



HISTORIC PRESERVATION TAX INCENTIVES FOR INCOME-PRODUCING HISTORIC BUILDINGS

INTRODUCTION

Federal tax incentives for the rehabilitation provide a 20% investment tax credit to owners who substantially rehabilitate their income-producing certified historic structures. These tax incentives have been in effect since 1976 and have been substantially amended several times; this pamphlet reflects the latest changes, the Tax Reform Act of 1986.

This nation-wide program is managed by the National Park Service and administered in Wisconsin by the Division of Historic Preservation (Division) of the Wisconsin Historical Society.

In planning a tax credit project, you should be aware that the Tax Reform Act of 1986 established "passive income" and transition rules that may affect your ability to claim tax credits, depending on the nature of your investment, your total income, and when your project was carried out. Interpretation of these rules is beyond the scope of this summary. For further information, you should contact the IRS, a tax attorney, or an accountant.

THE ROLE OF THE DIVISION OF HISTORIC PRESERVATION

The Division of Historic Preservation does not have the power to approve historic tax credit applications. The authority to approve or deny rests solely with the National Park Service. The role of the DIVISION consists of:

- informing the public about this program's procedural requirements;
- advising applicants of missing information or uncertifiable work contained in proposals and applications;
- forwarding applications to the National Park Service along with the Division's recommendations; and
- maintaining a complete duplicate file on all project applications and amendments.

WISCONSIN 5% SUPPLEMENTAL CREDIT

In 1989 the State of Wisconsin created a 5% supplement to the already established 20% federal income tax credit. An additional 5% credit can be deducted from Wisconsin income taxes by persons who qualify for the 20% federal program; and receive National Park Service approval **before** any physical work (including demolition) is begun on the project.

(Also established in 1989 was a Wisconsin 25% Historic Rehabilitation Tax Credit for **non-income-producing historic buildings**. Information about that program can be obtained by contacting the Division at 608/264-6491 or 608/264-6490.)

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THE TAX INCENTIVES

Current law provides the following percentages of investment tax credits for rehabilitation of income-producing buildings:

	NON- RESIDENTIAL	RESIDENTIAL
Built before 1936	10% Federal	None
Certified Historic Structure	20% Federal <u>plus</u> 5% State*	20% Federal <u>plus</u> 5% State*

*(Subject to rules regarding Wisconsin 5% credit. See "Wisconsin 5% Supplemental Credit.")

These instructions pertain to the tax incentives for rehabilitating Certified Historic Structures. Unlike the 20% credit for certified historic buildings, the 10% tax credit is not available to contributing or significant buildings within a National Register Historic District. For more information about the incentives available for non-historic structures built before 1936, you should consult a tax attorney or accountant.

The tax credits described in this summary apply only to expenditures made to the exterior or the interior of certified historic structures. The costs of site work, acquisition, and construction of additions are not eligible for the credits.

In addition to the tax credit, you may also claim depreciation on your building. The depreciation schedule as of January 1, 1990, is 27.5 years for residential income-producing properties and 31.5 years for other income-producing properties.

APPLICATION REQUIREMENTS SUMMARY

TYPE OF BUILDING	Part 1 required?	Part 2 required?	Part 3 required?	Additional Action Required
Listed in the National Register of Historic Places	No	Yes	Yes, after work is done	None
Located in a National Register Historic District	Yes	Yes	Yes, after work is done	None
Located in NPS-certified local historic district	Yes	Yes	Yes, after work is done	None
None of the above	Yes	Yes	Yes, after work is done	Must formally nominate the property to the National Register. Property must be listed in the Register within 30 months of your taking the credit, or you must repay the credit to the IRS and the Wisconsin Department of Revenue

The historic preservation tax credits allow you to extend the period over which you must meet the "substantial rehabilitation" requirements from two to five years; however, you must formally apply for this option before work begins. For further information, see "Applying for five-year certification."

If the building is sold after the tax credits are claimed, the IRS and the Wisconsin Department of Revenue will recapture all or part of the credit. The amount of recapture is reduced by 20% per year and after five years there is no recapture. During this period, you are required to obtain NPS approval of any significant additional work that you undertake.

In addition to the owners of a building, a **lessee** may also be eligible for the tax credits if the lease runs for at least 18 years beyond the completion of the rehabilitation project and if the lessee carries out the work.

As with any tax incentives, there are subtleties in the law that go beyond the scope of this summary. Any questions that relate to your own tax situation should be addressed to the IRS or a professional tax specialist.

For assistance in proceeding through the certification process, contact Jim Sewell at (608) 264-6490 or jim.sewell@wisconsinhistory.org

BASIC PROGRAM REQUIREMENTS SUMMARY

In order to take advantage of the historic preservation tax incentives, you must:

1. Own (or lease, as described earlier) a "Certified Historic Structure."
2. Use the building for the production of income, according to IRS regulations.
3. "Substantially Rehabilitate" the building.
4. Design and carry out work in conformance with the "Secretary of the Interior's Standards for Rehabilitation."
5. Formally apply to the National Park Service, through the Division for certification of your project. (The NPS charges a fee for its portion of the review. See "National Park Service fee schedule".) See the "contents" on page 1 for the location of each of these topics.

APPLICATION PROCESS OVERVIEW

Tax credit applications are the blue forms in the information packet. Applications in electronic form are available on the web at <http://www.nps.gov/history/hps/tps/tax/hpcappl.htm>. To take advantage of the historic preservation tax credits, you must submit three applications to this office:

1. A Part 1 application, the purpose of which is to determine that the building is historically significant. (The Part 1 application is not required for buildings already *individually* listed in the National Register of Historic Places.)
2. A Part 2 application in which you describe the work that you intend to carry out. The purpose of this application is to demonstrate to the NPS that your project will not destroy the historic qualities of the building.
3. A Request for Certification of Completed Work (usually referred to as the "Part 3 application") that you must submit after completion of the work.

In addition, owners of buildings that are preliminarily certified (see "Certified Historic Structures,") must submit National Register nominations for their buildings. A summary of the application requirements is given at the top of this page.

CERTIFIED HISTORIC STRUCTURES

The term "Certified Historic Structure" as defined in the tax codes means:

- a building that is individually listed in the National Register of Historic Places; **or**
- a building that is located within the boundaries of a National Register historic district and which is determined by the National Park Service to contribute to that district; **or**
- a building that is located within the boundaries of a locally designated historic district whose ordinance and boundaries have been certified by the National Park Service -- and where the building has been determined by the NPS to contribute to the district.

If your building does not fall into one of the three categories above, you may still take advantage of the tax credits by submitting a Part 1 application to obtain a preliminary certification of significance. You would then proceed through the certification process; however, within 30 months of the date in which you file your tax return claiming the

credit, the building must be listed in the National Register of Historic Places.

As indicated in the summary of application requirements, Part 1 applications are also required for projects located within historic districts to establish the building is "contributing". Not all buildings within a district are considered contributing to the historic character of the district, because of age or alterations. Once the Part 1 is approved, the property is considered to be a "certified historic structure."

Properties listed individually in the National Register are already considered to be "certified historic structures" and, therefore, Part 1 applications are *not* required. For further information about completing Part 1 applications, see "Part 1 Application Instructions."

INCOME-PRODUCING REQUIREMENTS

The Federal historic preservation tax credits, and the Wisconsin 5% supplemental credit, apply only to buildings that are income-producing. All certified historic income-producing properties, including residential rental properties, are eligible for the credits. One key to determining whether your property is considered income-producing is whether you can depreciate all or part of it under IRS rules.

If only part of your building is income-producing, you may pro-rate the tax credit over that portion of the building. Contact a tax specialist or the IRS for further information.

For information on the State historic rehabilitation credit for non-income-producing properties, contact the Division of Historic Preservation at 608/264-6490 or 608/264-6491 for an information packet.

SUBSTANTIAL REHABILITATION REQUIREMENTS

To claim any credit, the IRS requires that you "substantially rehabilitate" your historic building. This means that the amount of money that you spend on the historic rehabilitation (that is, the money that you may claim for purposes of the tax credit) must equal at least \$5,000 or the "adjusted basis" of the building, whichever is greater. The adjusted basis is generally the price that you paid for the building (not including land costs), plus any capital improvements that you have made, minus any depreciation that you have already taken.

IRS regulations specify that you must meet the "substantial rehabilitation" requirements within a two-year period (at your option, you may choose any two-year period during which you spend the most money on qualified rehabilitation work). If you cannot meet this requirement, you may formally apply as a phased project which allows a five-year period to "substantially rehabilitate" your building. See "Applying for Five-year Certification".

NATIONAL PARK SERVICE (NPS) FEE SCHEDULE

The NPS charges the following fees for reviewing applications:

COST OF WORK	NPS FEE
less than \$20,000	No fee
\$20,000 - \$99,999	\$500
\$100,000 - \$499,999	\$800
\$500,000 - \$999,999	\$1,500
more than \$1,000,000	\$2,500

Applicants are billed directly by the NPS in the following manner:

- For all projects with more than \$20,000 worth of work, only \$250 of the fee is charged at the time of Part 2 review. This is normally billed when the NPS receives your Part 2. They will review your project when they receive this initial fee. Do **not** send a check before being billed. However, if review of your application is urgent, the NPS can charge the review fee to your credit card. You must complete the "Fee Payment" form in the application packet to provide credit card authorization.
- If, however, your project is estimated to cost less than \$20,000, the NPS **not** charge a review fee.
- When your Part 3 application is received by the NPS, you will be charged the remaining fee, based on the schedule above.

THE APPLICATION PROCESS

To expedite the application process and to increase the likelihood of the National Park Service's tax credit approval, the Division of Historic Preservation suggests that you proceed in the following way:

1. **Contact the Division** to let us know of your intent to apply for the tax incentives. We will check to see if your building is already a "certified historic structure" and can discuss the details of your project to determine whether the work meets NPS standards.
2. **Take detailed photographs of the property.** For purposes of the Part 1 application you need to document all sides of the building and show its surroundings. In addition, you should provide representative photographs of the building's interior. For the Part 2 application, you are required to illustrate the pre-project conditions described in the application. You must send **two copies of all photographs**. Further information about photographic requirements is given in the application instructions sections.
3. **Prepare the Part 1 application** (unless your building is listed individually in the National Register). For further information, see the "Part 1 application instructions" section. While it is not required, many applicants feel the need to hire professional consultants to complete these applications. If you wish to hire a consultant, you can request from the Division a list of persons who have successfully completed National Register nominations and Part 1 applications.
4. **Prepare and submit the Part 2 application.** Further information about the documentation requirements are given in the "Part 2 application instructions" section and in the State Historical Society publication, "Guidelines for Planning Historic Preservation Tax Credit Projects". Applications that are incomplete or that describe inappropriate work will be returned for revision or augmentation. The Part 2 application may be submitted along with the Part 1 application. You can expect a response from the NPS within 60 days of the Division's receipt of your application.
5. **Carry out the work.** Once the Part 2 application has been approved by the NPS, you may begin work without jeopardizing your tax credits if the work conforms to the approved Part 2 application. It is possible to change some aspects of the project, but all changes must be submitted (along with necessary photos and drawings) to the Division. The Division will then forward them to the NPS for approval.

If your property has received only a preliminary determination of significance through the Part 1 application process, (in other words, if it is not individually listed in the National Register or certified as contributing to a National Register district), you should begin immediately to prepare a National Register nomination for

the property. Contact the Division to begin the process (see "Where to go for help").

6. **Apply for final certification.** In the calendar year you complete the work and place the building in service, you must submit a "Request for Certification of Completed Work" (also referred to as the Part 3 application). To claim your tax credit, the IRS requires you to attach a NPS-signed copy of the approved Part 3 application to your tax return. If your property is not yet a certified historic structure, the NPS cannot sign-off on your Part 3 application, although the work may be approved by letter. You may use the approval letter to claim your credit, but you are required to list your property on the National Register within 30 months of the date in which you claim your tax credits. The NPS can then sign the Part 3, which you must submit to the IRS. **Because National Register listing is a time-consuming process, begin this process early!**

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

Because this program is designed to encourage sensitive rehabilitation of historic buildings, every project is evaluated against a set of standards to ensure that the proposed work will not destroy the buildings that the tax credits were designed to save. These standards, which have been adopted into the tax code, are called "The Secretary of the Interior's Standards for Rehabilitation."

A copy of the Standards and the accompanying guidelines for rehabilitation may be attached to this information package. If it is not, you may request one free of charge from the Division. Also available is a Wisconsin supplement, "Guidelines for Planning Historic Preservation Tax Credit Projects", that provides guidance on how the Standards are interpreted.

The ten Standards are as follows:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

INSTRUCTIONS FOR COMPLETING PART 1 - APPLICATIONS (EVALUATION OF SIGNIFICANCE)

To be eligible for the tax incentives, a building must be a Certified Historic Structure. As an applicant, this means that if your property is not listed *individually* in the National Register of Historic Places you must complete a Part 1 application. Generally, it must be submitted no later than the date the building is "placed in service", that is, put in use for an income-producing purpose. The majority of the application consists of information that you must provide about the building's physical appearance and the building's historic significance.

PURPOSE OF THE FORM

For properties contained within historic districts (either National Register or certified local historic districts) the form is designed to demonstrate that the properties contribute to the significance of those districts. Once a Part 1 certification form has been approved by the NPS, that property is considered to be a Certified Historic Structure.

For properties not located in historic districts and not listed individually on the National Register, the Part 1 form serves as a preliminary National Register nomination. The level of documentation for a Part 1 application is virtually the same as that for a National Register nomination (although the format is not as tightly structured and the narrative can be shorter). In completing the form, you must document that the building is eligible for listing in the Register. When the NPS approves a Part 1 application for this type of building, it states only that the building appears to be eligible for listing in the Register. Once you complete the project and take the tax credits, you will be required to formally list the property in the Register within 30 months.

DATE OF CONSTRUCTION

Under "Date of Construction," please indicate the source from which the date was obtained. Acceptable sources include cornerstones or inscription stones, city building permits, building plans, county or local histories, newspapers of the time of construction, and sometimes title abstracts, tax records, or early maps.

THE DESCRIPTION OF PHYSICAL APPEARANCE

Every Part 1 application must address the following physical aspects of the building:

1. Kind of structure (church, dwelling, etc.)
2. Overall shape or plan (rectangular, "L-shaped," etc.)
3. Number of stories
4. Construction material (brick, frame, stone, etc.)
5. Siding or exterior wall covering material

6. Roof shapes (Mansard, hipped, gabled, etc.)
7. Important decorative elements (column, porches, towers, windows, etc.)
8. Number, types, and locations of outbuildings, including dates of construction
9. Known substantial alterations or additions, including dates
10. Significant or character-defining interior features and spaces.

It is important that you describe and send photographs (2 sets) of both the exterior and the interior of the building. Applications that fail to address interior features will be returned for more information.

STATEMENT OF SIGNIFICANCE

The statement of significance is the most important aspect of the Part 1 application -- and the most technically difficult. You may wish to hire a consultant to prepare your Part 1 application, especially if your building does not lie within a registered or certified historic district. If so, the Division staff can provide you with list of consultants who have successfully prepared Part 1 applications and National Register nominations. See "Where to go for help".

If your building is located within a historic district, the information that you provide in this area must be designed to show that the building contributes to the significance of that district. Your first step should be to find out why the district is significant by checking the National Register or local district nomination form. You may obtain a copy of these nominations by contacting the Division.

If your building is not located in a historic district and is not listed in the National Register, you must show that the building is eligible for listing in the Register. The statement of significance required for this type of building is equivalent to what is required for a National Register nomination and all applications are evaluated for significance using National Register criteria. This means that you must demonstrate that your building:

1. is associated with events that have made a significant contribution to the broad patterns of our history; or
2. is associated with the lives of persons significant in our past; or
3. embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master architect or builder, or possess high artistic values, or represents a significant or distinguishable entity whose components may lack individual distinction; or
4. has yielded, or is likely to yield, information important to prehistory or history.

The statement of significance for buildings that are less than fifty years old; moved; reconstructed; birthplaces of important individuals; primarily commemorative in nature; or owned or used by religious institutions may have to address additional criteria set forth in National Register regulations. Please consult with the Division staff if your building falls into one of these "exceptional" categories.

Sources of information used in the statement of significance, especially quotations, should be specified with proper references to documents, titles, dates, and pages. Heresy or common knowledge cannot be used to establish significance.

INSTRUCTIONS FOR COMPLETING PART 2 APPLICATIONS (DESCRIPTION OF REHABILITATION)

In order to describe a wide range of projects the Part 2 application form was designed to be very flexible. Unfortunately, this flexibility can lead to confusion, and often applications must be returned because applicants failed to describe work adequately. These instructions are intended to clarify the procedural requirements for applying for certification of your rehabilitation plans. Please refer to "Guidelines for Planning Historic Preservation Tax Credit Projects" for information on National Park Service standards and documentation requirements.

COMMON MISTAKES AND OMISSIONS

Most applications are returned to applicants for the following reasons:

1. Lack of photographic documentation. Because it is impossible to visit every tax project, we rely on photographs supplied by applicants to illustrate pre-project conditions. Each applicant is required to submit two sets of clear photographs that show all of the conditions described in the application. These need not be larger than snapshot size, but "instant" (so-called Polaroid) photographs are not acceptable. **Two sets** of photographs are required in order that the Division have a record set of photos after sending one set to the NPS. Photos should be clearly labeled by location, or keyed to a plan. Loose, unmounted photographs are preferred to simplify our filing process. High quality **color** photocopies are satisfactory for the second set -- **black and white photocopies are not.**

2. Lack of adequate plans. In most cases, in order to describe the work, plans or other drawings are required. For example, when interior work involves alteration of interior features, the NPS requires that before-and-after floor plans be submitted. If you submit plans or other drawings, please remember to submit two copies. As with the photographs, one copy is sent to the NPS and one record copy is kept in our files.

Often, applicants who have already produced complete sets of plans and specifications for a project will submit instead summary materials. In most cases, those summary materials leave out important information that we and the NPS need to review a project. If you have already prepared plans and specifications, you should send them with the application.

3. Lack of required signatures. The NPS and the Internal Revenue Service (IRS) require that applications be signed by all owners of a rehabilitated property, and that the names, addresses, and taxpayer identification numbers of those owners be indicated on the application. The IRS requires that **all partners** give their names and taxpayer identification numbers on an application. A general partner who is in the process of soliciting partners at the time of application should include a statement that the names of the remaining partners are unknown, but that they will be submitted at a later date.

4. Failure to describe significant aspects of a project. Sometimes, applicants do not describe those parts of a project that they do not feel are important, such as interior

rehabilitation. The NPS considers all parts of a project to be important and requires applicants to address all aspects of project work including interior work, new construction, demolition of nearby structures, and installation of new mechanical and electrical systems.

5. Reformatting the application. The NPS requires that applications be submitted on the standard forms, although it is possible to modify the section in which the work is described. If you feel that the blocks in the application are too small for all of the information that you need to give, you can either put the additional information on continuation sheets or create your own similar format, as on a computer. If you elect to do the latter, please include the references to photos and drawings contained at the bottom of the left-hand block.

6. Submission of unidentified application materials and amendments. Applicants often send or hand deliver plans and supplementary materials with no cover letters or project identification. Under these circumstances, it is possible for the materials to be misdirected or not acted upon. Any additional information or changes to your proposal should be described on the NPS "Continuation/Amendment Sheet," which is included in the application packet with the other blue application forms. It should be completed and signed by the owner.

APPLYING FOR FIVE-YEAR CERTIFICATION

Ordinarily, as a tax applicant, you would have two years in which to meet the "substantial rehabilitation" requirements for purposes of claiming the credits. It is possible under this program to meet those requirements in a five-year period if the project is phased. You should formally apply for this option before work begins on the project or have architectural plans that demonstrate your intention to complete the project in phases from the outset. To apply for a phased project, you should submit plans for the complete project and a signed letter with your application in which you:

- express your intent to apply for the five-year expenditure period;
- state whether the work described in the Part 2 application represents all of the work to be carried out over the five-year period; and
- present a phasing plan breaking the project down into at least two logical, discrete "phases." For each phase, you must tell what work will be accomplished, the start and completion date, and the estimated cost of that work. Many applicants elect to break the projects into annual phases.

After your Part 2 application and phasing plan are approved by the NPS, you may claim the credit as each phase of your project is completed. You should wait until the completion of the entire project before submitting to the Division a "Request for Certification of Completed Work".

WHERE TO GO FOR HELP

The Division of Historic Preservation (Division) can help the potential applicant with the following services and advice regarding the tax incentives:

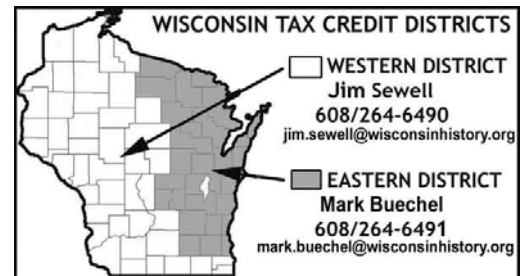
- Provide you with copies of the certification applications and instructions based on our knowledge of the tax regulations and the certification process.

- Review your project preliminarily to try to discover areas where work that you propose may not meet the Standards. (Any such requests, however, should be made in writing and should be accompanied by sufficient photographs and a description of the work to allow the division to make a reasonably good evaluation.)
- Provide you with lists of professional consultants who have successfully prepared Part I applications and National Register nominations.

For advice about completing the Part I certification application, call **Joe DeRose** at 608/264-6512 or joe.derose@wisconsinhistory.org.

For information on listing a building in the National Register of Historic Places contact **Mary Georgeff** at 608/264-6498 or mary.georgeff@wisconsinhistory.org.

All other tax certification inquiries should be made to the architect in your tax credit region. See map at right.



Certified historic buildings qualify to use the historic

building code in Wisconsin. This can be helpful in solving difficult code compliance problems. For information on the historic building code contact **Lynn Lecount**, Division of Safety and Building at the Department of Commerce, 201 W. Washington Ave., 4th fl., Madison at 608/267-2496 or llecount@commerce.state.wi.us.

For help in designing projects, we suggest that you hire an architect. The Division cannot make recommendations about which architects to hire. We suggest that you refer to the listing of architects in your telephone book or contact the **American Institute of Architects, Wisconsin** at 608/257-8477 or www.aiaaccess.com.

For advice about your tax circumstances, you should contact tax specialists, such as tax lawyers or accountants, or the Internal Revenue Service. **Colleen Galagher** at the IRS District Office in St. Paul is available to answer tax questions as they relate to this program. She can be reached at 651-726-1480 or colleen.k.galagher@irs.gov. Also see the IRS <http://www.nps.gov/history/hps/tps/tax/irs.htm> web site. Other web sites of interest are the State Historical Society's site at www.wisconsinhistory.org and the NPS's site at <http://www.nps.gov/hps/tps/tax/index.htm>.

HPD:TRA001

Rev: 5/27/2009

Taxinstructions-5/2009/taxproj