

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (“Petitioner”) asking whether the Rehabilitation of Historic Properties Credit cap applies on a per structure basis or a per application basis. We conclude that the Rehabilitation of Historic Properties Credit cap applies on a per structure basis.

Facts

Petitioner is a partnership that will own a project that contains several functionally-related historical structures. Each structure is, or will be, a certified historic structure by virtue of its listing on the National Register of Historic Places, individually or as a contributing part of a historic district. Since all of the structures are historically functionally-related, they must be submitted on one application and assigned one project number by the State Historic Preservation Office and the National Park Service.

Analysis

The Rehabilitation of Historic Properties Credit is available to taxpayers for expenses related to the rehabilitation of certified historic structures in New York State. The issue here is whether the requirement to file all structures under one application causes the tax credit cap to be applied on a per application basis or on a per structure basis. One application may consist of multiple buildings and structures. Tax Law § 606(oo)(1)(A) states:

For taxable years beginning on or after January first, two thousand ten and before January first, two thousand twenty-five, a taxpayer shall be allowed a credit as hereinafter provided, against the tax imposed by this article, in an amount equal to one hundred percent of the amount of credit allowed the taxpayer with respect to a certified historic structure under internal revenue code section 47(c)(3), determined without regard to ratably allocating the credit over a five-year period as required by subsection (a) of such section 47, with respect to a certified historic structure located within the state. Provided,

