

114TH CONGRESS
1ST SESSION

H. R. 3846

To amend the Internal Revenue Code of 1986 to improve the Historic Rehabilitation Tax Credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2015

Mr. KELLY of Pennsylvania (for himself, Mr. BLUMENAUER, Mr. TIBERI, Mr. NEAL, Mr. BOUSTANY, Mr. LARSON of Connecticut, Mr. TURNER, Mr. KIND, Mr. RANGEL, and Mr. REED) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to improve the Historic Rehabilitation Tax Credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Historic Tax Credit
5 Improvement Act of 2015”.

6 **SEC. 2. INCREASE IN THE REHABILITATION CREDIT FOR**
7 **CERTAIN SMALL PROJECTS.**

8 (a) IN GENERAL.—Section 47 of the Internal Rev-
9 enue Code of 1986 (relating to rehabilitation credit) is

1 amended by adding at the end the following new sub-
2 section:

3 “(e) SPECIAL RULE REGARDING CERTAIN SMALLER
4 PROJECTS.—

5 “(1) IN GENERAL.—In the case of any qualified
6 rehabilitated building or portion thereof—

7 “(A) which is placed in service after the
8 date of the enactment of this subsection, and

9 “(B) which is a smaller project,
10 subsection (a)(2) shall be applied by substituting ‘30
11 percent’ for ‘20 percent’.

12 “(2) MAXIMUM CREDIT.—The credit deter-
13 mined under this subsection with respect to any
14 smaller project for all taxable years shall not exceed
15 \$750,000.

16 “(3) SMALLER PROJECT DEFINED.—

17 “(A) IN GENERAL.—For purposes of this
18 subsection, the term ‘smaller project’ means
19 any qualified rehabilitated building or portion
20 thereof if—

21 “(i) the qualified rehabilitation ex-
22 penditures taken into account for purposes
23 of this section (or would have been so
24 taken into account if this subsection had
25 been in effect for all prior periods) with re-

1 spect to the rehabilitation are not over
2 \$3,750,000, and

3 “(ii) no credit was allowed under this
4 section for either of the 2 prior taxable
5 years with respect to such building.

6 “(B) PROGRESS EXPENDITURES.—Credit
7 allowable by reason of subsection (d) shall not
8 be taken into account under subparagraph
9 (A)(ii).”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to periods after the date of the
12 enactment of this Act, under rules similar to the rules of
13 section 48(m) of the Internal Revenue Code of 1986 (as
14 in effect on the day before the date of the enactment of
15 the Revenue Reconciliation Act of 1990).

16 **SEC. 3. ALLOWANCE FOR THE TRANSFER OF CREDITS FOR**
17 **CERTAIN SMALL PROJECTS.**

18 (a) IN GENERAL.—Section 47(e) of the Internal Rev-
19 enue Code of 1986, as amended by section 2, is amended
20 by adding at the end the following new subsection:

21 “(4) TRANSFER OF SMALLER PROJECT CRED-
22 IT.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B) and such regulations or other guid-
25 ance as the Secretary may provide, the taxpayer

1 may transfer all or a portion of the credit allow-
2 able to the taxpayer under subsection (a) for a
3 smaller project.

4 “(B) CERTIFICATION.—

5 “(i) IN GENERAL.—A transfer under
6 subparagraph (A) shall be accompanied by
7 a certificate which includes—

8 “(I) the certification for the cer-
9 tified historic structure referred to in
10 subsection (c)(3),

11 “(II) the taxpayer’s name, ad-
12 dress, tax identification number, date
13 of project completion, and the amount
14 of credit being transferred,

15 “(III) the transferee’s name, ad-
16 dress, tax identification number, and
17 the amount of credit being trans-
18 ferred, and

19 “(IV) such other information as
20 may be required by the Secretary.

21 “(ii) TRANSFERABILITY OF CERTIFI-
22 CATE.—A certificate issued under this sec-
23 tion to a taxpayer shall be transferable to
24 any other taxpayer, except that a certifi-

1 cate may not be transferred more than
2 once.

3 “(C) TAX TREATMENT RELATING TO CER-
4 TIFICATE.—

5 “(i) DISALLOWANCE OF DEDUC-
6 TION.—No deduction shall be allowed for
7 the amount of consideration paid or in-
8 curred by the transferee.

9 “(ii) ALLOWANCE OF CREDIT.—The
10 amount of credit transferred under sub-
11 paragraph (A)—

12 “(I) shall not be allowed to the
13 transferor for any taxable year, and

14 “(II) shall be allowable to the
15 transferee as a credit under this sec-
16 tion for the taxable year of the trans-
17 feree in which such credit is trans-
18 ferred.

19 “(D) RECAPTURE AND OTHER SPECIAL
20 RULES.—The taxpayer who claims a credit
21 under this section by reason of a transfer of an
22 amount of credit under subparagraph (A) with
23 respect to a smaller project shall be treated as
24 the taxpayer with respect to the smaller project
25 for purposes of section 50.

1 “(E) INFORMATION REPORTING.—The
2 transferor and the transferee shall each make
3 such reports regarding the transfer of an
4 amount of credit under paragraph (A) and con-
5 taining such information as the Secretary may
6 require. The reports required by this subsection
7 shall be filed at such time and in such manner
8 as may be required by the Secretary.

9 “(F) REGULATIONS.—The Secretary shall
10 prescribe regulations or other guidance to carry
11 out this paragraph.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to periods after the date of the
14 enactment of this Act.

15 **SEC. 4. INCREASING THE TYPE OF BUILDINGS ELIGIBLE**
16 **FOR REHABILITATION.**

17 (a) IN GENERAL.—Section 47(c)(1)(C)(i)(I) of the
18 Internal Revenue Code of 1986 is amended by inserting
19 “50 percent of” before “the adjusted basis”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to taxable years beginning after
22 the date of the enactment of this Act.

1 **SEC. 5. REDUCTION OF BASIS ADJUSTMENT FOR REHABILI-**
2 **TATION PROPERTY.**

3 (a) IN GENERAL.—Section 50(c) of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following:

6 “(6) SPECIAL RULE RELATING TO THE REHA-
7 BILITATION CREDIT.—In the case of any rehabilita-
8 tion credit—

9 “(A) only 50 percent of such credit shall
10 be taken into account under paragraph (1), and

11 “(B) only 50 percent of any recapture
12 amount attributable to such credit shall be
13 taken into account under paragraph (2).”.

14 (b) COORDINATION WITH BASIS ADJUSTMENT.—
15 Section 50 of such Code is amended by adding at the end
16 the following:

17 “(e) COORDINATION WITH BASIS ADJUSTMENT.—In
18 applying the provisions of former section 48(d)(5)(B) pur-
19 suant to subsection (d)(5) to a lease of property eligible
20 for the rehabilitation tax credit, the lessee of such property
21 shall include ratably in gross income over the shortest re-
22 covery period that could be applicable under section 168
23 with respect to such property an amount equal to 50 per-
24 cent of the amount of the credit allowable under section
25 38 to the lessee with respect to such property.”.

1 **SEC. 6. SPECIAL RULES FOR DISPOSITIONS OF STATE HIS-**
2 **TORIC TAX CREDITS.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
4 ter 1 of the Internal Revenue Code of 1986 (relating to
5 items specifically excluded from gross income) is amended
6 by inserting after section 139E the following new section:

7 **“SEC. 139F. DISPOSITIONS OF STATE HISTORIC TAX CRED-**
8 **ITS.**

9 “(a) EXCLUSION FROM INCOME; BASIS REDUC-
10 TION.—

11 “(1) IN GENERAL.—In the case of a taxpayer
12 who receives a State historic tax credit and transfers
13 such credit by sale, allocation, or otherwise, or re-
14 ceives a refund of all or a portion of such credit—

15 “(A) no portion of the net proceeds of such
16 allocation, disposition, or refund of such credit
17 shall constitute income to such taxpayer under
18 section 61(a), and

19 “(B) the taxpayer’s basis in the property
20 with respect to which the State historic tax
21 credit is allowed shall be reduced as determined
22 under paragraph (2).

23 “(2) DETERMINATION OF REDUCTION IN
24 BASIS.—The reduction in basis under paragraph (1)
25 shall be applied—

26 “(A) first, against the basis in the land,

1 “(B) second, against so much of the basis
2 of any building or interest therein as was not
3 treated as a qualified rehabilitation expenditure
4 by reason of clause (ii) or (iii) of section
5 47(c)(2)(B), and

6 “(C) third, against the remaining basis in
7 the property.

8 “(D) ADJUSTMENT IN BASIS OF INTEREST
9 IN PARTNERSHIP OR S CORPORATION.—The ad-
10 justed basis of—

11 “(i) a partner’s interest in a partner-
12 ship, or

13 “(ii) stock in an S corporation (as de-
14 fined in section 1361(a)(1)), shall be ap-
15 propriately adjusted to take into account
16 adjustments made under this subsection in
17 the basis of property held by the partner-
18 ship or S corporation (if any).

19 “(b) ELECTION TO INCLUDE IN INCOME.—

20 “(1) IN GENERAL.—In the case of a taxpayer
21 who elects to have this subsection apply—

22 “(A) the net proceeds of the allocation, dis-
23 position, or refund described in subsection (a)
24 received by such taxpayer shall constitute in-
25 come to such taxpayer under section 61(a), and

1 “(B) subsection (a)(1)(B) shall not apply.

2 “(2) MAKING OF ELECTION.—An election under
3 this subsection shall be made at such time and in
4 such manner as the Secretary may by regulation
5 prescribe. Such election shall apply for the taxable
6 year for which it is made and for all subsequent tax-
7 able years and may be revoked only with the consent
8 of the Secretary of the Treasury.

9 “(c) EFFECT ON QUALIFIED REHABILITATION EX-
10 PENDITURES AND REHABILITATION CREDITS.—For pur-
11 poses of determining the rehabilitation credit allowable to
12 a taxpayer under section 47, the transfer or allocation of
13 State historic tax credits with respect to any property by
14 a taxpayer shall not affect or reduce the amount of quali-
15 fied rehabilitation expenditures (as defined in section
16 47(c)(2)) incurred in connection with such property, nor
17 shall such transfer or disposition, nor any basis adjust-
18 ments under subsection (a), be treated as an early disposi-
19 tion of investment credit property for purposes of the re-
20 capture provisions of section 50, notwithstanding any re-
21 duction in basis pursuant to paragraph (a)(2)(C).

22 “(d) STATE HISTORIC TAX CREDITS DEFINED.—For
23 purposes of this section, the term ‘State historic tax credit’
24 means any credit against State or local tax liabilities
25 which—

1 **SEC. 8. ELIMINATING FUNCTIONALLY RELATED PROP-**
2 **ERTIES.**

3 (a) **IN GENERAL.**—Section 47 of the Internal Rev-
4 enue Code of 1986 (relating to rehabilitation credit), as
5 amended by sections 2 and 3, is amended by adding at
6 the end the following new subsection:

7 “(g) **RELATED BUILDINGS.**—Buildings that are func-
8 tionally related (as defined in Part 67.6(b)(4) of title 36,
9 Code of Federal Regulations) shall be treated as separate
10 certified historic structures for purposes of the credit al-
11 lowed under this section.”.

12 (b) **EFFECTIVE DATE.**—The amendment made by
13 subsection (a) shall apply to any application to the Na-
14 tional Park Service received after the date of the enact-
15 ment of this Act.

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