



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC REVENUE RULING #26-1

SUBJECT: Abandoned Building Revitalization Credit
(Income and Property Taxes)

EFFECTIVE DATE: Applies to all projects for which a Notice of Intent to Rehabilitate is filed on or after June 1, 2026

REPEAL DATE: December 31, 2035

SUPERSEDES: All previous documents and all oral directives in conflict herewith, including SC Revenue Ruling #15-7, SC Revenue Ruling #15-12, and SC Information Letter #15-9

REFERENCES: Chapter 67 of Title 12

AUTHORITY: S.C. Code § 12-4-320
SC Revenue Procedure #09-3

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or a general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

PURPOSE OF UPDATE

The South Carolina Abandoned Buildings Revitalization Act ("Act") was enacted in 2013 and amended for the first time in 2015.¹ SC Revenue Rulings #15-7 and #15-12 discussed the Act as it existed in 2015. The Act was later amended in 2016, 2018, 2019, and 2024.²

¹ 2013 Act No. 57, § 1.A, eff. June 11, 2013; 2015 Act No. 68, § 2, eff. June 9, 2015.

² 2016 Act No. 179, § 1, eff. May 23, 2016; 2016 Act No. 272, § 2.A, eff. June 7, 2016; 2018 Act No. 265 §§ 2.A, 5.A, and 5.B, eff. October 3, 2018; 2019 Act No. 50, § 1, eff. May 16, 2019; 2021 Act No. 21, § 2.A, eff. April 26, 2021; and 2024 Act No. 169, § 2, eff. May 20, 2024.

The purpose of this updated advisory opinion is to incorporate these amendments and to expand the scope of previous Revenue Rulings to address additional questions about the credit.

THE ACT

Purpose

Because abandoned buildings create challenges for communities and local governments, the General Assembly created an incentive in the form of a nonrefundable tax credit in 2013 for the rehabilitation, renovation, and redevelopment of these buildings. S.C. Code Ann. § 12-67-110(A). Section 12-67-110 of the Act specifically describes the issues the General Assembly sought to address:

(B) The abandonment of buildings has resulted in the disruption of communities and increased the cost to local governments by requiring additional police and fire services due to excessive vacancies. Many abandoned buildings pose safety concerns. A public and corporate purpose is served by restoring these buildings to productive assets for the communities in which they are located and result in increased job opportunities.

(C) There exists in many communities of this State abandoned buildings. The stable economic and physical development of these communities is endangered by the presence of these abandoned buildings as manifested by their progressive and advanced deterioration. As a result of the existence of these abandoned buildings, there is an excessive and disproportionate expenditure of public funds, inadequate public and private investment, unmarketability of property, growth in delinquencies and crime in the areas, together with an abnormal exodus of families and businesses, so that the decline of these areas impairs the value of private investments, threatens the sound growth and the tax base of taxing districts in these areas, and threatens the health, safety, morals, and welfare of the public. To remove and alleviate these adverse conditions, it is necessary 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 abandoned buildings.

S.C. Code Ann. § 12-67-110.

The credit is only available for abandoned building sites (or phases or portions) that meet the purpose of the Act. S.C. Code Ann. § 12-67-130(B). Unlike the South Carolina Textiles Communities Revitalization Act (S.C. Code Ann. §§ 12-65-10 to -60) and the South Carolina Retail Facilities Revitalization Act (S.C. Code Ann. §§ 6-34-10 to -40) (now

repealed), the legislature specifically included this requirement so that only projects that solve the problems identified by the Act will be eligible for the credit.

Abandoned Building and Building Site

The credit is available for taxpayers who incur rehabilitation expenses rehabilitating a building site, which is defined as an abandoned building together with the parcel of land upon which it is located and other improvements located on the parcel. S.C. Code Ann. § 12-67-120(2). 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. Consequently, the abandoned building must have had an income producing use, and anything included in the building site must have been related to the abandoned building's income producing use.

To qualify as an abandoned building, a building or structure must meet the following requirements:

- (1) it must be able to be clearly delineated from other buildings or structures;
- (2) prior to the date it was closed continuously to business or nonoperational for income producing purposes, it must have been open to business or operational for income producing purposes; and
- (3) at least 66% of the structure's space must have been closed continuously to business or nonoperational for income producing purposes for at least five years immediately preceding the date on which a taxpayer files a Notice of Intent to Rehabilitate ("Notice of Intent").

S.C. Code Ann. §§ 12-67-120(1), –120(2).

A building or structure that was most recently used as a single-family residence cannot qualify as an abandoned building. S.C. Code Ann. § 12-67-120(1). For purposes of the Act, the Department defines single family residence as a detached building designed for or occupied exclusively by a single family on a single lot that qualifies for the 4% assessment ratio under Section 12-43-220(c) or would qualify if the owner occupied the building as his legal residence. However, use of a different assessment ratio by a county assessor does not preclude a building from being a single-family residence.

Clearly Delineated

An abandoned building as defined by the Act is one that can be clearly delineated from other buildings or structures. S.C. Code Ann. § 12-67-120(1). For an abandoned building

to be clearly delineated from other buildings, the outer walls of the building must be upright in their original positions so that the boundaries of the building can be accurately determined by sight at the time the Notice of Intent is filed. The building's exact position and shape in relation to other buildings must be apparent to an observer. Land on which an abandoned building once stood but has been demolished does not qualify as an abandoned building.

Open to Business or Operational for Income Producing Purposes

To qualify as an abandoned building pursuant to the Act, a building must have been open to business or operational for income producing purposes prior to abandonment. The customary meaning of business is an occupation, profession, or trade for the purpose of making one's living by engaging in commerce. Therefore, structures that were open for business activities like retail stores, offices, and restaurants prior to abandonment will qualify for the credit.

Similarly, a building or structure that had an income producing purpose prior to abandonment can qualify as an abandoned building. "Income producing purposes" describes transactions and business activity directly engaged in by an individual or entity in the regular course of its trade or business for the primary purpose of producing income.

Accordingly, to qualify as an abandoned building, a building or structure must have been used for business activities in the regular course of an occupation, profession, or trade for the primary purpose of producing income.

66% of the Structure must be Closed Continuously to Business or Nonoperational for Income Producing Purposes for 5 Years

Abandonment is evidenced by a lack of business purpose, being nonoperational for income producing purposes, lack of basic upkeep, security issues because of open access, potential health or safety risks due to structural damage or environmental hazards, or other conditions listed in Section 12-67-110 the credit is intended to remedy. A vacant building being offered for lease but that has not had a tenant for 66% of the space for five years is nonoperational for income producing purposes and is considered abandoned for purposes of the Act.

If a building or structure listed on the National Register for Historic Places is being used solely for storage or warehouse purposes, it is considered nonoperational for income producing purposes and can therefore qualify as an abandoned building. S.C. Code Ann. § 12-67-120(1). However, the income tax credit is limited by disqualifying the portion of the building or structure that was used as a storage or warehouse for income producing purposes in the calculation of the credit. To calculate this limitation, total rehabilitation

expenses are multiplied by the percentage of the space which was not used for storage or warehouse purposes for at least five years immediately preceding the date a taxpayer files a Notice of Intent.

State-Owned Abandoned Buildings

The Act creates a separate category of buildings that qualifies for the credit: state-owned abandoned buildings. S.C. Code Ann. § 12-67-120(8). These buildings include a building and its ancillary service buildings or a project consisting of one or more buildings, the aggregate size of which is greater than 50,000 square feet, that has been abandoned for more than five years, and immediately prior to the taxpayer's acquisition was owned by the State, or an agency, instrumentality, or political subdivision of the State. The definition of state-owned abandoned building does not include the requirement that the building must have been used for business or income producing purposes prior to abandonment.

Qualifying Projects

The credit is only available for:

- (1) building sites, or phases or portions of building sites, put into operation for income producing purposes;
- (2) projects that meet the purpose of the credit set forth in Section 12-67-110; and
- (3) projects that incur rehabilitation expenses that:
 - (A) exceed \$250,000 for buildings located in the unincorporated areas of a county or in a municipality with a population of more than 25,000 persons;
 - (B) exceed \$150,000 for buildings located in an unincorporated area of a county or in a municipality with a population between 1,000 and 25,000 persons;
 - (C) exceed \$75,000 for buildings located in a municipality with a population of less than 1,000 persons.³

S.C. Code Ann. § 12-67-130.

The construction or operation of a charter school, private or parochial school, or other similar educational institution meets the purpose of the Act. S.C. Code Ann. § 12-67-

³ These population requirements are determined using the most recent official United States census. S.C. Code Ann. § 12-67-130(A).

130(B). The construction of a single-family residence is not an income producing purpose and therefore does not meet the purpose of the Act.

Taxes Against Which the Credit Can Be Applied

A taxpayer who rehabilitates an abandoned building is eligible for either (1) a credit against income taxes imposed by Title 12, Chapter 6 (income taxes), Chapter 11 (bank taxes), Chapter 20 (corporate license fees), Chapter 13 (taxes on building and loan associations), or taxes imposed by Chapter 7 of Title 38 (insurance premium and retaliatory taxes), or any combination of these income taxes,⁴ or (2) a credit against real property taxes levied by local taxing entities. S.C. Code Ann. § 12-67-140(A). A taxpayer may not apply the credit to both income taxes and property taxes.

Notice of Intent

A taxpayer who wishes to claim an income tax credit based on the expenses for rehabilitating a building site must file a Notice of Intent with the Department. Similarly, a taxpayer who wishes to claim the property tax credit must file a Notice of Intent with the county or municipality where the building site is located. S.C. Code Ann. § 12-67-140. A Notice of Intent is a letter submitted by the taxpayer indicating the taxpayer's intent to rehabilitate the building site, the location of the building site, the amount of acreage involved in the building site, the amount of square footage of existing buildings involved in the building site, and the estimated expenses to be incurred in connection with rehabilitation of the building site. The Notice of Intent must also set forth information as to which buildings the taxpayer intends to renovate and whether new construction is to be involved. S.C. Code Ann. § 12-67-120(7).

To claim the income tax credit, a taxpayer should file a Notice of Intent with the Department by electronic mail to TaxCredits@dor.sc.gov.

A taxpayer may not file a “protective” Notice of Intent with both the Department and the county or municipality while deciding whether to claim the income tax credit or the property tax credit for an abandoned building site. However, a taxpayer may change the type of credit to be claimed by filing a new Notice of Intent with the appropriate governmental body and file a written notice withdrawing the original Notice of Intent with the governmental body who received it. All expenses incurred prior to the filing of the second Notice of Intent will not qualify for the credit.

⁴ For simplicity, this credit is referred to as an “income tax credit,” although bank taxes, corporate license fees, and insurance premium and retaliatory taxes are not income taxes.

The Notice of Intent should contain all information showing why the taxpayer qualifies for the credit, including but not limited to:

- the address of the purported abandoned building and the tax map number(s) on which it is located;
- the size of the abandoned building;
- a specific dollar amount and a description of estimated rehabilitation expenses for the building site;
- the abandoned building's previous owner (if the building is to be considered a state-owned building);
- photographs or other evidence showing the abandoned building can be clearly delineated from other buildings or structures;
- a description of the abandoned building's business use or income producing purpose immediately prior to abandonment;
- the date of abandonment;
- the size of the part or portion of the building that was abandoned;
- whether the building or structure will be subdivided and if so, how it will be subdivided;
- a description of the building site including land and improvements other than the abandoned building to be included and how each is directly related to the abandoned building's income producing use;
- the address and tax map numbers of all land and improvements to be included in the building site;
- the intended future use of the abandoned building and building site or phases or portions thereof and a description of the rehabilitation, demolition, renovation, or redevelopment of the building site; and
- if the building or structure has been listed on the National Register for Historic Places, and if so, what portion, if any, was used solely for storage or warehouse purposes.

S.C. Code Ann. § 12-67-120.

The specific amount of estimated rehabilitation expenses reported in the Notice of Intent should include only those expenses that qualify as rehabilitation expenses under the Act. No credit is available if actual rehabilitation expenses are not 80% or more of the total estimated expense amount reported in the Notice of Intent.

If the abandoned building or structure qualifying for the credit is to be redeveloped or renovated by the taxpayer as one or more units or parcels, a Notice of Intent must be submitted for each unit or parcel. On the other hand, if a taxpayer intends to complete its project in phases, it should report the total of expenses for the entire rehabilitation on its Notice of Intent.

A Notice of Intent provided to the Department and the Department's acknowledgement of receipt does not represent approval of the taxpayer's eligibility for the credit, approval of the estimated rehabilitation expenses, or approval of the credit amount.

Unless allowed by the Department, a Notice of Intent cannot be amended. For a taxpayer who has filed a Notice of Intent with the Department and has not placed the qualifying building site in service, the Department will allow amendments of the Notice of Intent until June 1, 2026.

Subdivision

The Act allows a taxpayer to subdivide an abandoned building into separate units or parcels. S.C. Code Ann. § 12-67-120(1). Whether units of an abandoned building are considered "separate" as required by the Act for subdivision is determined by the characteristics of each unit after rehabilitation. Factors to consider include, but are not limited to, the operational use or line of business of each unit, the economic activity of each unit, the structural components (e.g., separate firewalls, entrances, HVAC, etc.) of each unit, and the sale or lease of the building site as one or more separate properties. No one factor is dispositive.

A building site cannot be subdivided into a parcel with an abandoned building and several vacant lots. The Act allows for the subdivision of a building or structure, not of a building site. S.C. Code Ann. § 12-67-120(1). Therefore, each unit or parcel must include part of the abandoned building and only land or infrastructure that was associated with the building's income producing purpose.

The following examples of redevelopment projects are not separate units for purposes of the Act:

- a. an abandoned building that is redeveloped into a self-storage unit with 50 individual climate-controlled storage units rented to the public;
- b. an abandoned building that is redeveloped into a hotel with 150 guest rooms, a dining facility, and a fitness facility;
- c. an abandoned building that is redeveloped into a multi-family residential complex;
- c. an abandoned building that is redeveloped into a building with temporary walls partitioning 15 separate antique businesses; and
- d. an abandoned building that is redeveloped into one building with temporary walls partitioning 15 separate antique businesses with common parking.

Taxpayers who choose to subdivide an abandoned building into separate units must meet the location-based minimum rehabilitation expense requirement and must file a Notice of Intent for each separate unit. If each unit meets the purpose and requirements of the Act, then each is eligible for an income tax credit not to exceed \$700,000. S.C. Code Ann. § 12-67-140(B)(3)(b).

Common costs associated with multiple units, such as common areas and parking garages, must be allocated to each unit on some reasonable basis, such as reasonable allocation of costs by the architect or contractor based on justifiable factors. If such reasonable basis cannot be determined, then the taxpayer should allocate based on square footage.

The construction of a single-family residence is not an income producing purpose and does not meet the purpose of the Act. S.C. Code Ann. § 12-67-130(B). Therefore, any subdivision that results in the creation of a single-family residence is not permitted by the Act. Taxpayers who rehabilitate abandoned buildings into multi-family complexes must file one Notice of Intent for the entire project.

A taxpayer who owns a building no portion of which was placed in service before July 1, 2018, and upon which is located in a redeveloped multi-floor structure that is listed on the National Register of Historic Places, may subdivide the structure into separate units. Up to seven separate floors may be considered seven separate subdivided units if a floor is redeveloped for the exclusive use as a residential apartment or apartments. S.C. Code Ann. § 12-67-140(E). Because a Notice of Intent cannot be filed for a building site that has been redeveloped, taxpayers claiming the credit under Section 12-67-140(E) must notify the Department in writing of their intent to claim the income tax credit and provide any information required by the Department, including, but not limited to, the location of the unit, the actual expenses incurred in connection with the rehabilitation, and the date the unit will be placed in service. A notice must be filed for each unit. Otherwise, taxpayers are subject to all other requirements of the Act.

Calculation of the Credit

The amount of the credit is based on a taxpayer's rehabilitation expenses, which include:

- Demolition expenses (i.e., the complete destruction or removal of a building), except for buildings on the National Register of Historic Places
- Renovation costs of existing buildings (e.g., interior demolition, movement of walls, replacing floors, ceilings or roofs, wall to wall carpet, permanent tiles and paneling, central HVAC systems, plumbing, electrical wiring, fixtures, sprinkler systems, and elevators)
- Redevelopment costs of existing buildings
- Construction of new buildings

- Environmental remediation (e.g., abatement of lead paint, removal of asbestos or mold, removal of underground oil tanks)
- Site improvements (e.g., sidewalks, fences, and docks)
- Other improvements on the building site (e.g., landscaping, drainage, or paving)
- Professional fees associated with redevelopment of the site, including engineering and architectural fees
- Interest costs on a construction loan
- Expenses paid from grant proceeds when the grant money is taxable (i.e., the taxpayer will have basis)
- Expenses paid by the taxpayer under a “tenant improvement allowance” with the lessee for improvements to the real property to customize the space to fit a tenant’s needs (e.g., costs incurred for adding permanent walls, permanent paneling or tiling, lighting, wiring, and cable)

The following expenses do not qualify as rehabilitation expenses:

- Cost of acquiring the building, land, and other improvements, including the purchase price
- Professional fees associated with the purchase of the site (e.g., title work, surveying, or closing costs)
- Expenses incurred for an abandoned building that is not renovated or redeveloped
- Demolition expenses if the building being demolished is on the National Register for Historic Places
- Expenses incurred prior to sending the Department a Notice of Intent to rehabilitate the building site or unit
- Cost of personal property at the building site (e.g., furniture, appliances, window treatments, etc.)
- Interest costs on funds to purchase the building site
- Expenses paid from nontaxable grant money
- Expenses paid under a “tenant improvement allowance” for personal property costs (e.g., cubicles, office furniture, etc.) or moving costs

S.C. Code Ann. § 12-67-120(6).

Rehabilitation expenses that increase the amount of square footage on the building site by more than 200% of the square footage of the buildings that existed on the building site when the Notice of Intent is filed are not rehabilitation expenses for purposes of calculating the credit. For example, if a building is tripled in size from 1,000 to 3,000 square feet, the increase from 1,000 to 3,000 is equal to 200% of the amount of square footage of the original building, so all expenses associated with this increase qualify as rehabilitation

expenses. However, if the building were increased from 1,000 to 4,000 square feet, the expenses attributable to the 1,000 square foot excess enlargement do not qualify as rehabilitation expenses. In this event, the expenses must be allocated between the qualifying portion of the rehabilitated building(s) and the non-qualifying portion of the rehabilitated building(s) (i.e., the excess enlargement). If a specific allocation is not possible, expenses must be allocated to each portion on some reasonable basis, such as reasonable allocation of costs by the contractor or architect based on justifiable factors (e.g., type of improvement and how the improvement relates functionally to the building). If such reasonable allocation cannot be determined, then the taxpayer should allocate based on square footage.

An increase in floor space resulting from interior remodeling is not considered an enlargement.

The costs of personal property located at the building site do not qualify as rehabilitation expenses. However, if the personal property is physically annexed to the building site, it becomes a fixture, and its expense can be included in the calculation of the credit. Creative Displays, Inc. v. S.C. Highway Dep't, 272 S.C. 68, 72, 248 S.E.2d 916, 917 (1978). To determine whether personal property has become a fixture, the Department will consider (i) the mode of attachment; (ii) the character of the structure or the article; (iii) the intent of the parties making the annexation; and (iv) the relationship of the parties. City of North Charleston v. Claxton, 315 S.C. 56, 62-63, 431 S.E.2d 610, 614 (S.C. 1993). In addition, the Department may consider whether the removal of the property in question would be costly, time consuming, and/or destructive to the building. This determination may be different for other income tax purposes, such as Internal Revenue Code Section 1245 property.

An expense is incurred by a taxpayer on the date such expense would be considered incurred under the accrual method of accounting, regardless of the method of accounting used by the taxpayer with respect to other items of income and expense.

Certification

The Act allows a taxpayer to apply to the municipality or county where the abandoned building is located for a certification of the abandoned building site. S.C. Code Ann. § 12-67-160(A). If a taxpayer receives this certification, the taxpayer may rely upon the certification concerning two requirements of the Act: (i) the abandoned building site was an abandoned building as defined by the Act, and (ii) the geographic area of the abandoned building site is consistent with the definition of building site found in Section 12-67-120(2). The project must meet all the other requirements of the Act, including, but not limited to, the project must be put into operation for income producing purposes, the project must meet the purpose of the credit set forth in Section 12-67-110, and the rehabilitation expenses must meet the levels required by the Act. The calculation of the credit is also

administered and enforced by the Department. A copy of the certification must be included with the first tax return on which the credit is claimed. S.C. Code Ann. § 12-67-160(C).

The certification is required to include specific findings that must be verified by the municipality or county establishing:

- (1) the abandoned building site contains an abandoned building as defined in Section 12-67-120(1), including:
 - (a) the building(s) or structure(s) which are being designated as “abandoned” can be clearly delineated from other buildings or structures, including descriptions or photographs of the location of each building on the building site to illustrate this finding;
 - (b) the total square footage of the building(s) or structure(s), the total square footage that has been closed continuously to business or nonoperational for income producing purposes, and the percentage of the square footage that has been closed continuously to business or nonoperational for income producing purposes;
 - (c) the business purpose or income producing purpose that the building(s) or structure(s) or buildings served prior to the date they were closed or abandoned; and
 - (d) the date or dates the building(s) or structures became closed continuously to business or nonoperational for income producing purposes.
- (2) the geographic area of the abandoned building site is consistent with Section 12-67-120(2), including:
 - (a) a legal description of the parcel of land where the building is located; and
 - (b) a detailed description of the other buildings and land used for parking and other similar purposes directly related to the building’s income producing use which are included in the building site.

If a taxpayer intends to rehabilitate a state-owned abandoned building, it may follow the same procedure for a certification of the state-owned abandoned building site. The certification is required to include specific findings that must be verified by the municipality or county establishing:

- (1) the state-owned abandoned building site was a state-owned abandoned building as defined in Section 12-67-120(8), including:
 - (a) a description of the building(s) or structure(s) and its ancillary service buildings;
 - (b) the square feet of each building or structure;
 - (c) the date each building or structure was abandoned;
 - (d) the owner from whom the taxpayer acquired the building(s) or structure(s); and
 - (e) if the building(s) or structure(s) are owned by an entity other than the taxpayer, facts showing the entity and taxpayer are under common control or common ownership.
- (2) geographic area of the state-owned abandoned building site is consistent with Section 12-67-120(8), including:
 - (a) a legal description of the parcel of land where the abandoned building(s) or structure(s) are located; and
 - (b) a detailed description of the other buildings and land to be included in the building site.

S.C. Code Ann. § 12-67-160(B).

Income Tax Credit

A taxpayer seeking a credit against income taxes should file a Notice of Intent with the Department before incurring any rehabilitation expenses at the building site. Only expenses incurred after the taxpayer files the Notice of Intent will qualify as rehabilitation expenses.

The amount of estimated rehabilitation expenses reported in the Notice of Intent is used to determine the amount of the income tax credit. If the actual rehabilitation expenses are between 80% and 125% of the estimated rehabilitation expenses reported in the Notice of Intent, then the income tax credit is equal to 25% of the actual expenses for each building site. If the actual rehabilitation expenses exceed 125% of the estimated rehabilitation expense reported, then the credit for each building site is capped at 25% of 125% of the estimated rehabilitation expenses. If the actual rehabilitation expenses are below 80% of the estimated rehabilitation expenses, then no credit is allowed. S.C. Code Ann. § 12-67-1140(B)(2).

The entire income tax credit is earned in the tax year the applicable phase or portion of the building site is placed in service. “Placed in service” means the date upon which the building site is completed and ready for its intended use. S.C. Code Ann. § 12-67-120(5). It is taken in equal installments over 3 years beginning with the tax year it is earned. Any unused credit can be carried forward for succeeding 5 years. S.C. Code Ann. § 12-67-140(B)(3)(a). If the building site is completed and ready for use in phases or portions, each phase or portion is placed in service when it is completed and ready for its intended use. S.C. Code Ann. § 12-67-120(5).

The income tax credit may not exceed \$700,000 in each tax year for each building site. S.C. Code Ann. § 12-67-140(B)(3)(b).

If a taxpayer qualifies for both the credit against income taxes pursuant to the Act and the credit allowed pursuant to the Textiles Communities Revitalization Act or the Retail Facilities Revitalization Act (now repealed), the taxpayer may claim only one of the three credits. However, a taxpayer may claim any other credits for which it is eligible. S.C. Code Ann. § 12-67-140(B)(4).

The Act does not contain a provision allowing the income tax credit to be bought or sold.

A taxpayer should use Form SC SCH.TC-55, “Abandoned Buildings Revitalization Credit,” to compute and claim the credit. A separate Form SC SCH.TC-55 must be used for each abandoned building site and each separate unit or parcel.

Transfer of the Income Tax Credit

If the taxpayer leases the building site, or part of the building site, the taxpayer may transfer any applicable remaining income tax credit associated with the rehabilitation expenses incurred with respect to the leased part of the site to the lessee. If a taxpayer sells the building site, or any phase or portion of the building site, the taxpayer may transfer all or part of the remaining income tax credit associated with the rehabilitation expenses incurred with respect to that phase or portion of the site to the purchaser of the applicable portion of the building site. S.C. Code Ann. § 12-67-140(B)(5)(a). A taxpayer who transfers the income tax credit to a lessee or purchaser of the building site must send notice to the Department within 60 days after the transfer by electronic mail to TaxCredits@dor.sc.gov. The notice must contain the following information:

- a. The complete name, address, telephone number, and last 5 digits of the taxpayer identification number of the transferor of the credit;
- b. The complete name, address, telephone number, and last 5 digits of the taxpayer identification number of each transferee of the credit;
- c. The complete address and tax map number of the building site;

- d. The total amount of credit currently available to the transferor (i.e., the total amount of credit less any credits used or carried forward by the transferor in the current or prior tax years);
- e. The date the original credit was earned (the date the site was placed in service) and the amount of each credit installment;
- f. The date the credit was transferred;
- g. The amount of the credit transferred;
- h. The transferor must provide a waiver of the right to claim that portion of the credit that was transferred;
- i. The transferor's remaining credit balance after the transfer;
- j. The consideration paid by the transferee; and
- k. Any other information requested by the Department.

S.C. Code Ann. § 12-67-140(B)(5)(b).

Certain events do not constitute a credit transfer, such as the allocation of the credit by a partnership to its partners or the proposed pledge or collateral assignment of any future credit to be earned to a lender as collateral for the project loan. If the lender subsequently takes possession of the property after the credit is earned, this constitutes a transfer, and the transferor is required to notify the Department.

A transferee should use Form SC SCH. TC-55, "Abandoned Buildings Revitalization Credit," to claim the credit.

Property Tax Credit

A taxpayer who incurs expenses for rehabilitating a building site and is seeking a property tax credit should file a Notice of Intent with the municipality or county where the building site is located before incurring any rehabilitation expenses at the building site. S.C. Code Ann. § 12-67-140(C)(1). Rehabilitation expenses incurred before the Notice of Intent is provided are not included in the calculation of the credit.

The Notice of Intent filed by a taxpayer seeking the property tax credit may be amended prior to final approval by ordinance of the local governing body provided the rules of the governing body allow amendment.

Once the taxpayer provides the Notice of Intent to the county or municipality, the municipality or the county must determine, by resolution, the eligibility of the building site and the proposed rehabilitation expenses for the credit. S.C. Code Ann. § 12-67-140(C)(2). A proposed rehabilitation of a building site must be approved by a majority vote of the members of the governing body as constituted on the date of the vote, whether a member is present or not at the meeting. If the governing body of the county or municipality determines the site and proposed rehabilitation expenses are eligible for the credit, the governing body must conduct a public hearing and approve the building site for the credit

by ordinance. Before approving a building site for the credit, the municipality or county must make a finding that the credit does not violate a covenant, representation, or warranty in any of its tax increment financing transactions or an outstanding general obligation bond issued by the county or municipality. The ordinance must provide for the property tax credit to be taken against up to 75% of the real property taxes due on the building site each year for up to 8 years. Unlike the income tax credit, there is no limitation on the property tax credit earned in a tax year for each building site.

Not fewer than 45 days before the public hearing, the governing body of the municipality or county must give notice to all affected local taxing entities of its intention to grant a credit against real property taxes for the building site and the amount of estimated credit based on the estimated rehabilitation expenses. S.C. Code Ann. § 12-67-140(C)(4). A local taxing entity who does not wish to consent to the tax credit must file an objection on or before the public hearing. If the local taxing entity does not file an objection prior to the public hearing, it is considered to have consented to the tax credit.

If the actual rehabilitation expenses incurred in rehabilitating the building site are between 80% and 125% of the estimated rehabilitation expenses stated in the Notice of Intent, the amount of the credit is equal to 25% of the actual rehabilitation expenses incurred at the building site times the local taxing entity ratio⁵ of each local taxing entity that has consented to the credit. S.C. Code Ann. § 12-67-140(C)(3)(a). If the actual rehabilitation expenses exceed 125% of the estimated expenses set forth in the Notice of Intent, the taxpayer qualifies for the credit based on 125% of the estimated expenses as opposed to the actual expenses it incurred in rehabilitating the building site. If the actual rehabilitation expenses are below 80% of the estimated rehabilitation expenses, the credit is not allowed.

Unless otherwise provided, a property tax credit must be used by the taxpayer who earns it. The provisions of the Act that allow transfer of the credit only apply to the income tax credit. S.C. Code Ann. § 12-67-140. Therefore, the property tax credit may not be transferred.

The property tax credit for each applicable phase or portion of the building site may be claimed beginning with the property tax year in which the applicable phase or portion of the building site is first placed in service. S.C. Code Ann. § 12-67-140(C)(5). As stated in the ordinance passed by the local governing body, the property tax credit may be taken against up to 75% of the real property taxes due on the building site each year for up to 8 years. “Placed in service” means the date upon which the building site is completed and ready for its intended use. If the building site is completed and ready for use in phases or portions, each phase or portion is placed in service when it is completed and ready for its intended use. S.C. Code Ann. § 12-67-120(5).

⁵ The local taxing entity ratio is set when the Notice of Intent is filed and remains set for the entire period the credit may be claimed by the taxpayer. S.C. Code Ann. § 12-67-140(C)(3)(b).

Repeal of the Abandoned Buildings Rehabilitation Credit

The Act is repealed on December 31, 2035. 2025 S.C. Acts 169 § 1. Although no credit can be earned after that date, any carry forward of the income tax credit can continue until the 5-year period is complete, and any carry forward of the property tax credit can continue until the 8-year period is complete. S.C. Code Ann. §§ 12-67-140(B)(3)(a), 12-67-140(C)(3).

QUESTIONS

1. Q. A widget manufacturing site covers four parcels of land. The manufacturing facility, which has been nonoperational for five years, is on one parcel, an employee parking lot is on the second, an employee recreation area is on the third, and the fourth parcel is vacant. Which of these parcels can be included in the building site?
 - A. 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. S.C. Code Ann. § 12-67-120(2). For a purpose to be directly related to the building's income producing use, there must be a causal link between the purpose of the land and the production of income. For example, parking lots for customers directly contribute to the building's ability to produce income. Similarly, parking lots for employees directly contribute to the employees' ability to work. While an employee recreation area might promote employee wellbeing, employee wellbeing does not directly relate to the production of income.

Accordingly, the manufacturing facility qualifies as an abandoned building so the land on which it sits and the employee parking lot are included in the building site. The vacant parcel and the employee recreation area may not be included in the building site as they do not directly promote the production of income.

Rehabilitation expenses pursuant to the Act are “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.” S.C. Code Ann. § 12-67-120(6). Accordingly, only rehabilitation expenses incurred on the building site can be included in the calculation of the credit. If a building is built partially on the building site and partially on land outside of the building site, only expenses incurred building the part of the building located on the building site can be included in the calculation

of the credit subject to the square footage limitation in Section 12-67-120(6). Expenses incurred in building on the vacant lot or the employee recreation area do not qualify as rehabilitation expenses.

2. Q. Ten percent of a building is leased by a dental office, but the rest of the building, despite being available for lease, has been vacant for five years. Is the building abandoned for purposes of the Act?
 - A. Yes. To be an abandoned building, more than 66% of the space in the building or structure must have been closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least five years immediately prior to the date on which a Notice of Intent is filed. S.C. Code Ann. § 12-67-120(1). Although 90% of the building is being offered for lease, it has not had a tenant for five years and is therefore nonoperational for income producing purposes. Accordingly, the building is abandoned for purposes of the Act.
3. Q. A taxpayer purchased a large home with 6 bedrooms to use as a residence for her family. After her children left home, she opened the house to the public and operated it as a bed and breakfast for two years. If the taxpayer abandons the house for five years, can the house qualify as an abandoned building?
 - A. Yes. Although a single-family residence cannot qualify, the house's status as a single-family residence ended when the taxpayer began using the home as a commercial business and no longer qualified for the 4% assessment ratio. S.C. Code Ann. § 12-67-120(1).
4. Q. Is a taxpayer who is renovating a storage building built on the same parcel as a single-family residence eligible for the credit?
 - A. No. A building that was last used as a single-family residence cannot be an abandoned building. S.C. Code Ann. § 12-67-120(1). This prohibition applies to accessory buildings that are built to complement and support the primary purpose of the building or structure as a single-family residence. In addition to storage buildings that support a single-family residence, detached garages, home offices, workshops, sheds, studios, pool houses, guest houses, caretaker houses, greenhouses, boathouses, and gazebos are also accessory buildings that cannot qualify as abandoned buildings.
5. Q. Can a farmhouse on a farm in Colleton County qualify as an abandoned building under the Act?
 - A. The farmhouse cannot qualify as an abandoned building because it is a single-family residence. S.C. Code Ann. § 12-67-120(1). Other buildings used as part of

a commercial farming operation may qualify as abandoned buildings if they were used for a business purpose or to produce income prior to abandonment. However, the renovation of the buildings must also fulfill the purpose of the Act described in Section 12-67-110. S.C. Code Ann. § 12-67-130(B).

For a taxpayer to be eligible for the credit for redeveloping abandoned buildings used for farming operations, the taxpayer must show that the abandoned buildings create safety concerns for the community by escalating delinquency and crime, causing excessive and disproportionate expenditure of public funds, impairing private investment in the communities where the buildings are located, or aggravating other conditions listed in Section 12-67-110. If the taxpayer can show that redevelopment of an abandoned building used for farming operations serves a public purpose by solving these issues for its community, then the taxpayer may be eligible for the credit provided all other requirements are met.

6. Q. Would the answer to the previous question change if the taxpayer obtained a certification from the Colleton County Council pursuant to Section 12-67-160?
 - A. No. The certification, if sufficient, only meets the burden of proof concerning two requirements for the credit: (1) the building or structure meets the definition of abandoned building in Section 12-67-120(1), and (2) the geographic area of the building site is consistent with Section 12-67-120(2). All other requirements, including the project's satisfaction of a purpose of the Act, must be met. S.C. Code Ann. § 12-67-130(B).
7. Q. Can a building, 35% of which was leased for two months out of the five-year period preceding the filing of a Notice of Intent, be an abandoned building?
 - A. No. Section 12-67-120(1) of the Act requires that 66% of the space in the building be closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least five years preceding the filing of a Notice of Intent. The Act does not provide a de minimis exception. Therefore, even if a building falls short of the space requirement by 1%, it cannot be an abandoned building for purposes of the Act.
8. Q. Can a commercial building used for storage or warehouse purposes be an abandoned building?
 - A. Under certain circumstances, a building used for storage or warehouse purposes can be an abandoned building. A building used by its owner for storage or warehouse purposes (e.g., storing old office furniture or boxes of records) is considered abandoned if it was used as part of a business or income producing enterprise that was abandoned at least five years prior to the filing of a Notice of

Intent. However, if the storage or warehouse was an accessory building to a single-family residence, it cannot qualify as an abandoned building.

A building currently used for storing inventory or warehouse purposes by someone other than the owner cannot be an abandoned building unless it is listed on the National Register for Historic Places, in which case it is considered nonoperational for income producing purposes. However, the amount of the credit earned for rehabilitating this kind of building is limited; rehabilitation expenses attributable to the portion of the building used as a storage or warehouse for income producing purposes cannot be included in the calculation of the credit. S.C. Code Ann. §12-67-120(1).

9. Q. Can a multi-family housing complex be an abandoned building pursuant to the Act?

A. Yes. A multifamily housing complex does not violate the prohibition against single-family residences found in Section 12-67-120(1). However, it is considered one economic unit and one abandoned building site.

10. Q. Is a building considered closed continuously to business or otherwise nonoperational for income producing purposes if the operating costs of the building exceeded its revenues?

A. No. The building is being used for a business purpose and is producing income, even if it is not producing a profit. Consequently, it would not be considered an abandoned building for purposes of the Act.

11. Q. Will a taxpayer who is rehabilitating a church building qualify for the credit?

A. For a building to qualify as an abandoned building, its primary purpose must have been to generate income or support business operations. A church's primary purpose is to provide a dedicated space for individuals and communities to engage in spiritual and religious practices and community outreach, not to engage in business or produce income. Therefore, a church cannot be an abandoned building for purposes of the Act.

A building owned by a church and used for a trade or business that it regularly conducted could qualify as an abandoned building, provided the other requirements of Section 12-67-120(1) are met. In other words, if a building is used to produce income through activities unrelated to the Church's primary purpose, it can qualify as an abandoned building. For example, if a church owned a building where it manufactured widgets to be sold in hardware stores, the building could qualify as an abandoned building if it met the other requirements of the Act.

12. Q. Will a taxpayer who is rehabilitating a public school abandoned for five years qualify for the credit?

A. Yes, if the taxpayer acquires the school from a private party and the school charged tuition prior to abandonment, the rehabilitation of the school would qualify for the credit. A school that charged tuition was operated for a business or income producing purpose and therefore qualifies as an abandoned building provided the other requirements of Section 12-67-120(1) are met.

Additionally, if (1) the taxpayer acquired the building from the State or one of its agencies, instrumentalities, or political subdivisions, (2) the size of the building or the aggregate size of the buildings is greater than 50,000 square feet, and (3) provided the other qualifications for abandonment are met, the school may qualify as a state-owned abandoned building. S.C. Code Ann. § 12-67-120(8).

13. Q. If a taxpayer rehabilitates an abandoned building to be used as a homeless shelter, is the project eligible for the credit?

A. No. The credit is only available to taxpayers who rehabilitate abandoned building sites or phases or portions and put them into operation for income producing purposes. S.C. Code Ann. § 12-67-130(B). A homeless shelter does not have an income producing purpose. Therefore, it does not qualify for the credit.

14. Q. A developer purchases an abandoned building, demolishes it, and then sells the vacant land to a business owner who will construct a new building on the land. Is either the developer or the business owner eligible for the credit?

A. Because the developer did not rehabilitate or redevelop the site, and the business owner purchased vacant land and not an abandoned building, neither meets the Act requirements. Accordingly, neither the developer nor the business owner is eligible for the credit.

15. Q. A taxpayer purchases and begins to rehabilitate an abandoned building that meets the statutory requirements for the credit. The site is sold to another investor during the rehabilitation. Can the limited liability company transfer the credit to the investor?

A. No. The taxpayer has not placed the building in service, so the LLC has not earned any part of the credit and has nothing to transfer to the investor. However, if the investor can show the partially rehabilitated building still meets the definition of an abandoned building, it can be eligible for the credit. S.C. Code Ann. § 12-67-120(1).

16. Q. Pursuant to a long-term ground lease, a taxpayer demolishes an abandoned building and then prepares the site with all necessary grading, utility extensions, and infrastructure improvements to accommodate vertical construction. Then the taxpayer leases the site to a big box store, who will hire a developer to build a building to its specifications. Is the taxpayer eligible for the credit?

A. Yes. Under the Act, rehabilitation expenses include demolition and site improvements including site grading, roads, and upgrades to electrical, water, sewer, and storm drainage systems. For expenses associated with a building site to be included in the calculation of the tax credit, the abandoned buildings on the building site must be either renovated or redeveloped. S.C. Code § 12-67-120(6). For purposes of the Act, renovation includes infrastructure improvements such as site grading, roads, and upgrades to electrical, water, sewer, and storm drainage systems. The taxpayer's activities qualify as renovation and satisfy the requirement that abandoned buildings on a building site must be either renovated or redeveloped.

Additionally, once the taxpayer completes its renovation, it will lease the site to the big box store as part of its usual course of business and according to common practice in the industry. Therefore, the site is considered "inventory" on the books of the taxpayer. Because the renovation is complete and the site is ready to be turned over to the big box store, the taxpayer is deemed to have placed the building site in service and is eligible for the credit. S.C. Code Ann. § 12-67-140(B)(5)(a). The taxpayer can claim the credit or, if it has elected to claim the income tax credit, it can transfer any remaining credit associated with the rehabilitation expenses incurred with respect to the site to the big box store. S.C. Code Ann. § 12-67-140(B)(5)(a). However, expenses incurred by the big box store will not qualify for the credit.

17. Q. A taxpayer purchases a three-story abandoned building that previously housed one retail business. The taxpayer intends to rehabilitate and lease Floors 1 and 2 as separate retail stores, each with its own entrance and utilities. Floor 3 will be rehabilitated into four residential condominiums. What are the taxpayer's options for dividing the building and claiming the credit?

A. Floors 1, 2, and 3 could be rehabilitated together or subdivided into three separate units. Additionally, two of the floors could be subdivided from the other floor, so the building could be rehabilitated as two units. No matter how the building is subdivided, the spending requirements of Section 12-67-130 must be met for each unit or parcel.

18. Q. A taxpayer purchases an abandoned building that was and will continue to be a retail showroom and a warehouse. The taxpayer rehabilitates a portion of the site based on his current retail and warehouse needs. The taxpayer reports in the Notice of Intent that the redevelopment is for one building site. If two years after the first rehabilitation, the taxpayer rehabilitates the remainder of the building, will the taxpayer earn a credit for the second rehabilitation?
- A. Because the taxpayer filed one Notice of Intent, the subsequent rehabilitation will not qualify for the credit. After the first rehabilitation, the building can no longer be considered abandoned. If the taxpayer subdivided the abandoned building into units that each meet the statutory requirements (and filed separate Notices of Intent for each unit) or performed the rehabilitation in phases (and properly indicated the phase on the Notice of Intent), the taxpayer could be eligible for the credit.

The calculations below show the effects of subdividing an abandoned building on the amount of the income tax credit:

Scenario 1: Assume the taxpayer decides to rehabilitate one building. The taxpayer sends one Notice of Intent to the Department, reporting estimated expenses of \$4,000,000. Based on the estimated and actual expenses, the income tax credit earned is capped at \$700,000 as calculated below.

Estimated Expenses	80% of Estimated Expenses	125% of Estimated Expenses	Actual Expenses	Income Tax Credit
\$4,000,000 (one building site)	\$3,200,000	\$5,000,000	\$3,900,000	\$700,000 (credit limit)

Scenario 2: Assume instead the taxpayer decides to rehabilitate the building as two units. To claim the income tax credit for both units, the taxpayer would submit two separate Notices of Intent to the Department, reporting a total of \$4,000,000 of estimated expenses. The credit earned per unit is \$487,500 as calculated below. The taxpayer earns a total credit of \$975,000.

Estimated Expenses	80%	125%	Actual Expenses	Income Tax Credits
Unit 1 – \$2,000,000	\$1.6 million	\$2.5 million	\$1,950,000	\$487,500 (25% of actual)
Unit 2 – \$2,000,000	\$1.6 million	\$2.5 million	\$1,950,000	\$487,500 (25% of actual)

Scenario 3: Assume instead the taxpayer decides to rehabilitate the building as four sites. The taxpayer would submit four separate Notices of Intent to the Department, reporting a total of \$4,000,000 of estimated expenses. Because the taxpayer does not have equal actual expenses for all four units, the credit earned per unit ranges from \$200,000 to \$312,500. The taxpayer earns total credits of \$962,500.

Estimated Expenses	80%	125%	Actual Expenses	Income Tax Credits
Unit 1 – \$1,000,000	\$800,000	\$1,250,000	\$1,300,000	\$312,500 (25% of 125% amount)
Unit 2 – \$1,000,000	\$800,000	\$1,250,000	\$1,000,000	\$250,000 (25% of actual)
Unit 3 – \$1,000,000	\$800,000	\$1,250,000	\$800,000	\$200,000 (25% of actual)
Unit 4 – \$1,000,000	\$800,000	\$1,250,000	\$800,000	\$200,000 (25% of actual)

The taxpayer can maximize the amount of the credit earned by dividing the building into two sites as long as each site satisfies the requirements for the credit. S.C. Code Ann. § 12-67-120(1). If the taxpayer chooses to divide the building into four sites, it can only maximize the credit amount if its actual expenses for each unit are between 80% and 125% of estimated expenses.

19. Q. What effect does the population of the unincorporated area of the county or municipality where the building site is located have on the estimated rehabilitation expenses reported on the Notice of Rehabilitation?

A. To be eligible for the credit, a taxpayer must incur a minimum amount of actual rehabilitation expenses based on the population of the unincorporated area of the county or the municipality where the building site is located: more than \$75,000 for a population of less than one thousand people, more than \$150,000 for a population between 1,000 and 25,000 people, and more than \$250,000 for a population of more than 25,000 people. S.C. Code Ann. § 12-67-130(A).

Additionally, a taxpayer must incur actual rehabilitation expenses that equal at least 80% of the estimated expenses to be eligible for the credit. S.C. Code Ann. §§ 12-67-140(B)(2) and (C)(3)(a). Therefore, the taxpayer must estimate expenses that are more than 80% of the minimum required amount that corresponds to the population of the location of the building site. For example, if a taxpayer is rehabilitating a

building site in a city with a population of more than 25,000, he must spend more than \$250,000. Therefore, he must estimate expenses of at least \$312,502 and must spend \$250,001 to be eligible for the credit.

20. Q. Partnership AB places a building in service during tax year 2035 and earns the maximum credit amount of \$700,000. Partner A is a corporation, and Partner B is an individual. Two days after the building is placed in service, Partner B sells his partnership interest to Partner C. How can the partners allocate the credit?

A. The Act allows a partnership (or any entity taxed as a partnership for federal income tax purposes) to allocate the credit among its partners (or members) in any manner, even if the allocation is contrary to federal tax law. This allocation may be different every year. S.C. Code Ann. § 12-67-140(B)(6).

Because of this provision, Partnership AB may allocate the amount of credit for tax year 2035, which is one-third of \$700,000 or \$233,333, to the partner that has the highest state tax burden. Assume Corporation A has \$125,000 income tax liability and a \$30,000 corporate license fee liability, Partner B has no income tax liability, and Partner C has income tax liability of \$75,000. Partnership AB may pass \$155,000 of the credit to Corporation A to offset its entire tax liability. Partnership AB could then pass through the remaining credit installment to either Partner B or C, even though Partner C was not a partner at the time the building site was placed in service. Because Partner B has no tax liability and cannot use the credit, Partnership AB will pass \$75,000 through to Partner C. The unused credit of \$3,333 can be carried forward to tax year 2036 when it can be allocated to any taxpayer who is a partner at any time during tax year 2036. If the credit carried forward is not used during tax year 2036, it may be carried forward to tax years 2037 through 2040, for a total carry forward period of five years, even though the Act is repealed in 2035. The repeal of the Act means the credit can no longer be earned but does not affect the carry forward period of the credit.

21. Q. If Partnership AB from the previous question sells one half of the building site in tax year 2036, the year after the building site is placed in service, how much of the credit can be transferred to the purchaser, Taxpayer D?

A. The Act allows Partnership AB to transfer all or part of the remaining credit, associated with the rehabilitation expenses incurred with respect to that phase or portion of the site, to the purchaser of the applicable portion of the building site. S.C. Code Ann. § 12-67-140(B)(5)(a). After Partnership AB claims one-third of the credit in tax year 2035, two-thirds, or \$466,667, of the credit remain for the entire building site. Partnership AB is selling one half of the building, so assume Partnership AB transfers one-half of the remaining credit, or \$233,333, to Taxpayer D. Taxpayer D steps into the shoes of Partnership AB with respect to the transferred

credit and can only claim the credit to which Partnership AB was entitled in each remaining year of the credit period. Therefore, for tax years 2036 and 2037, Partnership AB and Taxpayer D, as co-owners, can each claim a credit of \$116,666. S.C. Code Ann. § 12-67-140(B)(3)(A).

22. Q. If Taxpayer D from the previous question leases one half of its one-half of the building site to Taxpayer E in year 2037, may Taxpayer D transfer any amount of the credit to Taxpayer E?

A. Yes. Taxpayer D may transfer any applicable remaining credit associated with the rehabilitation expenses incurred with respect to that part of the building site to the lessee of the building site. S.C. Code Ann. § 12-67-140(B)(5)(a). Unused credit carry forwards may not be transferred.

23. Q. A calendar year taxpayer is rehabilitating a two-story abandoned building which will be placed in service in phases: Phase 1 includes the exterior and the first floor, which will be a retail space. Phase 2 includes the second floor, which will be office space. Phase 3 includes site improvements on the building site, including parking.

On his Notice of Intent, the taxpayer estimates his rehabilitation expenses will be \$2 million.

Phase 1 is placed in service in 2025 after the taxpayer incurs \$1.5 million in actual rehabilitation expenses. How is his income tax credit for tax year 2025 calculated?

A. Taxpayer's rehabilitation expenses were 75% of the estimated expenses he provided on his Notice of Intent. To earn the credit, the actual rehabilitation expenses must be at least 80% of the estimated rehabilitation expenses. S.C. Code Ann. § 12-67-140(B)(2). Because taxpayer's actual expenses are less than 80% of his estimated expenses, no credit is allowed for calendar year 2025.

24. Q. Assume the same facts as the previous question. The taxpayer does not place Phase 2 in service in 2026 but pays \$200,000 of rehabilitation expenses. How is the income tax credit for tax year 2026 calculated?

A. The taxpayer did not earn any credit in 2026 because he did not place Phase 2 in service. Therefore, his credit for tax year 2026 is \$0 despite the additional rehabilitation expenses.

25. Q. Assume the same facts as the previous question. The taxpayer places Phases 2 and 3 in service in 2027 after spending an additional \$400,000 in rehabilitation expenses for Phase 2 and \$300,000 for Phase 3. How is his credit for tax year 2027 calculated?

- A. Even though the project is completed in phases, it consists of one building site, so the phases are evaluated cumulatively. For tax year 2027, total actual expenses equal \$2.4 million. The taxpayer's actual expenses are more than 80% of his estimated expenses (\$1.6 million) but less than 125% of his estimated expenses (\$2.5 million), so the taxpayer's credit amount is equal to 25% of his actual expenses, or \$600,000. This amount does not exceed the credit cap of \$700,000 set forth in Section 12-67-140(B)(3)(b). Because the credit must be taken in equal installments over three years beginning with the tax year in which the applicable phase is placed in service, the credit the taxpayer can claim in 2027 is \$200,000.
26. Q. Developer LLC and Investors LLC form Development LLC. Each LLC is taxed as a partnership and has a calendar tax year. Developer LLC selects abandoned building sites for rehabilitation. Investors LLC contributes \$800,000 to Development LLC in exchange for 100% of the tax credits generated. Investors LLC is a member of Development LLC at the time each building site is placed in service. The members of Investors LLC may change each year. Development LLC uses the \$800,000 capital and a \$200,000 bank loan to purchase an abandoned building site that will be subdivided into two units.

Development LLC files a Notice of Intent for Unit A and a Notice of Intent for Unit B.

Unit	Estimated Costs	Actual Costs	Placed in Service
A	\$1,600,000	\$2 million – Year 1	Year 1
B	\$1,600,000	\$1 million – Year 1 \$1.1 million – Year 2	Year 2

How much credit is earned when each unit is placed in service?

- A. Unit A. In Year 1, Development LLC earns a \$500,000 credit when Unit A is placed in service. It passes 100% of the first-year tax credit installment through to Investors LLC (who passes the credit installment through to each of its members who have an interest as of December 31, Year 1). In Years 2 -3, equal installments will be passed through to Investors LLC members with ownership interests for that respective year.

Unit B. In March, Year 2, Development LLC earns a \$500,000 credit when Unit B is placed in service and passes 100% of the credit through to Investors LLC (who passes the credit installment through to each of its members who have an interest as of December 31, Year 2). In Years 3 and 4, equal installments will be passed through to Investors LLC members with ownership interests for that respective year.

27. Q. If the owner of an abandoned building obtains a certification of the site pursuant to Section 12-67-160 but sells the abandoned building prior to rehabilitation, can the purchaser claim the credit using the certification obtained by the previous owner?
- A. No. The Act does not provide for transfer of the certification. Any purchaser must obtain a new certification. The certification is specific to the taxpayer who applies for it.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell
W. Hartley Powell, Director

January 6, 2026
Columbia, South Carolina