

PROPERTY REHABILITATION TAX CREDIT

Footnotes

Chapter applies to qualified rehabilitation costs incurred on or after July 1, 2000; 2000 Acts, ch 1194, §20

404A.1 Property rehabilitation tax credit eligible property.

1. A property rehabilitation 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 rehabilitation of eligible property located in this state as provided in this chapter. Tax credits in excess of tax liabilities shall be refunded as provided in section 404A.4, subsection 3.

2. Eligible property for which a taxpayer may receive the property rehabilitation tax credit computed under this chapter includes all of the following:

- a. Property listed on the national register of historic places or eligible for such listing.
- b. Property designated as of historic significance to a district listed in the national register of historic places or eligible for such designation.
- c. Property or district designated a local landmark by a city or county ordinance.
- d. A barn constructed prior to 1937.

2000 Acts, ch 1194, §3, 20; 2002 Acts, ch 1003, §1, 5

2002 amendment to subsection 1 takes effect February 21, 2002, and applies retroactively to tax years beginning on or after January 1, 2001; 2002 Acts, ch 1003, § 5

404A.2 Amount of credit.

The amount of the credit equals twenty-five percent of the qualified rehabilitation costs made to eligible property. 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. 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 fair market value, excluding the land, prior to the rehabilitation, whichever is less. 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. In computing the tax credit, the only costs which may be included are the 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.

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

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.

2000 Acts, ch 1194, §4, 20; 2002 Acts, ch 1003, §2, 5; 2004 Acts, ch 1175, §250, 287

2002 amendment to unnumbered paragraph 3 takes effect February 21, 2002, and applies retroactively to tax years beginning on or after January 1, 2001; 2002 Acts, ch 1003, § 5

2004 amendment to this section takes effect May 17, 2004, and applies retroactively to July 1, 2002; 2004 Acts, ch 1175, §287

404A.3 Approval of rehabilitation project.

1. *a.* In order for costs of a rehabilitation project to qualify for a tax credit, the rehabilitation project must receive approval from the state historic preservation office of the department of cultural affairs.
 - b.* Applications for approvals from the state historic preservation office of the department of cultural affairs shall be on forms approved by the state historic preservation office and shall contain information as required by the state historic preservation office. The information shall at least include the approximate date of the start of rehabilitation, the approximate date of completion, as well as the cost.
 - c.* The approval process shall not exceed ninety days beginning from the date the rehabilitation project is submitted. After the ninety-day limit, the rehabilitation project is deemed to be approved.
2. The state historic preservation office shall establish selection criteria and standards for rehabilitation projects involving eligible property. The main emphasis of the standards shall be to ensure that a rehabilitation project maintains the integrity of the eligible property. To the extent applicable, the standards shall be consistent with the standards of the United States secretary of the interior for rehabilitation of eligible property that is listed on the national register of historic places or is designated as of historic significance to a district listed in the national register of historic places or shall be consistent with standards for issuance of certificates of appropriateness under sections 303.27 through 303.32.

The selection standards shall provide that a person who qualifies for the rehabilitation tax credit under section 47 of the Internal Revenue Code shall automatically qualify for the state property rehabilitation tax credit under this chapter.

2000 Acts, ch 1194, §5, 20; 2002 Acts, ch 1119, §162

404A.4 Project completion and tax credit certification credit refund.

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 rehabilitation costs incurred up to the two years preceding the completion date.
2. After verifying the eligibility for the tax credit, the state historic preservation office, in consultation with the department of economic development, shall issue a property rehabilitation tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax

identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

3. A person receiving a property rehabilitation tax credit under this chapter which is in excess of the person's tax liability for the tax year is entitled to a refund of the excess at a discounted value. The discounted value of the tax credit refund, as calculated by the department of economic development, in consultation with the department of revenue, shall be determined based on the discounted value of the tax credit five years after the tax year of the project completion at an interest rate equivalent to the prime rate plus two percent. The refunded tax credit shall not exceed seventy-five percent of the allowable tax credit.

4. The total amount of tax credits that may be approved for a fiscal year under this chapter shall not exceed two million four hundred thousand dollars. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional five hundred thousand dollars of tax credits may be approved each fiscal year for purposes of projects located in cultural and entertainment districts certified pursuant to section 303.3B.* Any of the additional tax credits allocated for projects located in certified cultural and entertainment districts that are not approved during a fiscal year may be carried over to the succeeding fiscal year. The department of cultural affairs shall establish by rule the procedures for the application, review, selection, and awarding of certifications of completion. The departments of economic development, cultural affairs, and revenue shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are available.

5. Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the state historic preservation office along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the office shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under subsection 2 and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the office shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

2000 Acts, ch 1194, §6, 20; 2003 Acts, ch 133, §24; 2003 Acts, ch 145, § 286; 2003 Acts, 1st Ex, ch 2, §90, 209; 2004 Acts, ch 1001, §1; 2004 Acts, ch 1175, §395

2003 amendments to subsection 2 and adding subsection 5 take effect May 16, 2003, and apply retroactively for tax years beginning on or after January 1, 2003; 2003 Acts, ch 133, §4

For future repeal of 2003 amendment to subsection 4 effective June 30, 2010, see 2003 Acts, 1st Ex, ch 2, § 93

*Provisions of 2003 Acts, 1st Ex, ch 1, including §303.3B, stricken pursuant to *Rants v. Vilsack*, 684 N.W.2d 193

404A.5 Economic impact recommendations.

The department of cultural affairs, in consultation with the department of economic development, shall be responsible for keeping the general assembly and the legislative services agency informed on the overall economic impact to the state of the rehabilitation of eligible properties. An annual report shall be filed which shall include, but is not limited to, data on the number and potential value of rehabilitation projects begun during the latest twelve-month period, the total property rehabilitation tax credits originally granted during that period, the potential reduction in state tax revenues as a result of all tax credits still unused and eligible for refund, and the potential increase in local property tax revenues as a result of the rehabilitated projects. The department, to the extent it is able, shall provide recommendations on whether a limit on tax credits should be established, the need for a broader or more restrictive definition of eligible property, and other adjustments to the tax credits under this chapter.

2000 Acts, ch 1194, §7, 20; 2003 Acts, ch 35, § 45, 49