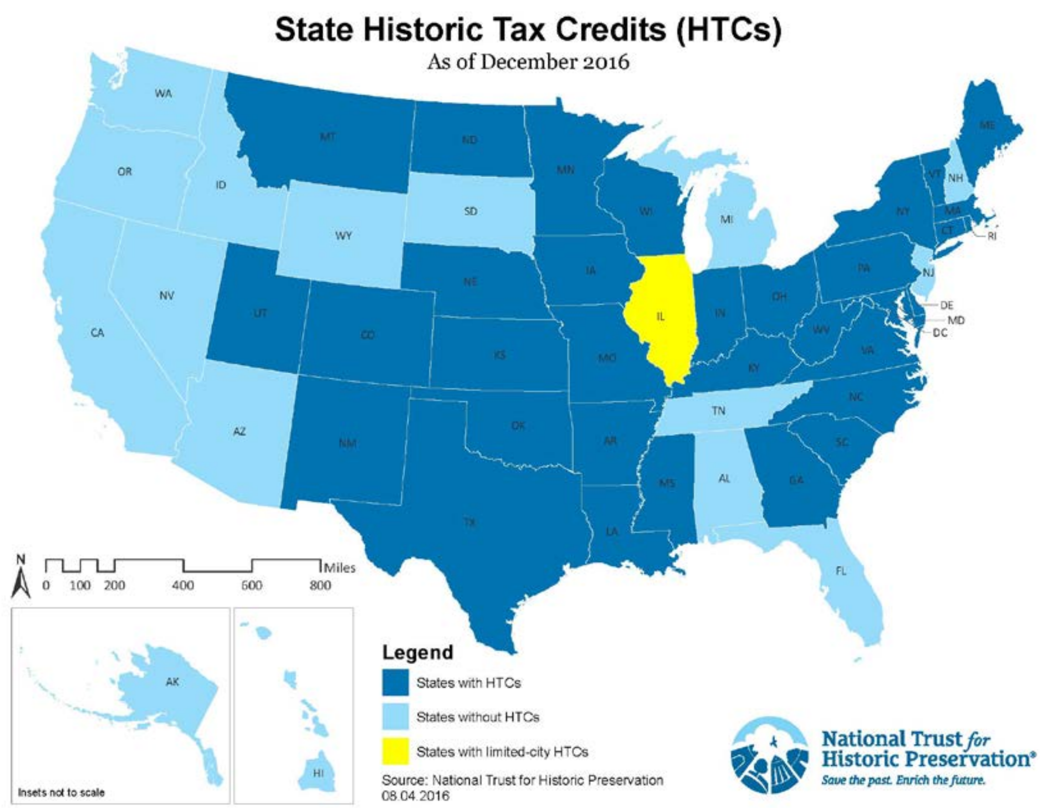
State Tax Credits for Historic Preservation

A Policy Report Produced by the National Trust for Historic Preservation

Written by Harry K. Schwartz with assistance by Renee Kuhlman

Introduction

Today, thirty-four states in the country offer credits against state taxes to provide incentives for the appropriate rehabilitation of historic buildings. In most cases these tax credits take the form of the very successful federal income tax credit for historic rehabilitation contained in Section 47 of the Internal Revenue Code.



Although the tax credits vary from state to state, most programs include the following basic elements:

- Criteria establishing what buildings qualify for the credit.
- Standards to ensure that the rehabilitation preserves the historic and architectural character of the building.
- A method for calculating the value of the credit awarded, reflected as a percentage of the amount expended on that portion of the rehabilitation work that is approved as a certified rehabilitation.
- A minimum amount, or threshold, required to be invested in the rehabilitation.
- A mechanism for administering the program, generally involving the state historic preservation office and, in some cases, the state department of revenue or the state department of economic development.

Why Do Some State Tax Credits Work Better Than Others?

Not all state tax credit programs are created equal. Some state programs have been extraordinarily productive in stimulating rehabilitation activity. Many others have produced mixed or minimal results.

What causes these programs to fall short? In general, two factors greatly influence the effectiveness of the state historic tax credits: a limit or cap on the amount of credit and a lack of transferability.

Annual Aggregate Caps

A well-thought-out and skillfully drafted tax incentive for historic preservation cannot achieve its objectives if the total amount of credits that can be awarded annually is subject to a statutory limit, particularly if the limit is fixed at a low figure. For example, Kentucky has a 20% credit for commercial buildings and a 30% credit for owner-occupied residences, but only a $5 million annual cap.

Even if the annual limit is relatively high, the very act of imposing a cap alters the nature of the program and can produce a perverse result, rewarding projects that do not require an incentive while excluding projects that cannot proceed without the state incentive.

Where demand for credits exceeds the amount permitted by law, applicants either must compete for credits or participate in a lottery or other arbitrary allocation system. Projects that truly require the state credit to be financially feasible have tended to be discouraged from participating because of the lack of certainty as to the outcome, the cost of preparing a competitive application that nonetheless may be unsuccessful, and the difficulties of keeping financing commitments in place during the evaluation process.

Individual Project Capping

Some states have sought to ease concerns about the costs of the credits to the state treasury by imposing caps on the dollar amount of credits that can be awarded to individual projects, while avoiding the pitfalls of annual aggregate caps. The effectiveness of the credits in providing incentives to developers is likely to be a function of how high the limit is set. Some states have experimented with project credits as high as $5 million per project (e.g., Connecticut and Maine). Clearly, however, limits as low as that allowed under North Dakota law, which is presently set at $250,000, are inadequate to provide an incentive for the rehabilitation of large commercial buildings.

Transferability

A state tax credit has value only to the extent that the credit holder has sufficient liability for state taxes that the credit can be used to offset. Although state tax rates vary, they are far lower than federal income tax rates. As a consequence, an apparently valuable state tax credit may wind up in the hands of a party unable to use it. There are several remedies to solve this problem, but many state statutes do not provide for them.

Tax Reform and the Federal Credit

At this writing Congress is considering altering the Internal Revenue Code. In July 2016, House leadership released a blueprint meant to guide the House Ways and Means Committee in developing a comprehensive reform of the tax code in 2017.

The Federal Historic Rehabilitation Tax Credit is key to the effectiveness of virtually every state tax credit program. Without the federal 20% tax credit, state tax credits alone would be insufficient to provide an adequate incentive for the preservation of historic buildings.

There are of course exceptions: state tax credits that assist homeowners and developers of small commercial rehabilitation projects that do not claim the federal credit. But the bottom line is that for state tax credits to continue as useful tools for historic preservation, the federal credit must survive intact during tax reform.

The Washington Mills in Lawrence, Massachusetts, needed both federal and Massachusetts tax credits to be returned to productive use. | Credit: Durkee, Brown, Viveiros & Werenfels, Architects

What Makes a State Tax Credit Good?

Eligible Buildings

The scope of eligible buildings should include:

1. Buildings individually listed in the National Register of Historic Places,
2. Buildings located in historic districts listed in the National Register that contribute to the historic character of the district or in districts certified as eligible for listing,

3. Individual buildings that have been locally designated as landmarks, and
4. Buildings located in local historic districts that contribute to the historic character of the district.

Standards for Rehabilitation

The state should adopt the Secretary of the Interior's Standards for Rehabilitation, as interpreted by the state historic preservation officer.

Availability for Homeowners

The credit should be available for owner-occupied residences as well as commercial property. This is particularly important because there is no federal credit for owner-occupied residences.

Appropriate Rates

The percentage rate of the credit should be fixed at a level high enough to constitute a meaningful incentive, typically in the range of 20 percent to 30 percent of qualified rehabilitation expenditures.

Rates that are significantly lower don't provide enough incentive to make a difference in a developer's decision to undertake a historic preservation project. As a negative example, Montana provides only a 5 percent tax credit for the rehabilitation of commercial structures when the federal 20 percent credit is used.

Transferability

As mentioned earlier, there needs to be a workable mechanism to put the credit in the hands of the party that can use it. States have solved this problem in one or more ways:

1. The tax code may permit the party that earns the credit to sell it outright to a third party with adequate tax liability to use it. For example, Kansas, Kentucky, Oklahoma, and Missouri permit the taxpayer to sell or convey the tax credits in this manner.
2. The code may permit a partnership that owns the property to make a disproportionate distribution of the credit, so that a local taxpayer can acquire the state tax credit while a national corporation not doing business in the state acquires the federal tax credit. Virginia, Kansas, and Delaware, for example, allow the credit to be passed through and allocated to partners or shareholders in this way.
3. The code may allow a tax credit not fully usable in the current year to be carried back to offset taxes previously paid for prior tax years. This provision appears to be unique among the states to Missouri and West Virginia, although it is a feature of the federal program.
4. The tax credit may be refundable, so that any amount not used to offset current-year taxes is paid in cash to the holder of the credit. Since homeowners earning credits are effectively precluded from using the more complex techniques for transferring credits, the most practical solutions for them are to allow the unused credit to be either refunded or sold outright. Maryland, Ohio, Iowa, and Louisiana provide a refundable tax credit, which is of particular value to lower-income homeowners.

A Cautionary Note

The National Trust has reviewed recent court decisions on IRS audits that indicate that the staff of the Internal Revenue Service has adopted the position that a transfer of a state historic tax credit by disproportionate allocation within a partnership may be re-characterized as a sale of property resulting in the proceeds being taxed at ordinary income tax rates.

Although the IRS has issued no formal guidance on the matter, the IRS arguments in Virginia Historic Credit Fund v. Commission and the more recent Route 231, LLC v. Commissioner decisions indicate that a finding of a "disguised sale" will likely be made where the exchange of credits for cash does not expose the investor to the entrepreneurial risks of the transaction. A small ownership interest (1% has been typical) in the transaction is deemed to be insufficient to create a true investor stake in the economic outcomes. Instead of being taxed at long-term capital gains rates upon investor exit, the developer may have to recognize the net proceeds from the state historic tax credit as income when received at federal ordinary income tax rates of approximately 35%. There is also reason to believe that a financing structure utilizing a nonprofit entity as a credit pass through should be viewed with caution.

Unless overturned by a court of competent jurisdiction, this IRS position effectively eliminates the tax advantages of credit allocation through a partnership over allocation via a certificate, refund or grant.

In light of the information brought to its attention, the National Trust strongly suggests that project developers seek the advice of tax counsel before proceeding with a financing structure that utilizes disproportionate allocation within a partnership to effect a transfer of state historic tax credits.

Nevertheless, since the matter is far from definitely settled, the National Trust continues to recommend the inclusion of disproportionate allocation language in state statute, as well as language making nonprofit organizations eligible to receive the credit.

Annual Aggregate Caps

Although state legislatures and their fiscal analysts prefer to keep a tight grip on the award of tax credits, those states that have resisted capping have had an economic advantage in attracting capital for historic preservation.

Eligible Claimants

In a number of states entities such as insurance companies, banks and public utilities are not taxed under the state corporate income tax law, but are subject to tax laws that are specific to their industries. Where this is the case, provision should be made to permit the credits to be used under these laws, so as to enable sales of tax credits to these companies.

Geographic Distribution and Targeting

In order to make sure that the benefits of the credit are felt in all parts of the state, some states have experimented with geographical set-asides for rural areas, or limits on the percentage of the credits that can be claimed for metropolitan areas. Another approach would limit the use of the credit to areas of physical deterioration and economic distress. These techniques should be evaluated with care to make sure that the limitations do not interfere with achieving the goals of the state's historic rehabilitation program.

State Historic Tax Credits Increase Use of the Federal Historic Tax Credits

After examining all of the state historic tax credit programs to determine their impact on use of federal tax credits, researchers found that the presence of an active state tax credit program boosts the use of the federal credit on average between $15 and $35 million in certified expenditures.

That means the states with active tax credit programs are bringing in between $3 to $7 million federal dollars, which would not otherwise be available, to the state.

Leveraging Federal Economic Development with State Rehab Tax Credits by Jeffrey Oakman and Marvin Ward, Washington, DC Office of Revenue Analysis, 2012.

Important Definitions

Carry Back — the ability to apply current tax credits against state income taxes due in preceding years.

Carry Forward — the ability to apply current tax credits against taxes due in future years.

CLG (Certified Local Government) — a local government certified by the state historic preservation officer as having the capacity to administer preservation programs, including grants under the National Historic Preservation Act.

Disproportionate Allocation — a mechanism involving the use of pass-through entities by which a state tax credit can be allocated to a taxpayer within the state in which the project is located, while the federal tax credit for the same project is allocated to an out-of-state person or entity.

Freely Transferable — the ability to make an outright transfer or assignment of the tax credit to another person or entity.

Secretary of the Interior's Standard for Rehabilitation (DOI) — general standards adopted by the Department of the Interior governing the rehabilitation of historic buildings. Rehabilitation must be carried out in accordance with these standards to qualify for federal historic tax credits as well as for many state tax incentives or financing programs.

Recapture Period — period of time during which specified action, such as a change in ownership of the property, will trigger an obligation to pay back a ratable portion of the tax credit previously claimed.

Sunset Date — the date on which a statutory provision will expire.

Arkansas Historic Rehabilitation Income Tax Credit Act Ark. Code Ann. §§ 26-51-2201 – 26-51-2208 (2009) Enacted: 2009 Effective: Jan. 1, 2009	25% credit for certified rehabilitation of eligible income and non-income producing properties. Annual program cap of $4 million in credits; per-project caps of $500,000 in credits for income-producing properties and $100,000 in credits for non-income producing properties. Min. expenditures: $25,000. Carry forward: 5 years. Freely transferable by either direct sale or disproportionate allocation among partners of a syndication partnership. Applications ranked in accordance with the following criteria: Creation of new business, expansion of existing business, tourism, business revitalization, and neighborhood revitalization, in that order. Starting on March 20, 2015, allowed once per every 24-month period for each eligible property. No recapture period like federal credit. Sunset date: 2027.	Arkansas Historic Preservation Program 501-324-9880
Colorado Tax Credit for Qualified Costs Incurred in Preservation of Historic Properties Colo. Rev. Stat. Ann. §§ 39-22-514 – 39-22-514.5 Enacted: April 20, 1990 Effective: Jan. 1, 1991 Job Creation and Main Street Revitalization Act Enacted: May 14, 2014 Effective: Jan 1, 2016	25% credit against individual and corporate taxes for first $2 million in Qualified Rehabilitation Expenses (QREs) and 20% on the remaining QREs for commercial properties. Credit goes to 30% in designated disaster area. Aggregate cap for FY2015 is $5 million, and $10 million thereafter. Per-project cap of $1 million in credits annually. 50% of credits to be awarded to projects with QREs less than $2 million; 50% of credits to go to projects with QREs of $2 million and above. **Projects awarded on first-come, first-serve basis**. Freely transferable by either direct sale or disproportionate allocation among partners of a syndication partnership. Nonprofits can use the credits. Program starts July 1, 2015 and sunsets Dec. 31, 2109. 20% credit for qualifying properties. No aggregate statewide dollar cap, but per project cap of $50,000 per year. Minimum investment: $5,000. Carry forward: 10 years. DOI standards apply. Work must be completed within 2 years of inception date of project.	Colorado Historical Society 303-866-3395
Connecticut Tax Credits for Rehabilitation of Historic Homes Conn. Gen. Stat. Ann. § 10-320j Enacted: 1999 Effective: Jan. 1, 2000. Tax Credits for Rehabilitation of Certified Historic Structures Conn. Gen. Stat. Ann. § 10-416a Enacted: 2007 Tax Credits for Commercial and Industrial Buildings Conn. Gen. Stat. Ann. § 10-416b Enacted: 2009	25% credit for converting historic commercial, industrial, former government property, cultural building, institutional, or mixed residential and non-residential property to mixed residential and non-residential uses or non-residential use (including commercial, institutional, governmental or manufacturing use). Credit is increased to 30% if (a) at least 20% of units created are affordable rental units, or (b) at least 10% of units created are affordable homeownership units. Caps: $50 million over 3 years and $5 million per project. Carry forward: 5 years. Property must be listed individually on the national register or located in a district listed on the national or state register and certified as contributing. Freely transferable either by direct sale or disproportionate allocation. (Section 10-416-b C.G.S.) 25% credit for converting commercial or industrial property for residential use only. Caps: $2.7 million per project and $15 million annual aggregate. Carry forward: 5 years. Freely transferable either by direct sale or disproportionate allocation among partners of a syndication partnership. Property must be listed individually on the national or state register or located in a district listed on the national or state register and certified as contributing. Minimum expenditure: 25% of assessed building value. Credit can offset income tax liability as well as	Connecticut Historical Commission 860-566-3005

	taxes owed by insurance companies and utilities. Section 10-416a. 30% credit for eligible rehab of owner-occupied residence, including apartments up to 4 units. Eligible properties: National and/or State Register of Historic Places, must be located in distressed areas. Cap: $30,000 per dwelling, $3 million annual aggregate. Recapture period: 5 years. Carry forward: 4 years. Minimum expenditure: $25,000. Credit can be used only to offset corporate taxes. Corporations may qualify either by purchasing tax credits or loan principal reduction. Effective July 2015, the minimum expenditure will be $15,000, projects will not be limited geographically while the cap will be $50,000 per dwelling for nonprofits. (Sec. 10-416 C.G.S.)	
Delaware Historic Preservation Tax Credit Act Del. Code Ann. tit. 30, §§ 1811-1817 Enacted: 2000 Effective: July 1, 2000 for Stage II approvals granted by SHPO and first tax claim effective July 1, 2002.	20% credit for income-producing properties and a 30% credit for homeowners and nonprofits. A 10% bonus credit applies for depreciable projects that qualify for low-income housing tax credits and homeowners who meet low-income qualifications. Carry forward: 10 years. Non-refundable. Homeowner credit cannot exceed $20,000 per application but may re-apply. Credits are freely transferable either by direct transfer or disproportionate allocation. Credits claimed in progress-based installments with phased projects. The maximum amount of credits in any fiscal year is $5 million of which $1.5 million is initially set aside for projects receiving under $300,000 in tax credits and $1.5 million is initially set aside for projects located in Downtown Development Districts. Set asides are released in April of each fiscal year. Also an annual set aside of $100,000 for qualified resident curators. Sunset: 2020.	Delaware State Historic Preservation Office 302-736-7400
Georgia Credit for Rehabilitation of Historic Structure Ga. Code Ann. § 48-7-29.8 Enacted: 2002 Amended: 2015, effective Jan 1, 2016.	25% credit for certified historic properties, both owner-occupied residences and income-producing property. Additional 5% credit for residence located in a HUD target area. Per-project cap: $100,000 for owner-occupied residences. Per-project cap of $5 million for commercial properties, but per-project cap rises to $10 million if commercial project meets job creation or annual payroll tests. Homeowner projects and commercial projects under $300,000 in credits are exempt from annual aggregate cap of $25 million which applies only to commercial projects in excess of $300,000 in credits. Ten –year carry forward. Credits may be directly sold to a purchaser or transferred through a pass-through entity provided the person or entity that claims the credit is subject to Georgia tax. A credit earned or purchased by a pass-through entity may be allocated and claimed by the members in accordance with a written agreement of the members without regard to their ownership interests in the entity (disproportionate allocation). Three-year ratable recapture applies in the sale of a historic home unless seller is a nonprofit or on death of owner. Statute reverts to prior law unless extended by 1/1/22.	Georgia Historic Preservation Division 404-656-2840
Illinois ** Historic Preservation Tax Credit Pilot Program Act 35 Ill. Comp. Stat. 30/1-30 (2010); 35 Ill. Comp. Stat. 5/221 (2011)	*25% credit for eligible expenditures on rehabilitation of properties eligible for the federal Historic Rehabilitation Tax Credit located in designated River Edge Redevelopment Zones** approved by the state in portions of Aurora, East St. Louis, Elgin, Peoria and Rockford. Minimum investment: greater of $5,000 or 50% of the purchase price.*	*Illinois Historic Preservation Agency* *217-557-0513*

Enacted: June 21, 2010 Effective: June 21, 2010	*DOI standards apply. Credits are transferrable by disproportionate allocation. No per project cap. Annual aggregate cap: $10 million. Program expires Dec. 31, 2017.*	
Indiana Residential Historic Rehabilitation Credit IC 6-3.1-22 Enacted: 2001 Effective: Jan. 1, 2002	20% of rehab costs. Annual statewide cap for $250,000 for owner-occupied residences. State register properties qualify. Carry forward: 15 years. Preapproval of work required. No fees. DOI standards apply.. Costs must exceed $10,000.	Indiana State Historic Preservation Office
Iowa Historic Preservation and Cultural and Entertainment District Tax Credit I.C.A. §§ 404A.1 - 404A.6 Enacted: 1990; replaced 2000 Enacted: May 6, 2000 Effective: July 1, 2000	25% credit of qualified rehabilitation costs for eligible commercial properties, owner-occupied residential properties and barns. Selection based on point system that encourages "shovel ready" projects. Annual cap: $45 million. No individual project cap. Applicate may choose to receive fully refundable or nonrefundable credit. Nonrefundable credits can be carried forward for 5 years. Minimum expenditure for commercial property: 50% of the assessed value of the commercial property, excluding the land or $50,000 whichever is less. Minimum expenditure for non-commercial properties: the lesser of $25,000 or 25% of the assessed value, excluding the land. The project must be placed in service within 36 months of the project commencement date. Credits in excess of $1,000 are fully transferable. All credits reserved for a fiscal year on and after July 1, 2012 may be transferred by disproportionate allocation.	Iowa Economic Development Authority 515-725-3128
Kansas Credit Against Tax for Certain Historic Structure Rehabilitation Expenditures Kan. Stat. Ann. § 79-32,211 (2001) Enacted: April 16, 2001 Effective: Jan 1, 2001	25% income tax credit for commercial and owner-occupied residential properties. 30% income tax credit for nonprofits. Annual cap of $3.75 million in credits claimed for FY2010. No per-project cap. Carry forward: 10 years. $5,000 minimum on qualified expenditures necessary. Credit freely transferable either by direct transfer or disproportionate allocation.	Kansas State Historical Society 785-272-8681
Kentucky Rehabilitation of Certified Historic Structures Ky. Rev. Stat. Ann. §§ 171.396-171.397 (2005); expanded for 1 year in 2010. Enacted: 2005 Effective: March 18, 2005	30% income tax credit for owner-occupied residential properties. A minimum investment of $20,000 is required, with the total credit per project not to exceed $60,000. 20% income tax credit for all other properties including properties owned by entities exempt from tax under section 501(c)(3) of the Internal Revenue Code and state and local governmental subdivisions and agencies. Minimum investment of $20,000 or adjusted basis, whichever is greater, subject to $400,000 per project cap. Both credits are fully refundable or transferable. But pass through entities which are taxed, get the credit at the entity level; pass through entities which are not taxed can use disproportionate allocation. $5 million annual program cap applies to the aggregate of homeowner and commercial/nonprofit credits**. All credits are subject to proportional reduction if the value of credits claimed exceeds the annual aggregate cap.**	Kentucky Heritage Council 502-564-7005

Louisiana Tax Credit; Rehabilitation of Historic Structures La. Stat. Ann. § 47:6019 (2002) **Enacted: 2002** **Effective: July 1, 2002** Residential (Act. No. 479) Enacted: 2005 Effective: Jan. 1, 2006	25% credit for income-producing properties in “downtown development or cultural districts”; qualified expenditures incurred after January 1, 2017 earn a 20% credit. $5 million per annum cap per taxpayer for structures within a downtown development or cultural district. No statewide cap for commercial credits. Minimum investment: $10,000. Directly transferable. 5 year carry-forward for commercial credits. Sunset date: Jan. 1, 2022. 18.5% rate for owner-occupied residences; 36% credit for blighted homes over fifty years old. $7.2 million statewide cap and $18,500 per eligible home. Minimum investment: $10,000. Homeowner credit must be taken in five equal annual installments and is fully refundable. Sunset date: Dec. 31, 2017.	Louisiana Department of Culture, Recreation & Tourism 225-342-8160
Maine Credit for Rehabilitation of Historic Properties Me. Rev. Stat. Ann. Tit. 36 § 5219-BB Enacted: March, 2007 Effective: Jan. 1, 2008	25% credit for qualifying rehab expenses of certified historic structure. 30% credit where at least 33% of the aggregate square feet of the completed project creates new affordable housing. Affordable housing credit may be increased each tax year by 1% till reached maximum of 35% in 2013. Minimum expenditures: Same as federal tax credit. If federal credit is not claimed, min. expenditure is $50,000 and maximum is $250,000. Cap: $5 million per project cap; no annual statewide cap. Credits are fully refundable and freely transferable by disproportionate allocation. Credit must be taken in 4 equal installments with first year being year property is placed into service. Sunset date: Dec. 31, 2023.	Maine Historic Preservation Commission 207-287-2132
Maryland Certified Rehabilitation Tax Credits MD. Code Ann., Tax General § 10-704.5 Enacted:1997; amended 2004	20% credit for commercial buildings and owner-occupied residences; additional 5% credit for high performance commercial buildings that achieve LEED gold rating or comparable rating from another rating system; 10% credit for non-historic, "qualified rehabilitated structures," commercial properties located in Main Street Maryland community and a designated "sustainable" community. Sets aside of $4 million for small commercial projects with $500,000 or less in QREs and more than 75% residential rental. Annual appropriation required for commercial side of program; unused amounts may be carried over to following year. Per-project cap: commercial - $3 million; small commercial and owner-occupied - $50,000. Competitive award process for commercial properties only; owner-occupied need not compete. No more than 60% of funds available for commercial projects in any year may go to any single jurisdiction. Minimum investment: the greater of 100% of the adjusted basis or $25,000 for commercial properties; $5,000 for small commercial and owner occupied properties. Commercial credit is transferable. Residential credit is fully refundable. Program sunsets in 2017	Maryland Historical Trust 410-514-7628
Massachusetts Historic Rehabilitation Tax Credit Mass. Gen. Laws Ann. ch. 63, § 38R Mass. Gen. Laws Ann. ch. 62, § 6J Enacted: 2003	20% credit for eligible income-producing properties. 25% credit for projects with affordable housing. $50 million annual statewide cap. Carry forward: 5 years. DOI standards apply. Permits direct transfer of credit or transfer by disproportionate allocation. Min. investment: 25% of adjusted basis. Funded through 2022.	Massachusetts Historical Commission 617-727-8470

Effective: January 1, 2005		
Minnesota Credit for Historic Structure Rehabilitation Minn. Stat. Ann. § 290.0681 Enacted: April 1, 2010 Effective: April 2, 2010	Credit equal to 100% of the federal credit allowed for the rehabilitation of a certified historic commercial property against taxes or grant equal to 90% of federal credit allowed. No annual program cap and no per-project cap. Credit freely transferable either by direct transfer or disproportionate allocation. Grants may be issued to another individual or entity. Credit is fully refundable. Credit may be used by insurance companies as well as other corporations and individuals. Application must be made for the credit before the rehabilitation begins. Sunsets in FY 2021.	State Historic Preservation Office, Minnesota Historical Society 651-259-3000
Mississippi Income Tax Credit for Costs and Expenses Incurred for the Rehabilitation of Certain Historic Structure Enacted: 2016 Effective: July 1, 2016 (Note: Initial credit was in place between 2006-Dec. 31, 2014 Miss. Code Ann. § 27-7-22.31)	25% credit for commercial property and for owner-occupied residences. Program is capped at $12 million annually. No project cap. Minimum investment of 50% of the total basis for commercial properties; $5,000 for owner-occupied residences. Carry forward: 10 years. If credit exceeds $250,000, 75% can be refunded in lieu of 10 year carry-forward. Refunds must be taken in two equal installments starting the year the rehabilitated property is placed in service. Transfer permitted by disproportionate allocation but cannot be used in conjunction with refund provision. Members of a pass through entity, not taxed at the entity level, can use disproportionate allocation. Members of a pass through entity, taxed as a partnership, can elect to claim a refund at the entity level. Sunset date: 2020.	Division of Historic Preservation, Mississippi Department of Archives and History 601-576-6940
Missouri Historic Structures Rehabilitation Tax Credit Mo. Ann. Stat. §§ 253.545-253.561 Enacted: 1997 Effective: January 1, 1998	25% credit for commercial and owner-occupied residential properties listed in National Register or listed as contributing to a federally certified historic district. Rehab work must meet DOI standards. Qualified expenditures must exceed 50% of total basis of the property. Carry back: 3 years. Carry forward: 10 years. Transfer permitted by direct transfer or disproportionate allocation. Per-project cap for owner-occupied single-family residences: $250,000 in credits. Beginning July 1, 2010, the Dept. of Economic Development can not approve more applications than would in the aggregate result in more than $140 million in credits. Any project receiving preliminary approval after Jan. 1, 2010, whose eligible costs would be more than $1.1 million, is subject to the cap. Projects with eligible costs less than $1,100,000 are not subject to cap. Projects subject to the cap are prioritized on first-come first serve basis; where applications received on same day, lottery will be held. Unfunded projects carry over into next funding round. Requires rehab to start within 2 years of authorization. Credits must be issued within 12 months of rehab completion.	Missouri Historic Preservation Program 573-751-7858
Montana Credit for Preservation of Historic Buildings Mont. Code Ann. § 15-31-151 Mont. Code Ann. § 15-30-2342 Enacted: 1997	Income-producing certified historic properties automatically receive 5% state tax credit if the property qualifies for the 20% federal credit. Carry forward: 7 years.	Montana State Historic Office 406-444-7715

Effective: 1997		
Nebraska Job Creation and Main Street Revitalization Act Neb. Rev. Stat. §§ 77-2901 – 77-2912 Enacted: April 16, 2014 Effective: Jan. 1, 2015	20% credit against income, deposit or premium tax for rehabilitation of historically significant real property except for a single-family residence. Annual cap: $15 million. Per-project cap: $1 million in credits. Minimum expenditure: $25,000 or 25% of assessed value. DOI Standards apply. Credits are allocated on a first-come, first served basis. Starts: Jan. 1, 2015. Sunsets: Dec. 31, 2022.	Nebraska State Historical Society 402-471-3270
New Mexico Credit for Preservation of Cultural Property N.M. Stat. Ann. § 7-2-18.2 N.M. Stat. Ann. § 7-2A-8.6 [Corp. Tax] Enacted: 1984	50% of rehab costs for all properties listed in the State Register of Cultural Properties. Also applies to stabilization and protection of archeological sites listed in the State Register of Cultural Properties. No annual statewide cap. Per-project cap: $25,000 outside an Arts and Cultural District; $50,000 located within an Arts and Cultural District. DOI standards apply. Carry forward: 4 years. Pre-approval required.	New Mexico Historic Preservation Division 505-827-6320
New York Credit for Rehabilitation of Historic Properties N.Y. Tax Law § 210-B Enacted: 2007	20% credit for certified commercial properties subject to geographical targeting. Per project cap: $5 million in credits. Must be used in conjunction with federal credit. Credit must be taken in the year building is placed into service. Carry forward: unlimited. Commercial credits fully refundable starting 2015. 20% credit for certified, owner-occupied properties. Subject to the same census tract restrictions as commercial program. Residential per project cap: $50,000 in credits. If taxpayer's adjusted gross income is under $60,000, homeowner credit is refundable; over $60,000, unlimited carry forward. Minimum expenditure: $5,000 and 5% must be spent on exterior work. Both programs sunset on Dec. 31, 2020 and default to 2007 features if not renewed. 25% rehab credit for historic barns. Must be income-producing, built or placed in agricultural service before 1936 and rehab cannot "materially alter the historic appearance."	New York State Historic Preservation Office 518-237-8643
North Carolina Historic Rehabilitation Tax Credits Investment Program N.C. Gen. Stat. Ann. §§ 105-129.105 – 105-129.110 (2015) Enacted: 2015 Effective: Jan. 1, 2016	15% credit for up to $10 million in QREs and a 10% credit for more than $10 million in QREs if federal historic tax credit is allowed. 5% additional credit with $20 million project cap for projects located in either Tier One or Tier Two areas or in eligible targeted investment site. Per-project cap: $4.5 million. Minimum investment: same as federal. Disproportionate allocation is permitted as long as 40% of credit is allocated to owner when structure is placed in service. 15% credit for non-income producing property. Per-parcel cap: $22,500. Minimum investment: $10,000. Sunset: 2020.	North Carolina Historic Preservation Office 919-733-4763
North Dakota Historic Preservation and	25% credit for eligible historic property that is part of a renaissance zone project. Project cap of $250,000. Carry forward: 5 years.	Historical Society of North Dakota 701-328-2666

Renovation Tax Credit N.D. Cent. Code § 40-63-06 Enacted: 1999 (amended 2003)		
Ohio Rehabilitation of Historic Buildings; Tax Credits Ohio Rev. Code § 149.311 Enacted: Dec. 2006 Effective: April 4, 2007	25% credit for owners and long-term qualified lessees of certified historic building. Project cap: $5 million. Aggregate cap: $60 million annually and any unused amount will be carried forward and added to the next year. $25 million set aside every two fiscal years for one catalytic project, defined as a large-scale rehabilitation project that would foster economic development. DOI Standards apply. Refundable amount of credit limited to $3 million per project. Transfer by disproportionate allocation permitted. Five year carry-forward. Applicant must provide evidence that the credit is a major factor in the applicant's decision to rehab. Applicant must have CPA certify costs if qualified rehabilitation expenditures exceed $200,000. If the applicant does not provide evidence of having a viable financing plan, having final construction drawings and all necessary historical approvals within 12 months of receiving notice of approval, or if the applicant has not closed on financing within 18 months after approval, the director may rescind the approval and reallocate the credit amount to another applicant. Director of Economic Development must conduct a cost-benefit analysis of every project that shows whether the project will result in a net revenue gain in state and local taxes. Director of Development and Tax Commissioner must produce an annual report to the legislature analyzing program's effectiveness.	Ohio Development Services Agency 614-466-6667
Oklahoma Tax Credit for Qualified Rehabilitation Expenditures Okla. Stat. Ann. tit. 68 § 2357.41 Enacted: 2008 Effective: Jan. 1, 2009	20% income tax credit for all eligible commercial and rental residential properties that qualify for the federal tax credit. Minimum investment: same as federal credit. No statewide or per-project caps. Carry forward: 10 years. Freely transferable for 5 years. Credits can be claimed starting on Jan. 1, 2012.	Oklahoma State Historic Preservation Office 405-522-4484
Pennsylvania Enacted: July 2, 2012 Effective: Feb. 1, 2013	25% credit for eligible properties that qualify for the federal tax credit. Minimum investment same as for the federal credit. Project cap: $500,000. Aggregate cap: $3 million annually. Projects to be allocated equitably among state's regions. Any unused amount from a region will be reallocated to another region. DOI Standards for Rehabilitation apply. Public utilities, insurance companies and financial institutions may participate in the program. Applications must be filed by Feb. 1, 2013, but may cover expenditures previously made. Carry forward: 7 years. Credits are transferable by certificate only. Sunset: 2019.	Pennsylvania Historical & Museum Commission 717-783-6012
Rhode Island Historic Structures – Tax Credit 44 R.I. Gen Laws §§ 44-33.2-1 – 44-33.2-6	20% for commercial property owners, condominiums and nonprofits; 25% if 25% of total rentable space or entire first floor is used in a trade or business. Owner-occupied residences not eligible. Per-project cap on tax credit amount is $5 million dollars. Maximum aggregate credits through 2017 to be set by legislature; currently at $34.5 million. Transfer by disproportionate allocation or	Rhode Island Historical Preservation & Heritage Commission (401)222-4333

Commercial (enacted: 2001; effective Jan. 1, 2002) Residential (enacted 1989, effective Jan. 1990)	direct assignment. Proceeds of sale of credit not subject to state tax. Credits awarded to tax-exempt entities fully refundable. Qualified rehabilitation expenditures must exceed the adjusted basis of the building. Applicant must enter into contract with state division of taxation and grant state a 2-year restrictive covenant on the building regarding material alterations, and a 5-year restrictive covenant regarding use as a trade or business if 25% credit is claimed. CPA must certify to amount of credit claimed. Projects with hard construction costs of $10 million dollars or more must have approved apprenticeship programs. Program sunsets July 30, 2017 or when funds exhausted.	
South Carolina Income Tax Credit for Making Qualified Rehabilitation Expenditures for a Certified Historic Structure S.C. Code Ann. § 12-6-3535 Enacted: 2002 Effective: Jan. 1, 2003	10% credit for commercial properties eligible for federal credit; 25% for other eligible properties. Minimum investment for non-commercial properties: $15,000. All credits must be taken in 5 equal annual installments. No statewide or per-project dollar caps. Credits earned by pass-through entities may be allocated disproportionately to partners, members or owners. However as to S corporations taxed at the entity level, credits must first be used at the entity level, and any excess credit shall be passed through to the shareholders in accordance with their percentage of stock ownership. Credits for owner-occupied residences limited to one per structure each 10 years. Pre-approval required. 25% tax credit against income, corporate license fees, and insurance premium taxes, for rehabilitating abandoned textile mill buildings that have been closed at least one year immediately preceding the application. Credits must be taken in 5 equal installments. Carry forward: 5 years. Credit may also be taken against local real property taxes with percentage amount set by municipality or county. Transfer permitted by certificate and disproportionate allocation. Although not a historic credit as such, South Carolina has a 25% tax credit against income taxes and corporate license fees, taken in five equal installments, for rehabilitating abandoned buildings where 66% of space has been non-income producing for a minimum of 5 years. Taxpayer, if qualifying, is only permitted to one of three credits allowed through the Abandoned Buildings Act, the Textiles Communities Revitalization Act, or the Retail Facilities Revitalization Act and cannot exceed 50% of tax liability. Alternatively, credit can be taken against local real property taxes if approved by positive majority vote of the municipality or county after a public hearing. Credit up to 75% of real property taxes must be taken each year for up to 8 years. Per-project cap: $500,000. Also capped at 50% of tax liability. Expenses that increase the square footage in excess of 200% are disallowed. Credits are transferable by certificate and by disproportionate allocation. Available for projects initiated in 2012. Sunset: Dec. 31, 2019.	South Carolina Department of Archives and History 803-896-6100
Texas Tax Credit for Certified Rehabilitation of Certified Historic Structures Tex. Tax Code Ann. §§ 171.901	25% tax credit against franchise tax for certified historic structures rehabilitated and put in service on or after Sept. 1, 2013. No annual or per-project cap. Carry forward: 5 years. Minimum investment: $5,000. Credits are transferable by certificate or disproportionate allocation. Effective Jan. 1, 2015.	Texas Historical Commission 512-463-6100

– 171.909 Enacted: 2013 Effective: Credits available after Jan. 1, 2015		
Utah Historic Preservation Tax Credit Utah Code Ann. § 59-7-609 Enacted: 1993 Effective: Jan 1., 1993 Utah Code Ann. § 59-10-1006 Enacted: 2006	20% credit for residential owner-occupied and non-owner-occupied. Cap: none. Minimum investment: $10,000. Carry forward: 5 years. DOI standards apply. No fees.	Utah State Historical Society 801-245-7344
Vermont Downtown and Village Center Program Tax Credits Vt. Stat. Ann. tit. 32 §§ 5930aa – 5930ff Enacted: 1998 Effective: 1998	All credits limited to commercial buildings located in designated downtowns or village centers. 10% credit for projects approved for federal credit. 25% credit for façade improvement projects, limited to $25,000 per project. 50% credit for certain code improvement projects, with maximum credit of $50,000. Minimum investment: $5,000. Carry forward: 9 years. Credits may be transferred to bank in exchange for cash or interest rate reduction. Annual total program cap: $2.2 million. If federal credit is recaptured, same rules apply to state historic tax credit. The state board may allocate the credit upon completion of distinct phases of a qualified project and any recaptured or rescinded credits can be awarded to other applicants in subsequent years.	Vermont Division for Historic Preservation 802-828-3211 Enacted: 1993
Virginia Historic Rehabilitation Tax Credit VA. Code Ann. § 58.1-339.2 Enacted: 1996 Effective: 1997	25% for commercial and owner-occupied residential properties. Reconstruction and improvements must amount to at least 25% of the assessed value for owner-occupied buildings and at least 50% for non-owner-occupied buildings. Carry forward: 10 years. National and state register properties eligible. DOI standards apply. No caps. Transfer by disproportionate allocation permitted.	Virginia Department of Historic Resources 804-367-2323
West Virginia **Commercial** **Enacted: 1990** Credit for Qualified Rehabilitated Buildings Investment (Residential) W. Va. Code §§ 11-21-8a – 11-21-8h Enacted: March 10, 1999 Effective: March 10, 1999	10% credit for buildings eligible for federal credit; 20% credit for eligible owner-occupied residences. Commercial buildings entitled to same carry-back and carry-forward provisions as are available for federal credit. Recapture rules same as federal credit. Owner-occupied residences entitled to 5-year carry forward. Both commercial credits and homeowner credits may be directly transferred or transferred by disproportionate allocation. Minimum investment in homeownership projects: 20% of assessed value. No statewide or per project dollar caps.	West Virginia Historic Preservation Office 304-558-0220
Wisconsin Historic Rehabilitation Tax Credit W.S.A. 238.17 Enacted: 1988 Effective: Jan. 1, 1989 Supplement to Federal Historic	20% for certified income-producing properties. Applicant may also claim federal credit. No statewide or per-project caps. Credit may be transferred directly or by disproportionate allocation. Minimum investment $50,000. Tax credit must be approved by Wisconsin Economic Development Corporation. Program to be reviewed in 2017 for economic development effectiveness. 25% for eligible owner-occupied residences. No statewide cap. Per project cap: $10,000. Minimum	State Historical Society of Wisconsin 608-264-6490 Enacted: 1987 Amended: 2013

Rehabilitation Credit W.S.A. 71.07	investment of $10,000 over 2 years, extendable to 5 years. Cannot be used to offset state Alternative Minimum Tax. Same recapture rules as federal credit.	

The following states do not currently offer tax credits for renovating commercial or owner-occupied residences: *Arizona, Alaska, California, District of Columbia, Florida, Hawaii, Idaho, Indiana, Michigan, Nevada, New Hampshire, New Jersey, Oregon, South Dakota, Tennessee, Washington, and Wyoming.*

Twenty-four states offer credits to owner-occupied residences:

1. Alabama: Alabama Historic Rehabilitation Tax Credit
2. Arkansas: Historic rehabilitation income tax credit (§ 26-51-2204)
3. Colorado: Colorado State Income Tax Credit for Historic Preservation (§39-22-514 C R S)
4. Connecticut: CT Historic Homes Rehabilitation Tax Credit Program (Public Act 99-173)
5. Delaware: Delaware Historic Preservation Tax Credit Program (73 Del Laws, c 6, § 1)
6. Georgia: Georgia State Income Tax Credit Program for Rehabilitated Historic Property (O C G A § 48-7-29 8)
7. Indiana:
8. Iowa: Historic Preservation and Cultural and Entertainment District Tax Credit Program (Iowa Code §404A)
9. Kansas: Historic Preservation Tax Credit (K S A §79-32211)
10. Kentucky: Kentucky Historic Preservation Tax Credit Program (300 KAR 6:010)
11. Louisiana: State of Louisiana Residential Tax Credit Program (Louisiana R S 47:297 6)
12. Maryland: Sustainable Communities Tax Credit Program (Md Code § 9-204)
13. Mississippi: Mississippi Historic Preservation Tax Incentives Program (Miss Code § 27-7-22 31)
14. Missouri: Missouri Historic Tax Credit Program
15. New Mexico: State of New Mexico Investment Tax Credit program (4 NM §10 9)
16. New York: New York State Historic Homeownership Rehabilitation Tax Credit
17. North Carolina:
18. North Dakota: Historic Preservation and Renovation Tax Credit (N D C C § 40-63-06)
19. Ohio: Ohio Historic Preservation Tax Credit Program (ORC §149 311)
20. South Carolina: Historic Rehabilitation Tax Credit (S C Code § 12-6-3535)
21. Utah: Utah Historic Preservation Tax Credit (UC 9-8-404)
22. Virginia: Historic Rehabilitation Tax Credit (Virginia Code §58 1-339 2)
23. West Virginia: Rehabilitation Investment Tax Credit Program (W V Code §11-21-8g)
24. Wisconsin: Wisconsin Historic Homeowners Rehabilitation Tax Credit Program (Wiscn Admin Code Sect 71 07(9m))

Dollar Limits on State Tax Credits for Commercial Properties (in alphabetical order) – a/o 8/24/2016

	State	Aggregate	Per Project	Comments
1	Arkansas	$4 million annually	$125,000 in credits	
2	Colorado	$10 million annually	$1 million	
3	Connecticut (a)	$50 million over 3 years	$5 million per project	
3	Connecticut (b)	$15 million annually	$2.7 million per project	
4	Delaware	$5 million annually	None	For both homeowners and commercial
5	Georgia	**None** and $25 million	$5 million (up to $10 million if meets tests)	Projects under $300,000 in credits are not subject to cap
6	Illinois	**None**	None	River Edge Redevelopment Zone only
7	Iowa	$45 million annually	None	
8	Kansas	**None**	None	
9	Kentucky	$5 million annually	None	For both homeowners and commercial
10	Louisiana	**None**	$5 million per taxpayer	In development districts
11	Maine	**None**	$5 million per project	
12	Maryland	Annual appropriation	$3 million per project	$10M for 2014
13	Massachusetts	$50 million annually	None	
14	Minnesota	**None**	None	
15	Mississippi	$12 million annually	None	
16	Missouri	$140 million annually	None	Projects with eligible costs less than $1,100,000 are not subject to cap
17	Montana	**None**	None	5% add-on to federal
18	Nebraska	$15 million annually	$1 million in credits	
19	New Mexico	**None**	$25,000 outside $50,000 in Arts & Cultural District	
20	New York	**None**	$5 million	In distressed area
21	North Dakota	**None**	$250,000	In a “renaissance zone”
22	North Carolina	None	$4.5 million	
23	Ohio	$60 million annually	$5 million	
24	Oklahoma	**None**	None	
25	Pennsylvania	$3 million annually	$500,000	Started 2012
26	Rhode Island	$34.5 million	None	Total; no cap currently set annually
27	South Carolina	**None**	None	10% add-on to federal; 25% for other eligible properties
28	Texas	**None**	None	Starts Jan 1 2015
29	Utah	**None**	None	for residential owner-occupied and non-owner-occupied.
30	Vermont	$1.5 million annually	None	10% add-on to federal
31	Virginia	**None**	None	
32	West Virginia	**None**	None	10% add-on to federal
33	Wisconsin	**None**	None	20% credit

Of the 33 states that offer historic tax credits for income-producing properties, 15 have annual aggregate caps and Rhode Island has a total program cap.

Annual Aggregate Caps (in order of amount):

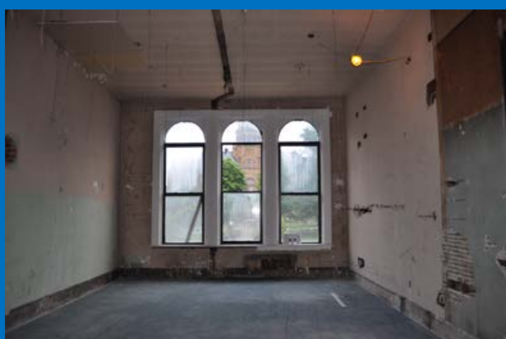
1. Missouri $140M (plus no cap on small projects)
2. Ohio $60M
3. Massachusetts $50M
4. Connecticut $50M over 3 years (program a) and $15M (program b)
5. Iowa $45M
6. Georgia $25M (plus no cap on small projects)
7. Nebraska $15M
8. Mississippi $12M
9. Maryland $10M
10. Colorado $10M
11. Delaware $5M * covers both homeowners & commercial
12. Kentucky $5M *covers both homeowners & commercial
13. Arkansas $4M
14. Pennsylvania $3M
15. Vermont $1.5M

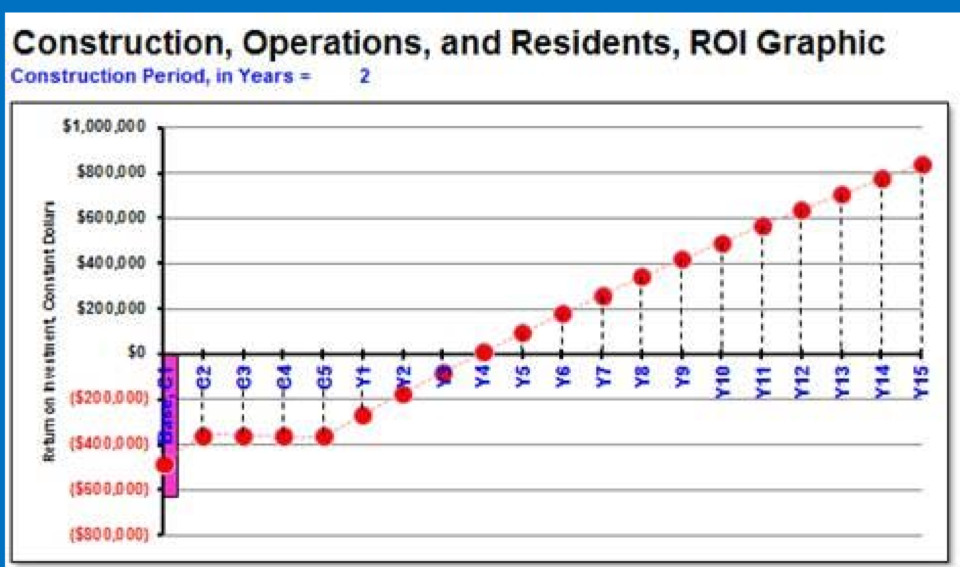
COST BENEFIT ANALYSIS IN OHIO

Ohio law requires the state to conduct a cost-benefit analysis for each historic building seeking a tax credit. The state must determine whether rehabilitation of the building and awarding of the credit will result in a net revenue gain in state and local taxes once the building is used. The Ohio model takes into account tax revenues generated after the building is placed in service.

A recent cost-benefit analysis involving The Market Block Building in Warren, Ohio demonstrated that 31% of the state's investment of $630,800 in historic tax credits was recovered before the tax credit was awarded. One-hundred percent (100%) of the state's investment will be recovered in new revenues by the fourth year of operation. By year 10 the building will have generated additional state and local tax revenues of $494,000 in excess of the amount of the credit, or a return on investment of 80%, and by year 15 the building will have generated approximately $839,000 in new tax revenues, representing a return on investment of 130%.

This year Heritage Ohio presented its Best Commercial Rehabilitation Award to The Chesler Group for this renovation which created new office and meeting space for The Raymond John Wean Foundation. The renovation of these four 1868 buildings along the Courthouse Square, helps the Foundation bring together local residents and incubate new businesses.





About the National Trust for Historic Preservation

Harry K. Schwartz is a consultant to the National Trust for Historic Preservation on state tax incentives.

Renee Kuhlman in the Government Affairs & Policy Department of the National Trust for Historic Preservation helps states expand, improve or put in place a historic tax credit. **E-mail:** rkuhlman@savingplaces.org **Phone:** 202-588-6234

The National Trust is a privately-funded nonprofit organization chartered by Congress in 1949. We work to save America's historic places to enrich our future. With headquarters in Washington, D.C., 12 field offices, 27 historic sites, and partner organizations in 50 states, territories, and the District of Columbia, the National Trust protects significant historic sites and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

Last updated 2-15-2017