

CHAPTER 37  
INVESTMENT TAX CREDIT PROGRAM

**223—37.1(303) Purpose.** Property owners desiring federal income tax benefits for rehabilitation of historic buildings may apply for certification to the Secretary of the Interior through the state historic preservation officer of the state in which the property is located.

Applications are reviewed and commented on by the state historic preservation officer, and recommendations are made to the Secretary of the Interior for final approval. Upon completion, the work is certified by the Secretary of the Interior for the taxpayer to receive benefits under rules established by the Department of the Treasury, and the Internal Revenue Service. Historical properties may also be qualified for federal income and estate tax deductions for charitable contributions of partial interests in real property.

**223—37.2(303) Regulations.** The Investment Tax Credit Program shall operate in accordance with the National Historic Preservation Act of 1966; Tax Reform Act of 1986, Public Law 99-514, Sections 48(g) and 170(h); 36 CFR Part 60, the National Register of Historic Places, November 16, 1981, and October 2, 1983; 36 CFR Part 67, Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976 and the Economic Recovery Tax Act of 1981, March 12, 1984; and 26 CFR Parts 1 and 602, Investment Tax Credit for Qualified Rehabilitation Expenditures, October 11, 1988; and 26 CFR Parts 20 and 25, Charitable Contribution for Conservation purposes in accordance with the Tax Treatment Extension Act of 1980. Additional interpretive information may also be found in Historic Preservation Tax Incentives, Certification of Rehabilitation Workbook, Department of the Interior, National Park Service; National Register Programs Guidelines, NPS-49; Preservation Briefs Series; National Register Bulletins; and Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, Notice published by the Department of the Interior, National Park Service, Federal Register, Vol. 48, No. 190, Thursday, September 29, 1983.

**223—37.3(303) Eligibility.** A taxpayer, who is a fee simple owner or with the written approval of the owner and who elects to rehabilitate a certified historic structure, may apply for tax benefits as a result of the certified historic rehabilitation.

**223—37.4(303) Certification of historic structures.**

**37.4(1)** Buildings listed individually on the National Register of Historic Places are by definition certified historic structures.

**37.4(2)** Applications for certification of a particular building located within a registered historic district shall request a certification of significance using Part 1 of the Historic Preservation Certification Application (NPS Form 10-168, Part 1).

**37.4(3)** Applications for properties which are not individually listed or are within potential historic districts, or outside the period or area of significance of registered historic districts may request preliminary determinations as certified historic structures when and if nominated and listed. These applications shall be made using Part 1 of the Historic Preservation Certification Applications (NPS Form No. 10-168, Part 1).

**37.4(4)** The taxpayer shall also complete a rehabilitation description (NPS Form 10-168A, Part 2). Part 2 shall include a written description of the proposed rehabilitation and photographic materials adequate to document conditions inside and outside the building and the site prior to the rehabilitation. Additional documentation, such as window condition surveys or cleaning specifications, may be required for some projects.

**37.4(5)** Certification forms shall be provided by the National Park Service or the state historical society of Iowa. Certification review is normally 30 days maximum at the state and 30 days maximum at the federal level. Inquiries may be directed to Consulting Architect, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8637.

**223—37.5(303) Review and evaluation.**

**37.5(1)** All elements of a rehabilitation project such as interior and exterior of the building(s) site and environment as determined by the Secretary of the Interior, and all phases of demolition, construction, and rehabilitation shall meet the Secretary of the Interior's Standards for Rehabilitation. Portions of the project not in conformance shall not be exempted.

**37.5(2)** The staff shall review the application and materials, request additional materials or clarification, if needed, and provide a recommendation to the state historic preservation officer within 30 days of receipt of all materials from the applicant. The state historic preservation officer shall submit the state's recommendation to the National Park Service in a timely fashion.

**37.5(3)** Review by the National Park Service requires an initial plan review fee. Reviews by the National Park Service are generally completed within 30 days. All approvals of applications and amendments are conveyed only in writing by the duly authorized officials of the National Park Service. Owners who undertake rehabilitation projects without prior approval from the Secretary of the Interior do so at their own risk.

**37.5(4)** Decisions with respect to certification shall be made on the basis of the application form. If a discrepancy exists between the application form and other submitted material, the application form shall take precedence.

**223—37.6(303) Certification of completion of work.**

**37.6(1)** Upon receipt of an application requesting certification of completed work, the staff shall review the application and accompanying photographic documentation for conformance with the Secretary of the Interior's Standards for Rehabilitation, Guidelines for Rehabilitation of Historic Buildings, 36 CFR Part 67, March 12, 1984. The state historic preservation officer shall provide recommendations to the National Park Service for their decision.

**37.6(2)** Applicants shall receive notification of project status from the National Park Service. If the National Park Service finds that a project does not meet the Standards, the Secretary notifies the owner in writing, and if possible, advises the owner of necessary revisions to meet the Standards.

In the case of a denial of significance of the proposed rehabilitation project or the completed work, the owner may appeal in writing to the Chief Appeals Officer, Cultural Resources, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, D.C. 20013-7127. Appeals shall be filed within 30 days of receipt of the decision which is subject to appeal.

**37.6(3)** Completed, approved projects shall be subject to recapture of tax credits during the following five-year period, due to sale (on a pro rata basis) or further unapproved alterations inconsistent with the Secretary of the Interior's Standards.

**37.6(4)** Any previous approval by federal, state or local agencies and organizations shall not ensure certification by the Secretary for tax purposes. Any certifications made by the Secretary of the Interior shall not be considered binding upon the Internal Revenue Service or the Secretary of the Treasury with respect to the tax consequences under the Internal Revenue Code. Nor does the certification of significance for tax benefits substitute for or bind the National Register of Historic Places nomination and listing process.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

[Filed without Notice 5/12/89—published 5/31/89, effective 7/5/89]

[Filed emergency 12/2/93—published 12/22/93, effective 12/2/93]

[Filed 1/27/94, Notice 12/22/93—published 2/16/94, effective 3/23/94]