Act” (Chapter 67, Title 12) (“Act”) for redeveloping the abandoned building site discussed in the facts where the Taxpayer’s redevelopment plan requires the demolition of an abandoned building located on the building site and the rebuilding of a new structure on the site?
2. May Taxpayer claim the demolition costs associated with demolishing the abandoned building and the construction costs of building the new structure as “rehabilitation expenses” as defined in S.C. Code §12-67-120(6) of the Act?

Conclusions:

1. Taxpayer is eligible for a tax credit provided in the Act (Chapter 67, Title 12) for redeveloping the abandoned building site discussed in the facts, where the Taxpayer's redevelopment plan requires demolition of the abandoned building and the construction of a new structure on the building site, provided all other requirements of the Act are met.
2. Taxpayer may claim the demolition costs associated with demolishing the existing abandoned building, as well as the construction costs incurred in building a new structure on the building site, as rehabilitation expenses as defined in S.C. Code §12-67-120(6) of the Act.

Facts:

Taxpayer owns real property located in "X" County which consists of a single story structure located on a parcel of land. The Taxpayer has represented that the building and the land will meet the requirements of an "abandoned building" and a "building site" as those terms are defined in S.C. Code §12-67-120(1) and (2), respectively.¹ The Taxpayer has also represented that the abandoned building is not on the National Register of Historic Places. While the building site is centrally located, the abandoned building has significant limitations due to its present state of abandonment, deterioration, and disrepair. The Taxpayer's current redevelopment plans for the building site are to demolish and remove the abandoned building still located on the building site and build a new structure at the same location as the current abandoned building.

Discussion:

The "South Carolina Abandoned Buildings Revitalization Act" was enacted in Chapter 67, Title 12, to create an incentive for the rehabilitation, renovation, and redevelopment of abandoned buildings located within South Carolina. The Act indicates that the economic development and physical development of communities with these abandoned buildings are endangered by the presence of these abandoned buildings and their deterioration. To remove and alleviate the difficult conditions associated with these abandoned buildings, the South Carolina General Assembly determined it was necessary to spur private investment by offering a tax credit for the redevelopment of these abandoned buildings. See, SC Code §12-67-110.

The Act provides a tax credit for the renovation and redevelopment of abandoned building sites in South Carolina. In order to qualify for a tax credit, the building being redeveloped must meet the definition of an "abandoned building" as set forth in S.C. Code §12-67-120(1). A taxpayer must then renovate or redevelop the "building site". S.C. Code §12-67-120(2). If a taxpayer meets the requirements of the Act, it may claim a tax credit equal to 25% of the total amount of eligible rehabilitation expenses incurred in renovating or redeveloping the building site subject to certain limitations.

¹ This private letter ruling does not address whether all of the other requirements of the Act have been met but limits itself to the issues discussed herein.

In connection with redeveloping the abandoned building and the building site, a taxpayer has to incur eligible rehabilitation expenses.

‘Rehabilitation Expenses’ are the expenses or capital expenditures incurred in the rehabilitation, demolition, renovation, or redevelopment of the building site, including without limitations, the renovation or redevelopment of existing buildings, environmental remediation, site improvements, and the construction of new buildings and other improvements on the building site, but excluding the cost of acquiring the building site or the cost of personal property located at the building site. For expenses associated with a building site to qualify for the tax credit, the abandoned buildings on the building site must be either renovated or redeveloped. ...] (emphasis added).

Rehabilitation expenses that increase the square footage on the building site above two hundred percent of the amount of square footage of the buildings that previously existed on the building site and demolition expenses incurred for demolishing a building on the National Register for Historic Places do not qualify as rehabilitation expenses for purposes of calculating any credit.

In construing statutory language, the statute must be read as a whole, and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction. Higgins v. State, 307 S.C. 446, 415 S.E.2d 799 (1992). Smalls v. Weed, 293 S.C. 364, 293 S.E.2d 531 (1987). The language of the Act does not explicitly require the preservation of existing abandoned buildings, and the Act’s statement of legislative purpose does not list the preservation of the existing abandoned building as a goal of the Act. Instead, the General Assembly intended to remove and alleviate adverse conditions created by abandoned buildings and to “encourage private investment and restore and enhance the tax base of the taxing districts in which such buildings are located by the redevelopment of these abandoned buildings.” S.C. Code §12-67-110(C).

Additionally, the definition of “rehabilitation expenses” specifically references demolition expenses as eligible rehabilitation expenses with one exception – demolition expenses are not allowed if an abandoned building is listed on the National Register of Historic Places, indicating the General Assembly’s intent to require preservation of the existing building only if the abandoned building has some historic significance. Similarly, the definition of rehabilitation expenses includes the construction of new buildings as an eligible rehabilitation expense only limiting the expense in one instance: Expenses that increase the square footage on the building site in excess of two hundred percent of the amount of square footage of the buildings that existed on the building site cannot qualify as rehabilitation expenses. Accordingly, the demolition of the existing abandoned building on the building site and the construction of the new structure at the same location will not disqualify the Taxpayer from meeting the requirements of the Act and such demolition costs and new construction costs will qualify as rehabilitation expenses under the Act, and the Taxpayer will qualify for the tax credit provided all the other requirements of the Act are met.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Rick Reames III
Rick Reames III, Director

October 23 _____, 2014
Columbia, South Carolina

CAVEAT: This advisory opinion is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting the advisory opinion may not rely on it. If the taxpayer relies on this advisory opinion, and the Department discovers, upon examination, that the facts and circumstances are different in any material respect from the facts and circumstances given in this advisory opinion, then the advisory opinion will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this advisory opinion, changes in a statute, a regulation, or case law could void the advisory opinion.