

State Revises Historic Tax Credit Law

On December 11, 2013, Governor Scott Walker signed Special Session Assembly Bill 4, amending the State's historic tax credit law.

Previously, the State's historic tax credit program supplemented the federal government's 20% rehabilitation tax credit for qualified rehabilitation expenditures (QREs) made in connection with a "certified historic structure" with a 5% state tax credit (for taxable years beginning before January 1, 2013) and a 10% credit for taxable years beginning after December 31, 2012). A "certified historic structure" is generally any commercial building listed in the National Register of Historic Places or located within a registered national historic district certified by the Secretary of the Interior. Therefore, the state tax credit was only available to Wisconsin structures on the National Register. This of course limited the pool of potential projects that could benefit from the credits.

The new law adds flexibility to the State's tax credit program and make the credits easier to obtain and utilize:

- The law increases the amount of the supplemental state tax credit for certified historic structures to 20% of QREs, if the cost of the QRE is at least \$50,000 and the property is placed in service (or open for business) after December 31, 2012. This increase provides a significant incentive for owners to rehabilitate Wisconsin's nationally registered buildings to federal standards, as an approved project would entitle the owners to both the 20% federal tax credit and the 20% state tax credit.
- The law creates a new state rehabilitation tax credit of 20% of QREs for "qualified rehabilitated buildings" if those expenditures exceed \$50,000 and the property is placed in service after December 31, 2012. A "qualified rehabilitated building" is generally any commercial building first placed in service prior to 1936. Therefore, the new legislation creates an additional credit, outside of the federal program, and significantly increases the pool of potential projects that could benefit from the program. The new rehabilitation credit may not be claimed for (a) any property listed in the state or national registers of historic places; or (b) non-historic, nonresidential property converted into housing if the property has been previously used for housing.
- The law clarifies what evidence is required to be presented by the taxpayer to claim the tax credit and streamlines the credit approval process by granting the state historic preservation officer, rather than the Secretary of the Interior, the

POSTED:

Nov 16, 2013

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authority to approve the credits.

- The law allows for the sale or transfer of the state tax credits, subject to certification from the Wisconsin Department of Revenue, to third parties (typically equity investors) and specifically recognizes that nonprofit entities may sell or transfer the tax credits. The ability to sell the credits is an improvement over the federal program, where the credits are not permitted to be sold and the equity investor, in order to utilize the tax credit, must be a partner with the project owner and share in the project risk.

The revisions to the law create a powerful financing tool for developers of historic preservation projects and pave the way for an increase in the adaptive re-use of older buildings in Wisconsin.

Please contact your Reinhart attorney or [Rick Donner](#) if you have questions regarding these new revisions of the historic tax credit law.

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