

**701—42.19 (404A,422) Historic preservation and cultural and entertainment district tax credit.** A historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, may be claimed against a taxpayer's Iowa individual income tax liability for 25 percent of the qualified costs of rehabilitation of property to the extent the costs were incurred on or after July 1, 2000, for approved rehabilitation projects of eligible property in Iowa. The administrative rules for the historic preservation and cultural and entertainment district tax credit for the historical division of the department of cultural affairs may be found under 223—Chapter 48.

**42.19(1)** *Eligible properties for the historic preservation and cultural and entertainment district tax credit.* The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

- a. Property verified as listed on the National Register of Historic Places or eligible for such listing through the state historic preservation office (SHPO).
- b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation by being located in an area previously surveyed and evaluated as eligible for the National Register of Historic Places.
- c. Property or district designated as a local landmark by a city or county ordinance.
- d. Any barn constructed prior to 1937.

**42.19(2)** *Application and review process for the historic preservation and cultural and entertainment district tax credit.*

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, \$2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, \$10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, \$15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, through the fiscal year beginning July 1, 2011, \$50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the \$50 million of credits for the fiscal year beginning July 1, 2009, through the fiscal year beginning July 1, 2011, is set forth in rule 223—48.7(303,404A). For fiscal years beginning on or after July 1, 2012, \$45 million in historic preservation and cultural and entertainment district tax credits is available. Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

b. For the state fiscal year beginning on July 1, 2009, \$20 million of the credits may be claimed on tax returns beginning on or after January 1, 2009, and \$30 million of the credits may be claimed on tax returns beginning on or after January 1, 2010. For the state fiscal year beginning July 1, 2010, \$20 million of the credits may be claimed on tax returns beginning on or after January 1, 2010, and \$30 million of tax credits may be claimed on tax returns beginning on or after January 1, 2011. For the state fiscal year beginning July 1, 2011, \$20 million of the credits may be claimed on tax returns beginning on or after January 1, 2011, and \$30 million of tax credits may be claimed on tax returns beginning on or after January 1, 2012.

c. Applicants for the historic preservation and cultural and entertainment district tax credit must include all information and documentation requested on the application forms for the credit in order for the application to be processed.

d. The state historic preservation office (SHPO) shall establish selection criteria and standards for rehabilitation projects involving eligible property. The approval process shall not exceed 90 days from the date the application is received by SHPO. To the extent possible, the standards used by SHPO shall be consistent with the standards of the United States Secretary of the Interior for rehabilitation of eligible property.

e. Once SHPO approves a particular historic preservation and cultural and entertainment district tax credit project application, the office will encumber an estimated historic preservation and cultural and entertainment district tax credit under the name of the applicant(s) for the year the project is approved.

**42.19(3)** *Computation of the amount of the historic preservation and cultural and entertainment district tax credit.* The amount of the historic preservation and cultural and entertainment district tax credit is 25 percent of the qualified rehabilitation costs made to an eligible property in a project. Qualified rehabilitation costs are those rehabilitation costs approved by SHPO for a project for a particular taxpayer to the extent those rehabilitation costs are actually expended by that taxpayer.

In the case of commercial property, rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation. In the case of residential property or barns, the rehabilitation costs must equal at least \$25,000 or 25 percent of the fair market value, excluding the value of the land, prior to the rehabilitation, whichever amount 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 shall not exceed \$100,000 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 are qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code.

For purposes of the historic preservation and cultural and entertainment district tax credit, qualified rehabilitation costs include those costs properly included in the basis of the eligible property for income tax purposes. Costs treated as expenses and deducted in the year paid or incurred and amounts that are otherwise not added to the basis of the property for income tax purposes 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 of the eligible property for tax purposes. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs. Any rehabilitation costs used in the computation of the historic preservation and cultural and entertainment district tax credit are not added to the basis of the property for Iowa income tax purposes if the rehabilitation costs were incurred in a tax year beginning on or after January 1, 2000, but prior to January 1, 2001. Any rehabilitation costs incurred in a tax year beginning on or after January 1, 2001, are added to the basis of the rehabilitated property for income tax purposes except those rehabilitation expenses that are equal to the amount of the computed historic preservation and cultural and entertainment district tax credit for the tax year.

For example, the basis of a commercial building in a historic district was \$500,000, excluding the value of the land, before the rehabilitation project. During a project to rehabilitate this building, \$600,000 in rehabilitation costs were expended to complete the project and \$500,000 of those rehabilitation costs were qualified rehabilitation costs which were eligible for the historic preservation and cultural and entertainment district tax credit of \$125,000. Therefore, the basis of the building for Iowa income tax purposes was \$975,000, since the qualified rehabilitation costs of \$125,000, which are equal to the amount of the historic preservation and cultural and entertainment district tax credit for the tax year, are not added to the basis of the rehabilitated property. The basis of the building for federal income tax purposes was \$1,100,000. However, for tax years beginning only in the 2000 calendar year, the basis of the building for Iowa income tax purposes would have been \$600,000, since for those tax periods, any

qualified rehabilitation expenses used to compute the historic preservation and cultural and entertainment district tax credit for the tax year could not be added to the basis of the property. It should be noted that this example does not consider any possible reduced basis for the building for federal income tax purposes due to the rehabilitation investment credit provided in Section 47 of the Internal Revenue Code. If the building in this example were eligible for the federal rehabilitation credit provided in Section 47 of the Internal Revenue Code, the basis of the building for Iowa tax purposes would be reduced accordingly by the same amount as the reduction required for federal tax purposes.

**42.19(4)** *Completion of the historic preservation and cultural and entertainment district project and claiming the historic preservation and cultural and entertainment district tax credit on the Iowa return.* After the taxpayer completes an authorized rehabilitation project, the taxpayer must be issued a certificate of completion of the project from the state historic preservation office of the department of cultural affairs. After verifying the taxpayer's eligibility for the historic preservation and cultural and entertainment district tax credit, the state historic preservation office shall issue a historic preservation and cultural and entertainment district tax credit certificate, which shall be attached to the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the year the credit was reserved, whichever is the later. For example, if a project was completed in 2008 and the credit was reserved for the state fiscal year ending June 30, 2010, the credit can be claimed on the 2009 calendar year return that is due on April 30, 2010. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the year the tax credit was reserved and the amount of the historic preservation and cultural and entertainment district tax credit. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.19(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, where the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate. The tax credit certificate shall be attached to the income tax return for the period in which the project was completed. If the amount of the historic preservation and cultural and entertainment district tax credit exceeds the taxpayer's income tax liability for the tax year for which the credit applies, the taxpayer is entitled to a refund of the excess portion of the credit at a discounted value for tax periods ending prior to July 1, 2007. However, the refund cannot exceed 75 percent of the allowable tax credit. The refund of the tax credit shall be computed on the basis of the following table:

| Annual Interest Rate | Five-Year Present Value/Dollar Compounded Annually |
|----------------------|--|
| 5%                   | \$.784   |
| 6%                   | \$.747   |
| 7%                   | \$.713   |
| 8%                   | \$.681   |
| 9%                   | \$.650   |
| 10%                  | \$.621   |
| 11%                  | \$.594   |
| 12%                  | \$.567   |
| 13%                  | \$.543   |
| 14%                  | \$.519   |
| 15%                  | \$.497   |
| 16%                  | \$.476   |
| 17%                  | \$.456   |
| 18%                  | \$.437   |

EXAMPLE: The following is an example to show how the table can be used to compute a refund for a taxpayer. An individual has a historic preservation and cultural and entertainment district tax credit of \$800,000 for a project completed in 2001. The individual had an income tax liability prior to the credit of \$300,000 on the 2001 return, which leaves an excess credit of \$500,000. The annual interest rate for tax refunds issued by the department of revenue in the 2001 calendar year is 11 percent. Therefore, to compute the five-year present value of the \$500,000 excess credit, \$500,000 is multiplied by the compound factor for 11 percent of .594 in the table, which results in a refund of \$297,000.

For tax years ending on or after July 1, 2007, any historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

**42.19(5)** *Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity.* When the taxpayer that has earned a historic preservation and cultural and entertainment district tax credit is a partnership, limited liability company, S corporation, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit shall be allocated to the individual owners. The business entity shall allocate the historic preservation and cultural and entertainment district tax credit to each individual owner on the same pro-rata basis as the earnings of the business are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a partner of a partnership received 25 percent of the earnings or income of the partnership for the tax year in which the partnership had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to this partner.

For projects beginning on or after July 1, 2005, which used low-income housing credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, the credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

**42.19(6)** *Transfer of the historic preservation and cultural and entertainment district tax credit.* For tax periods beginning on or after January 1, 2003, the historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. A tax credit certificate of less than \$1,000 shall not be transferable.

Within 90 days of transfer of the tax credit certificate for transfers prior to July 1, 2006, the transferee must submit the transferred tax credit certificate to the state historic preservation office of the department of cultural affairs, along with a statement which contains the transferee's name, address and tax identification number and amount of the tax credit being transferred. For transfers on or after July 1, 2006, the transferee must submit the transferred tax credit certificate to the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee for transfers prior to July 1, 2006, the state historic preservation office shall issue a replacement tax credit certificate to the transferee. For transfers on or after July 1, 2006, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes.

Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

If the historic preservation and cultural and entertainment district tax credit of the transferee exceeds the tax liability shown on the transferee's return, the refund shall be discounted as described in subrule 42.19(4) for tax years ending prior to July 1, 2007, just as the refund would have been discounted on the Iowa income tax return of the taxpayer. For tax years ending on or after July 1, 2007, any historic preservation and cultural and entertainment district tax credit of the transferee in excess of the transferee's tax liability is fully refundable.

This rule is intended to implement Iowa Code chapter 404A as amended by 2010 Iowa Acts, Senate File 2380, and Iowa Code section 422.11D.

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