

PART E: PROPERTY REHABILITATION CREDITS

33. TEXTILE REVITALIZATION CREDITS

a. General Provisions

The South Carolina Textile Communities Revitalization Act, contained in Title 12, Chapter 65, provides a credit for the renovation, rehabilitation, and redevelopment of abandoned textile mill sites in South Carolina. The credit is not available to a taxpayer who owned the textile mill site immediately prior to its abandonment if the site was operational at that time or if the site has previously received textile mill credits.

An overview of the credit is provided below; however, for additional guidance and examples see South Carolina Revenue Ruling #15-8.

South Carolina Code §12-65-30 allows a taxpayer who rehabilitates an abandoned textile mill site to choose one of the following tax credits:

1. A credit against income tax, license tax, or both or a credit against bank taxes (“income/bank/license tax credit”) or insurance premium taxes equal to 25% of eligible rehabilitation expenses or
2. A credit against real property taxes (“property tax credit”) equal to 25% of the eligible rehabilitation expenses made to the site multiplied by the local taxing entity ratio for each local taxing entity consenting to the credit.

For a credit under (1) above, a taxpayer must file a “Notice of Intent to Rehabilitate” (Notice) before receiving the building permits for rehabilitating the site, or the applicable phase of the site. Transfers between affiliated taxpayers of any of the developmental phases of the textile mill site are not considered an acquisition that would subject the taxpayer to filing a Notice. Failure to provide the Notice results in only those rehabilitation expenses incurred after the Notice is provided qualifying for the credit.

The Notice is a letter submitted by the taxpayer indicating:

- ◆ the taxpayer intends to rehabilitate the site
- ◆ the location of the site
- ◆ the amount of acreage involved with the site

- ◆ the estimated expenses to be incurred
- ◆ which buildings on the site are to be renovate or demolished and
- ◆ whether new construction is to be involved at the site.

b. Income/Bank/License/Insurance Premium Tax Credit

This credit amount is based upon actual or estimated expenses as follows:

1. The credit is 25% of the actual rehabilitation expenses unless the expenses exceed 125% of the estimated rehabilitation expenses set forth in the Notice.
2. The credit is 25% of 125% of the estimated rehabilitation expenses set forth in the Notice if the actual rehabilitation expenses exceed 125% of the estimated expenses listed in the Notice.

This credit can be used against income taxes imposed under Chapter 6 of Title 12 or license taxes imposed by Chapter 20 of Title 12, or both, bank taxes imposed under Chapter 11 of Title 12 or insurance premium taxes imposed by Chapter 7, Title 38. The entire credit is earned in the taxable year in which the site (or applicable phase or portion) is placed in service and is claimed in equal installments over a 5 year period beginning with the tax year the site (or applicable phase or portion) is placed in service. The credit may offset 100% of the taxpayer's income tax liability or license tax liability. Any unused credit may be carried forward for 5 years. The credit is claimed on Form TC-23, "Credit for Textiles Rehabilitation."

A partnership or limited liability company taxed as a partnership may pass the credit earned to each partner or member in any manner agreed to by the partners or members, including an allocation of the entire credit to one partner or member. The credit is allocated on an annual basis and may be allocated to any partner or member who was a partner or member at any time during the year in which the credit is allocated. An S corporation must first use the credit against its own income tax liability, if any, before passing the credit through to its shareholders based on their percentage of stock ownership. South Carolina Code §12-6-3310(B)(2).

NOTE: A taxpayer may claim the income/bank/license/insurance premium tax credit allowed by SC Code §12-65-30(A)(2) in addition to the credit for rehabilitation of a certified historic structure allowed under South Carolina Code §12-6-3535.

c. Certification Procedures

South Carolina Code §12-65-60 provides a procedure which allows a taxpayer to apply to the governing body of the municipality or county in which the textile mill site is located for certification of the site. The certification can be done by either ordinance or binding resolution and must include certain findings. A taxpayer who receives this certification may conclusively rely on the certification in determining the credit allowed, however, the taxpayer must include a copy of the certification on his first return where the credit is claimed.

d. Property Tax Credit

See Chapter 4, “Business Property Tax and Exemptions”, Section 7, for a summary of the textile revitalization property tax credit.

e. Definitions

South Carolina Code §12-65-20 contains a list of definitions of terms used in the Act. Some of the defined terms are:

1. “Textile mill” - a facility or facilities that was initially used for textile manufacturing, dyeing, or finishing operations and for ancillary uses to those operations.
2. “Textile mill site” - the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dyeing, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses.
3. “Ancillary uses” - uses related to the textile manufacturing, dyeing, or finishing operations on a textile mill site consisting of sales, distribution, storage, water runoff, wastewater treatment and detention, pollution control, landfill, personnel offices, security offices, employee parking, dining and recreation areas, and internal roadways or driveways directly associated with such uses.
4. “Abandoned” - at least 80% of the textile mill has been continuously closed to business or otherwise nonoperational as a textile mill for at least one year immediately preceding the date the taxpayer files a “Notice of Intent to Rehabilitate.” A textile mill that qualifies as abandoned may be subdivided into separate parcels, and those parcels may

be owned by the same taxpayer or different taxpayers, and each parcel is deemed to be a textile mill site for purposes of determining whether each subdivided parcel has been abandoned.

5. "Rehabilitation expenses" - expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the textile mill site, including demolition of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the site, but excluding the cost of acquiring the site or the cost of personal property located at the site. For expenses to qualify for the credit, the textile mill and buildings on the site must be either renovated or demolished.
6. "Placed in service" - the date the textile mill site is completed and ready for its intended use. If the site is completed and ready for use in phases or portions, each phase or portion is considered placed in service when it is completed and ready for its intended use.

f. Transfer of Credit

A taxpayer who sells or leases all or part of the textile mill site may transfer all or part of any applicable remaining credit associated with the rehabilitation expenses incurred with respect to that part of the site to the purchaser or lessee. The taxpayer must notify the Department of the credit transfer. Questions concerning a credit transfer and the method to request approval of the transfer from the Department should be directed to the Department at 803-898-5749 or by email at TaxCredits@dor.sc.gov.

NOTE: Other rules not discussed in this general summary may apply to sites purchased before January 1, 2008 or a site located on the Catawba River near Interstate 77.

34. RETAIL FACILITY REVITALIZATION CREDITS

NOTE: The Retail Facilities Revitalization Act was repealed on July 1, 2016. However, for those sites which provide written notification of their election prior to July 1, 2016 and for which a building permit was issued prior to July 1, 2016, the repeal is suspended for fiscal year 2017-2018.

a. General Provisions

The South Carolina Retail Facilities Revitalization Act, contained in Title 6, Chapter 34, provides an income tax credit or property tax credit for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina.

An overview of the credit is provided below; however, for additional guidance and examples see South Carolina Revenue Ruling #15-9.

South Carolina Code §6-34-40 allows a taxpayer who improves, renovates, or redevelops an eligible site to elect one of the following revitalization tax credits:

1. An “income tax credit” equal to 10% of the rehabilitation expenses or
2. A “property tax credit” equal to 25% of the rehabilitation expenses made to the eligible site multiplied by the local taxing entity ratio of each local taxing entity consenting to the credit, up to 75% of the real property taxes due on the eligible site each year.

The taxpayer elects whether to claim the income tax credit or the real property tax credit. There is no formal procedure to elect the income tax credit; it is simply claimed on the income tax return. To elect the property tax credit, the taxpayer must provide written notification to the Department prior to the date the eligible site is placed in service. If the taxpayer does not affirmatively make the property tax credit election timely in writing before the date the site is placed in service or does not obtain the required county approvals in South Carolina Code §6-34-40(B), then the taxpayer is deemed to have elected the income tax credit.

b. Income Tax Credit

The income tax credit provided in South Carolina Code §6-34-40(A)(2) is claimed in equal installments over an 8 year period beginning with the year the property is placed in service. Any unused credit may be carried forward for 5 years. The credit is claimed on Form TC-31, “Retail Facilities Revitalization Credit.”

A partnership or limited liability company taxed as a partnership may pass the credit earned to each partner or member in any manner agreed to by the partners or members that is consistent with Subchapter K of the Internal Revenue Code, including an allocation of the entire credit to one partner or member. An S corporation must first use the credit against its own income tax liability, if any, before passing the credit through to its shareholders based on their percentage of stock ownership. South Carolina Code §12-6-3310(B)(2).

NOTE: A taxpayer may claim this credit against income tax in addition to the credit for rehabilitation of a certified historic structure allowed under South Carolina Code §12-6-3535.

c. Property Tax Credit

See Chapter 4, “Business Property Tax and Exemptions,” Section 8, for a summary of the retail facility revitalization property tax credit.

d. Definitions

South Carolina Code §6-34-30 contains a list of definitions of terms used in the Act. Some of these defined terms are:

1. “Eligible site” – an abandoned shopping center, mall, or free standing site whose primary use was as a retail sales facility with at least one occupant in a 40,000 square foot or larger building or structure.
2. “Abandoned” - at least 80% of the facilities of the eligible site has been continuously closed to business or nonoperational for at least one year immediately prior to the time the determination is to be made. During the abandonment, the eligible site may serve as a wholesale facility for no more than one year.
3. “Rehabilitation expenses” - the expenses incurred in the rehabilitation of the eligible site, excluding the cost of acquiring the eligible site or the cost of personal property maintained at the eligible site.
4. “Placed in service” - the date the eligible site is suitable for occupancy for the purposes intended.

e. Transfer of Credit

The owner of an eligible site may transfer, devise, or distribute any unused credit to the tenant of the eligible site, provided the Department receives written notification of and approves the transfer, devise or distribution. Questions concerning a credit transfer and information needed in connection with the Department’s approval of a transfer should be directed to the Department at 803-898-5749 or TaxCredits@dor.sc.gov.

35. ABANDONED BUILDINGS REVITALIZATION CREDIT

a. General Provisions

The South Carolina Abandoned Buildings Revitalization Act, contained in Title 12, Chapter 67 provides an income tax credit or property tax credit for the renovation, redevelopment or improvement of abandoned building sites put into operation for income producing purposes.

An overview of the credit is provided below; however, for additional guidance and examples see South Carolina Revenue Ruling #15-7. Also, see South Carolina Revenue Ruling #15-12 for additional rules relevant to state-owned abandoned buildings.

NOTE: As a result of the amendments to the Act in 2015, there are several differences between the credit provisions applicable to building sites placed in service before and after June 9, 2015. These differences are noted herein.

Under Title 12, Chapter 67 a qualifying taxpayer may elect one of the following tax credits:

1. A credit against income tax, license tax, bank tax, insurance premium tax (including retaliatory taxes)¹, or a combination thereof equal to 25% of the eligible rehabilitation expenses made to the site or
2. A credit against real property taxes equal to 25% of the eligible rehabilitation expenses made to the site multiplied by the local taxing entity ratio of each local taxing entity consenting to the credit, which can offset up to 75% of the real property taxes due on the eligible site each year.

In order for expenses associated with the site to qualify for the credit, the abandoned buildings on the building site must be either renovated or redeveloped.

For the income/license/bank tax credit, a taxpayer must file a “Notice of Intent to Rehabilitate” (Notice) with the Department before incurring any rehabilitation expenses. Failure to provide the Notice results in only those rehabilitation expenses incurred after the Notice is provided qualifying for the credit.

¹ For a credit earned before June 9, 2015, the credit may not be used against insurance premium taxes, including retaliatory taxes, imposed by Chapter 7, Title 38.

The Notice is a letter submitted by the taxpayer indicating:

- ◆ the taxpayer intends to rehabilitate the building;
- ◆ the location of the building site;
- ◆ the amount of acreage involved with the site;
- ◆ the amount of square footage of existing buildings;
- ◆ the estimated expenses to be incurred;
- ◆ which buildings will be rehabilitated; and
- ◆ whether new construction is to be involved at the site.

b. Income/License/Bank/Insurance Premium Tax Credit

This credit amount is based upon actual or estimated expenses as follows:

1. The credit is 25% of the actual rehabilitation expenses if such expenses are between 80% to 125% of the estimated rehabilitation expenses listed in the Notice.
2. The credit is 25% of 125% of the estimated rehabilitation expenses set forth in the Notice if the actual rehabilitation expenses exceed 125% of the estimated expenses listed in the Notice.
3. No credit is allowed if the actual rehabilitation expenses are below 80% of the estimated expenses.

The entire credit is earned in the taxable year in which the site (or applicable phase or portion) is placed in service and is claimed in equal installments over a 3 year period² beginning with the tax year the site (or applicable phase or portion) is placed in service. The credit cannot exceed \$500,000 for any taxpayer in any tax year for each unit or parcel deemed to be an abandoned building site.³ Any unused credit may be carried forward for 5 years. The credit is claimed on Form SC SCH TC-55, "Abandoned Buildings Revitalization Credit".

² For building sites placed in service before June 9, 2015, the credit is claimed in equal installments over a 5-year period.

³ For building sites placed in service before June 9, 2015, the credit claimed each year is also limited to 50% of the taxpayer's applicable tax liability.

A partnership or limited liability company taxed as a partnership may pass the credit earned to each partner or member in any manner agreed to by the partners or members and the credit may be allocated in any manner chosen by the entity. An S corporation must first use the credit against its own income tax liability, if any, before passing the credit through to its shareholders based on their percentage of stock ownership. South Carolina Code §12-6-3310(B)(2).

If the taxpayer qualifies for the abandoned buildings credit and the textile revitalization credit or the retail revitalization credit, the taxpayer may only claim one of the three credits.

However, the taxpayer is not disqualified from claiming any other tax credit in conjunction with the abandoned buildings credit.

c. Investment Requirements

The abandoned buildings credit only applies to abandoned building sites, or phases or portions thereof, put into operation where the taxpayer incurs:

- More than \$250,000 of rehabilitation expenses for buildings located in the unincorporated areas of a county or in a municipality in the county with a population of more than 25,000 people.
- More than \$150,000 of rehabilitation expenses for buildings located in the unincorporated areas of a county or in a municipality in the county with a population between 1,000 and 25,000 people.
- More than \$75,000 of rehabilitation expenses for buildings located in a municipality with a population of less than 1,000 people.

d. Property Tax Credit

See Chapter 4, “Business Property Tax and Exemptions”, Section 9, for a summary of the abandoned buildings property tax credit.

e. Certification of Abandoned Building Site

For buildings placed in service on or after June 9, 2015, the taxpayer may apply to the county or municipality in which the building is located for certification that the building is an abandoned building or state-owned abandoned building, as defined in South Carolina Code §12-67-120. The taxpayer may conclusively rely on this certification. A copy must be included with the first tax return for which the credit is claimed. See South Carolina Code §12-67-160.

f. Definitions

South Carolina Code §12-67-120 contains a list of definitions of terms used in the Act. Some of the defined terms are:

1. “Abandoned building” - a building or structure, other than a single family residence, which clearly may be delineated from other buildings or structures, at least 66% of the space which has been closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least 5 years immediately preceding the date on which the taxpayer files the Notice of Intent to Rehabilitate. A building that otherwise qualifies may be divided into unit or parcels, which may be owned by the same taxpayer or different taxpayers. Each unit or parcel is deemed to be an abandoned building site for purposes of determining whether each subdivided parcel is considered to be abandoned. Special rules apply if the building is listed on the National Register for Historic Places.
2. “Building site” - the abandoned building together with the parcel of land upon which it is located and other improvements located on the parcel. However, the area of the building site is limited to the land upon which the abandoned building is located and the land immediately surrounding such building used for parking and other similar purposes directly related to the building’s income producing use.
3. “Rehabilitation expenses” - expenses or capital expenditures incurred in the rehabilitation, demolition, renovation, or redevelopment of the building site, including without limitation, the renovation or redevelopment of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the site, but excluding the cost of acquiring the site or the cost of personal property located at the site, and demolition expenses if the building is on the National Register of Historic Places.

Rehabilitation expenses associated with a building site that increase the amount of square footage on the building site in excess of 200% of the amount of the square footage of the buildings that existed on the buildings site as of the filing of the Notice shall not be considered a rehabilitation expense for calculating the amount of the credit.

4. “Placed in service” - the date upon which the building site is completed and ready for its intended use. If the site is completed and ready for use in phases or portions, each phase or portion is considered placed in service when it is completed and ready for its intended use.

5. “State-owned abandoned building” – an abandoned building and its ancillary service buildings or a project consisting of one or more abandoned buildings, the aggregate size of which is greater than 50,000 square feet, that has been abandoned for more than five years, and, prior to the taxpayer’s acquisition of such building, was most recently owned by the State, or an agency, instrumentality, or political subdivision of the State. For purposes of this definition, the taxpayer shall include any entity under common control or common ownership with the taxpayer.

g. Transfer of Credit

A taxpayer who sells or leases all or part of the abandoned building site may transfer all or part of any applicable remaining credit associated with the rehabilitation expenses incurred with respect to that part of the site to the purchaser or lessee. The taxpayer must notify the Department of the credit transfer. Questions concerning a credit transfer and the method to request approval of the transfer from the Department should be directed to the Department at 803-898-5749 or by email at TaxCredits@dor.sc.gov.

h. Repeal of the Act

The South Carolina Abandoned Buildings Revitalization Act is repealed on December 31, 2019. Any credit carryforward under Code Section 12-67-140(C) will continue to be allowed until the 5 year time period is completed.

36. CREDIT FOR REHABILITATION OF A CERTIFIED HISTORIC STRUCTURE

South Carolina Code §12-6-3535 has two similar income tax credits available to taxpayers making historic rehabilitation expenditures in South Carolina. The first credit, rehabilitation of a certified historic structure credit, is available to taxpayers that qualify for the federal rehabilitation credit. The second credit, rehabilitation of a certified historic residential structure credit, is available to individual taxpayers that do not qualify for the federal rehabilitation credit.

A general overview of the credit for rehabilitation of a certified historic structure is provided below. See Chapter 3, “Individual Income and Estate and Gift Taxes,” Section 17 for a general overview of the credit for rehabilitation of a certified historic residential structure.

NOTE: As a result of the amendments to South Carolina Code §12-6-3535 in 2015, there are several differences between the credit provisions for certified historic structures placed in service before and after June 9, 2015. These differences are noted herein.

South Carolina Code §12-6-3535(A) allows a taxpayer a credit against income taxes and license taxes imposed under Title 12 (or a combination of the two if placed in service on or after June 9, 2015) equal to 10% of the qualified rehabilitation expenditures for a certified historic structure located in South Carolina that qualify for the federal rehabilitation credit provided in Internal Revenue Code §47. For a certified historic structure placed in service on or after June 9, 2015, a taxpayer may elect a 25% tax credit in lieu of the 10% tax credit, not to exceed \$1 million for each certified historic structure.

The credit is claimed in equal amounts over a 3-year period⁴ beginning with the year that the property is placed in service. Any unused credit may be carried forward for the succeeding 5 years. To claim this credit, the taxpayer must attach to the South Carolina income tax return a copy of the appropriate federal tax forms showing the amount of federal rehabilitation credit claimed. The credit is claimed on Form TC-21, "Credit for a Certified Historic Structure Placed in Service after June 9, 2015."⁵

Entities taxed as a partnership that qualify for the rehabilitation of a certified historic structure credit must pass the credit earned through its partners, and may allocate it in any manner agreed to by its partners, including allocation of the entire credit to one partner.⁶ An S corporation must first use the rehabilitation of a certified historic structure credit against its own income tax liability, if any, before passing the credit through to its shareholders based on their percentage of stock ownership. South Carolina Code §12-6-3310(B)(2). Additionally, a taxpayer who makes a pass through election under Internal Revenue Code Section 50(d) may elect to pass the credit claimed to the tenant of the eligible structure or to retain the credit.⁷

The terms "taxpayer," "qualified rehabilitation expenditures," and "certified historic structure" have the same meaning as provided in Internal Revenue Code §47 and the applicable treasury regulations.

⁴ For certified historic structures placed in service before June 9, 2015, the credit is claimed in equal amounts over a 5 year period beginning with the year that the property is placed in service.

⁵ For certified historic structures placed in service before June 9, 2015, the credit is claimed on Form TC-21, "Credit for a Certified Historic Structure Placed in Service before June 8, 2015."

⁶ For certified historic structures placed in service before June 9, 2015, the allocation of the credit must be consistent with Subchapter K of the Internal Revenue Code.

⁷ This election is not available to certified historic structures placed in service before June 9, 2015.

Other credit provisions include:

1. Additional work done by the taxpayer while the credit is being claimed, for a period of up to 5 years, must be consistent with the Secretary of the Interior's Standards for Rehabilitation. During this period, the State Historic Preservation Officer may inspect and review additional work to the certified historic structure. If this work is not consistent with the Standards for Rehabilitation, the taxpayer and Department must be notified in writing and any unused portion of the credit, including carry forward, is forfeited.
2. The South Carolina Department of Archives and History has developed an application and certification process. A copy of the application and certification information can be obtained from the South Carolina Department of Archives and History at 803-896-6174. A taxpayer may appeal a decision of the State Historic Preservation Officer to a committee of the State Review Board.