

## Historic Preservation Tax Incentives

The Federal Historic Preservation Tax Incentives program is described here in general terms only. For more detailed information, including copies of application forms, regulations, and other program information, contact the State Historic Preservation Office for the state in which the project is located. Every effort has been made to present current information. However, the Internal Revenue Code is complex and changes frequently. Furthermore, the provisions of the tax code regarding at-risk rules, passive activity limitation, and alternative minimum tax can affect a taxpayer's ability to use these tax credits. Applicants are strongly advised to consult an accountant, tax attorney, or other professional tax advisor, legal counsel, or the Internal Revenue Service for help in determining whether these incentives pertain to their own situations.

Department of the Interior regulations governing the procedures for obtaining historic preservation certifications are more fully explained in Title 36 of the Code of Federal Regulations, Part 67. The Internal Revenue Service regulations governing the tax credits for rehabilitation are contained in Treasury Regulation Section 1.48-12.

### Preservation Tax Incentives

Historic buildings are tangible links with the past. They help give a community a sense of identity, stability and orientation. The Federal government encourages the preservation of historic buildings through various means. One of these is the program of Federal tax incentives to support the rehabilitation of historic and older buildings. The Federal Historic Preservation Tax Incentives program is one of the Federal government's most successful and cost-effective community revitalization programs. The Preservation Tax Incentives reward private investment in rehabilitating historic properties such as offices, rental housing, and retail stores.

Since 1976, the National Park Service has administered the program in partnership with the Internal Revenue Service and with State Historic Preservation Officers. The tax incentives have spurred the rehabilitation of historic structures of every period, size, style and type. They have been instrumental in preserving the historic places that give cities, towns and rural areas their special character. The tax incentives for preservation attract new private investment to the historic cores of cities and towns. They also generate jobs, enhance property values, and augment revenues for State and local governments through increased property, business and income taxes. The Preservation Tax Incentives also help create moderate and low-income housing in historic buildings. **Through this program, abandoned or under used schools, warehouses, factories, churches, retail stores, apartments, hotels, houses, and offices throughout the country have been restored to life in a manner that maintains their historic character.** Current tax incentives for preservation, established by the Tax Reform Act of 1986 (PL 99-514; Internal Revenue Code Section 47 [formerly Section 48(g)]) include a 20% tax credit for the *certified rehabilitation* of *certified historic structures*. To be eligible for the credit, the rehabilitation must be a *substantial* one and must involve a *depreciable* building. (These terms will be explained later.)

## **What Is a Tax Credit?**

A tax credit differs from an income tax deduction. An income tax deduction lowers the amount of income subject to taxation. A tax credit, however, lowers the amount of tax owed. In general, a dollar of tax credit reduces the amount of income tax owed by one dollar. The 20% rehabilitation tax credit equals 20% of the amount spent in a *certified rehabilitation of a certified historic structure*.

## **20% Rehabilitation Tax Credit**

The Federal historic preservation tax incentives program (the 20% credit) is jointly administered by the U.S. Department of the Interior and the Department of the Treasury. The National Park Service (NPS) acts on behalf of the Secretary of the Interior, in partnership with the State Historic Preservation Officer (SHPO) in each State. The Internal Revenue Service (IRS) acts on behalf of the Secretary of the Treasury. Certification requests (requests for approval for a taxpayer to receive these benefits) are made to the National Park Service through the appropriate State Historic Preservation Officer (SHPO). Comments by the SHPO on certification requests are fully considered by the NPS. However, approval of projects undertaken for the 20% tax credit is conveyed *only in writing* by duly authorized officials of the National Park Service.

The 20% rehabilitation tax credit applies to any project that the Secretary of the Interior designates a *certified rehabilitation of a certified historic structure*. The 20% credit is available for properties rehabilitated for commercial, industrial, agricultural, or rental residential purposes, but it is not available for properties used exclusively as the owner's private residence.

## **IRS Requirements for the 20% rehabilitation tax credit**

To be eligible for the 20% rehabilitation tax credit, a project must also meet the following basic tax requirements of the Internal Revenue Code:

The building must be *depreciable*. That is, it must be used in a trade or business or held for the production of income. It may be used for offices, for commercial, industrial or agricultural enterprises, or for rental housing. It may not serve exclusively as the owner's private residence.

The rehabilitation must be *substantial*. That is, during a 24-month period selected by the taxpayer, rehabilitation expenditures must exceed the greater of \$5,000 or the adjusted basis of the building and its structural components. The adjusted basis is generally the purchase price, minus the cost of land, plus improvements already made, minus depreciation already taken. Once the substantial rehabilitation test is met, all qualified expenditures, including those incurred outside of the measuring period, qualify for the credit.

The property must be placed in service (that is, returned to use). The rehabilitation tax credit is generally allowed in the taxable year the rehabilitated property is placed in service.

The building must be a *certified historic structure* when placed in service; if it is not yet a *certified historic structure* when placed in service, the owner must have requested on or before the date that the building was placed in service a determination from the NPS that the building is a *certified historic structure*, and have a reasonable expectation that the determination will be granted.

Qualified rehabilitation expenditures include costs of the work on the historic building, as well as architectural and engineering fees, site survey fees, legal expenses, development fees, and other construction-related costs, if such costs are added to the property's basis and are determined to be reasonable and related to the services performed. They do not include costs of acquiring or furnishing the building, new additions that expand the existing building, new building construction, or parking lots, sidewalks, landscaping, or other related facilities.

### **Other Tax Incentives for Historic Preservation**

Other Federal and State tax incentives exist for historic preservation. They may be combined with the rehabilitation tax credit.

### **Charitable Contributions for Historic Preservation Purposes**

Internal Revenue Code Section 170(h) and Department of the Treasury Regulation Section 1.170A-14 provide for income and estate tax deductions for charitable contributions of partial interests in historic property (principally easements). Generally, the IRS considers that a donation of a qualified real property interest to preserve a *historically important land area or a certified historic structure* meets the test of a charitable contribution for conservation purposes. For purposes of the charitable contribution provisions only, a *certified historic structure* need not be depreciable to qualify and may include the land area on which it is located. As a result of the Pension Protection Act of 2006, a facade easement must preserve the entire exterior of the building. The Act requires a written agreement with the donee organization, additional substantiation requirements, and a \$500 filing fee for all donations valued over \$10,000. For additional information, see IRS Publication 526.

### **Investment Tax Credit for Low Income Housings**

The Tax Reform Act of 1986 (IRC Section 42) also established a tax credit for the acquisition and rehabilitation, or new construction of low-income housing. The credit is approximately 9% per year for 10 years for projects not receiving certain Federal subsidies and approximately 4% for 10 years for projects subsidized by tax-exempt bonds or below market Federal loans. The units must be rent restricted and occupied

by individuals with incomes below the area median gross income. The law sets a 15-year compliance period. Credits are allocated by State housing credit agencies.

## **St. Petersburg Historic Preservation Incentives**

### **Transfer of Development Rigts (TDR)**

The TDR for locally desiganted historic structures is an economic development incentive to program allows historic property owners to benefit from the development potential by allowing th preserve historically significant buildings within our community. The City recognizes that locally significant landmarks exist on sites which have potential for larger development to occur. The TDR e sale of development rights with the condition that the building or site be restored and retained.

For a landmark, the amount of transferable development rights will be calculated by taking the landmark structure's gross floor area and multiplying that square footage by ten. The TDR may be transferred to any property located within the DC and CCS zoning districts. The City does not set the value of the TDR, rather, that is determined by the private market.

### **Ad valorem tax exemption for historic properties.**

A qualifying property that has completed a qualifying improvement may be granted an exemption from that portion of the ad valorem taxation levied by the City on 100 percent of the assessed value of the qualifying improvement. This exemption shall not be allowed for that portion of the assessed value of a qualifying improvement which exceeds \$100,000 for single family residential properties and \$1,000,000 for other properties unless City Council, after hearing the evidence and testimony of the applicant and the POD, finds:

1. That the qualifying property is of great significance based on the criteria met for historic designation and the historic significance, value, character and contribution of the property and the qualifying improvement to the City and that the assessed value of the qualifying improvement is equal to or exceeds 25 percent of the total assessed value of the property as improved; or
2. That the additional exemption is necessary to save the property from destruction and to ensure the rehabilitation, renovation or restoration of the property; or
3. That the additional exemption is necessary to meet City, state or federal building code requirements to ensure the rehabilitation, renovation or restoration of the property.

This exemption shall not apply to taxes levied for the payment of bonds or to taxes authorized by

a vote of electors pursuant to s. 9(b) or s. 12, Article VII of the State Constitution.

Any exemption granted shall remain in effect for up to 10 years, with the effective date being January 1 of the year following substantial completion of the qualifying improvement. The exemption shall continue in force if the authority of the City to grant exemptions changes or if ownership of the property changes (including any change from a tax exempt entity to a tax paying entity except as set forth in the following subsection).

If a qualifying improvement is for a qualifying property that is used for non-profit or governmental purposes and is regularly and frequently open for the public's visitation, use and benefit, the City may exempt 100 percent of the assessed value of the property as improved from ad valorem taxes levied by the City provided that the assessed value of the qualifying improvement must be equal to at least 50 percent of the total assessed value of the property as improved. This subsection applies only if the qualifying improvements are made by or for the use of the existing property owner. A qualifying property is considered used for non-profit or governmental purposes if the occupant or user of at least 65 percent of the useable space of the building is an agency of the federal, state or local or local government or a non-profit corporation.