

CHAPTER 404A

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT
DISTRICT TAX CREDIT

Referred to in §2.48, 422.11D, 422.33, 422.60, 432.12A

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404A.1 Historic preservation and cultural and entertainment district tax credit — 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:

a. “*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:

- (1) Property listed on the national register of historic places or eligible for such listing.
- (2) Property designated as of historic significance to a district listed in the national register of historic places or eligible for such designation.
- (3) Property or district designated a local landmark by a city or county ordinance.
- (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 costs.

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 thousand dollars or fifty percent of the assessed value of the property, excluding the land, prior to the rehabilitation, whichever is less.

(2) In the case of property other than commercial property, 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.

2000 Acts, ch 1194, §3, 20; 2002 Acts, ch 1003, §1, 5; 2005 Acts, ch 150, §20, 21; 2007 Acts, ch 165, §1, 9; 2011 Acts, ch 99, §1, 6; 2011 Acts, ch 130, §30, 35; 2013 Acts, ch 112, §1

Referred to in §16.188, 404A.4, 422.11D, 422.33, 422.60, 432.12A

[SP] 2011 amendments to this section apply retroactively to July 1, 2009, for projects approved and tax credits reserved on or after that date; 2011 Acts, ch 99, §6; 2011 Acts, ch 130, §35

[T] Subsection 2, paragraph e amended

404A.2 Amount of credit.

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

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.

2000 Acts, ch 1194, §4, 20; 2002 Acts, ch 1003, §2, 5; 2004 Acts, ch 1175, §250, 287; 2009 Acts, ch 98, §1; 2011 Acts, ch 99, §2, 6

[SP] 2011 amendment applies retroactively to July 1, 2009, for projects approved and tax credits reserved on or after that date; 2011 Acts, ch 99, §6

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 on which a completed application is received by the state historic preservation office. After the ninety-day limit, the rehabilitation project is deemed to be approved unless the state historic preservation office has denied the application or contacted the applicant for further information regarding the application.

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.

3. *a.* A rehabilitation project for which the state historic preservation office has reserved tax credits pursuant to section 404A.4 shall begin rehabilitation of the property before the end of the fiscal year in which the project application was approved and for which the tax credits were reserved.

b. The eligible property shall be placed in service within either sixty months of the date on which the project application was approved under this section, or seventy-two months of the date on which the project application was approved under this section if more than fifty percent of the qualified rehabilitation costs are incurred within sixty months of the date on which the project application was approved under this section.

c. A rehabilitation project for which a project application was approved and tax credits reserved prior to July 1, 2009, shall complete the project and place the building in service on or before June 30, 2011, notwithstanding the time period specified in paragraph “*b*”.

4. A rehabilitation project that does not meet the requirements of subsection 3 is subject

to revocation, repayment, or recapture of tax credits reserved or approved pursuant to this chapter.

2000 Acts, ch 1194, §5, 20; 2002 Acts, ch 1119, §162; 2005 Acts, ch 150, §22; 2009 Acts, ch 98, §2; 2011 Acts, ch 99, §3, 6; 2013 Acts, ch 112, §2, 4, 5

Referred to in §404A.1

[SP] 2011 amendment to subsection 3, paragraph b, applies retroactively to July 1, 2009, for projects approved and tax credits reserved on or after that date; 2011 Acts, ch 99, §6

[T] 2013 amendment to subsection 3, paragraph b, takes effect May 16, 2013, and applies to eligible property to be placed in service on or after July 1, 2013; 2013 Acts, ch 112, § 4, 5; 2013 Acts, ch 140, §84

[T] Subsection 3, paragraph b amended

404A.4 Project completion and tax credit certification — credit refund or carryforward.

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 during the rehabilitation period.

2. After verifying the eligibility for the tax credit, the state historic preservation office shall issue a historic preservation and cultural and entertainment district 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. Of the amount of tax credits that may be approved in a fiscal year pursuant to subsection 4, paragraph "a":

a. For the fiscal year beginning July 1, 2009, the office shall reserve not more than twenty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2009, and not more than thirty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2010.

b. For the fiscal year beginning July 1, 2010, the office shall reserve not more than twenty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2010, and not more than thirty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2011.

c. For the fiscal year beginning July 1, 2011, the office shall reserve not more than twenty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2011, and not more than thirty million dollars worth of tax credits for a taxable year beginning on or after January 1, 2012.

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

3. A person receiving a historic preservation and cultural and entertainment district tax credit under this chapter which is in excess of the person's tax liability for the tax year is entitled to a refund. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following year.

4. a. The total amount of tax credits that may be approved for a fiscal year prior to the fiscal year beginning July 1, 2012, under this chapter shall not exceed fifty million dollars. The total amount of tax credits that may be approved for a fiscal year beginning on or after July 1, 2012, shall not exceed forty-five million dollars.

b. Of the tax credits approved for a fiscal year under this chapter, the amount of the tax credits shall be allocated as follows:

(1) Ten percent of the dollar amount of tax credits shall be allocated for purposes of new projects with final qualified rehabilitation costs of seven hundred fifty thousand dollars or less.

(2) Thirty percent of the dollar amount of tax credits shall be allocated for purposes of new projects located in cultural and entertainment districts certified pursuant to section 303.3B or identified in Iowa great places agreements developed pursuant to section 303.3C.

(3) Twenty percent of the dollar amount of tax credits shall be allocated for disaster

recovery projects. For purposes of this subparagraph, “disaster recovery project” means a property meeting the requirements of an eligible property as described in section 404A.1, subsection 2, which is located in an area declared a disaster area by the governor or by a federal official and which has been physically impacted as a result of a natural disaster.

(4) Twenty percent of the dollar amount of the tax credits shall be allocated for projects that involve the creation of more than five hundred new permanent jobs. A taxpayer receiving a tax credit certificate for a project under this allocation shall provide information documenting the creation of the jobs to the state historic preservation office and to the economic development authority. The jobs shall be created within two years of the date a tax credit certificate is issued. The economic development authority shall verify the creation of the jobs. The amount of any tax credits received is subject to recapture by the department of revenue if the jobs are not created within two years. The state historic preservation office and the economic development authority may adopt rules for the implementation of this subparagraph. The rules shall provide for a method or form that allows a city or county to track the number of jobs created in the construction industry by the project.

(5) Twenty percent of the dollar amount of the tax credits shall be allocated for any eligible project.

c. (1) If, in any fiscal year, an amount of tax credits allocated pursuant to paragraph “b”, subparagraph (2) or (4), goes unclaimed, the amount of the unclaimed tax credits shall, during the same fiscal year, be reallocated to disaster recovery projects as described in paragraph “b”, subparagraph (3).

(2) If, in any fiscal year, an amount of tax credits reallocated pursuant to subparagraph (1) of this paragraph “c” goes unclaimed, the tax credits shall, during the same fiscal year, be reallocated to the projects described in paragraph “b”, subparagraph (5).

d. The departments of 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.

e. With the exception of tax credits issued pursuant to contracts entered into prior to July 1, 2007, tax credits shall not be reserved for more than three years.

5. a. Tax credit certificates issued under this chapter may be transferred to any person or entity.

b. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of revenue 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.

c. Within thirty days of receiving the transferred tax credit certificate and the transferee’s statement, the department of revenue 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.

d. Tax credit certificate amounts of less than the minimum amount established by rule of the department of revenue shall not be transferable.

e. 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.

f. 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, §2 – 4; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 2, §90, 209; 2004 Acts, ch 1001, §1; 2004 Acts, ch 1175, §395; 2005 Acts, ch 150, §23 – 25; 2006 Acts, ch 1158, §6; 2007 Acts, ch 165, §2, 3, 9; 2009 Acts, ch 98, §3; 2010 Acts,

ch 1069, §50, 51; 2010 Acts, ch 1138, §29, 30; 2011 Acts, ch 34, §92; 2011 Acts, ch 99, §4 – 6; 2011 Acts, ch 118, §§5, 89; 2013 Acts, ch 112, §3

Referred to in §404A.1, 404A.3, 422.11D, 422.33, 422.60, 432.12A

[SP] 2011 amendments to subsection 1 and subsection 2, paragraph d apply retroactively to July 1, 2009, for projects approved and tax credits reserved on or after that date; 2011 Acts, ch 99, §6

[T] Subsection 4, paragraph b, subparagraph (1) amended

404A.5 Economic impact — recommendations.

1. The department of cultural affairs, in consultation with the department of revenue, 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.

2. 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 historic preservation and cultural and entertainment district 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.

3. The department of cultural affairs, 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; 2005 Acts, ch 150, §26; 2009 Acts, ch 98, §4