

CHAPTER 99

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS — REHABILITATION OF PROPERTY

S.F. 521

AN ACT relating to the administration of the property rehabilitation tax credit program by the department of cultural affairs and including retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 404A.1, Code 2011, is amended to read as follows:

404A.1 Historic preservation and cultural and entertainment district tax credit —~~eligible~~ property definitions.

1. a. A historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, is granted against the tax imposed under chapter 422, division II, III, or V, or chapter 432, for the substantial rehabilitation of eligible property located in this state as provided in this chapter.

b. Tax credits in excess of tax liabilities shall be refunded or credited as provided in section 404A.4, subsection 3.

2. For purposes of this chapter, unless the context otherwise requires:

2. a. ~~Eligible property~~ “Eligible property” means property for which a taxpayer may receive the historic preservation and cultural and entertainment district tax credit computed under this chapter and includes all of the following:

a. (1) Property listed on the national register of historic places or eligible for such listing.

b. (2) Property designated as of historic significance to a district listed in the national register of historic places or eligible for such designation.

c. (3) Property or district designated a local landmark by a city or county ordinance.

d. (4) A barn constructed prior to 1937.

b. “Placed in service” means the same as used in section 47 of the Internal Revenue Code.

c. “Qualified rehabilitation costs” means expenditures made for the rehabilitation of eligible property and includes qualified rehabilitation expenditures as defined in section 47 of the Internal Revenue Code.

(1) Qualified rehabilitation costs include amounts if they are properly includable in computing the basis for tax purposes of the eligible property.

(2) Amounts treated as an expense and deducted in the tax year in which they are paid or incurred and amounts that are otherwise not added to the basis for tax purposes of the eligible property are not qualified rehabilitation costs.

(3) Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis for tax purposes of the eligible property.

(4) Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs.

d. “Rehabilitation period” means the period of time during which an eligible property is rehabilitated commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. A project’s rehabilitation period may include dates that precede approval of a project under section 404A.3, but any costs incurred prior to such approval must be qualified rehabilitation expenditures as defined in section 47(c)(2) of the Internal Revenue Code in order to be qualified rehabilitation costs under this chapter.¹

e. “Substantial rehabilitation” means qualified rehabilitation costs that meet or exceed the following:

(1) In the case of commercial property, costs totaling at least fifty percent of the assessed value of the property, excluding the land, prior to the rehabilitation.

¹ See chapter 130, §30, 35 herein

(2) In the case of residential property or barns, costs totaling at least twenty-five thousand dollars or twenty-five percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

Sec. 2. Section 404A.2, Code 2011, is amended to read as follows:

404A.2 Amount of credit.

1. The amount of the credit equals twenty-five percent of the qualified rehabilitation costs ~~made to~~ incurred for the substantial rehabilitation of eligible property.

~~a. In the case of commercial property, rehabilitation costs must equal at least fifty percent of the assessed value of the property, excluding the land, prior to the rehabilitation.~~

~~b. In the case of residential property or barns, the rehabilitation costs must equal at least twenty-five thousand dollars or twenty-five percent of the assessed value, excluding the land, prior to the rehabilitation, whichever is less.~~

~~c. In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs used shall not exceed one hundred thousand dollars per residential unit.~~

~~d. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project as provided in section 404A.3 must be qualified rehabilitation expenditures under the federal rehabilitation credit in section 47 of the Internal Revenue Code.~~

2. For purposes of this chapter, qualified rehabilitation costs include amounts if they are properly includable in computing the basis for tax purposes of the eligible property.

~~a. Amounts treated as an expense and deducted in the tax year in which they are paid or incurred and amounts that are otherwise not added to the basis for tax purposes of the eligible property are not qualified rehabilitation costs.~~

~~b. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis for tax purposes of the eligible property.~~

~~c. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs.~~

3. 2. For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the rehabilitated property that would otherwise result from the qualified rehabilitation costs shall be reduced by the amount of the credit computed under this chapter.

Sec. 3. Section 404A.3, subsection 3, paragraph b, Code 2011, is amended to read as follows:

~~b. The eligible property shall be placed in service within thirty-six sixty months of the date on which the project application was approved under this section. For purposes of this section, "placed in service" has the same meaning as used for purposes of section 47 of the Internal Revenue Code. The department may provide by rule for the allowance of additional time to complete a project.~~

Sec. 4. Section 404A.4, subsection 1, Code 2011, is amended to read as follows:

1. Upon completion of the rehabilitation project, a certification of completion must be obtained from the state historic preservation office of the department of cultural affairs. A completion certificate shall identify the person claiming the tax credit under this chapter and the qualified rehabilitation costs incurred ~~up to the two years preceding the completion date~~ during the rehabilitation period.

Sec. 5. Section 404A.4, subsection 2, paragraph d, Code 2011, is amended to read as follows:

d. For the fiscal year beginning July 1, 2012, and for each fiscal year thereafter, the ~~department~~ office shall reserve not more than forty-five million dollars worth of tax credits for any one taxable year.

Sec. 6. RETROACTIVE APPLICABILITY. This Act applies retroactively to July 1, 2009, for projects approved and tax credits reserved on or after that date.

Approved April 28, 2011