

Economic Development Alert

NEW OHIO HISTORIC REHABILITATION TAX CREDIT

Refundable tax credits to be available for up to 200 historic rehabilitation projects!

What Is It?

In mid-December, the Ohio General Assembly enacted a significant, brand-new **refundable** income/franchise tax credit worth up to 25% of “qualified rehabilitation expenditures” associated with the rehabilitation of historic buildings. The legislation was signed by the Governor on January 2, 2007 and will become effective 90 days after the Governor’s signature. This pilot program will award a refundable tax credit for up to 100 historic rehabilitation projects in each of the next two years. Ohio currently has ~3,500 listings on the National Register of Historic Places, and the pilot program is designed to be an incentive to catalyze those rehabilitation projects that would not take place without the tax credit.

What Does It Mean?

An owner who holds the fee simple interest in a historic building may be eligible for a tax credit for “qualified rehabilitation expenditures,” which are costs and expenses paid or incurred during the “rehabilitation period” to rehabilitate the building, including architectural or engineering fees, as well as expenses incurred in the preparation of nomination forms for listing on the National Register of Historic Places. However, the cost of acquiring, expanding, or enlarging a historic building; expenditures attributable to work done to facilities related to the building (e.g. parking lots, sidewalks, and landscaping); and new building construction costs are not “qualified rehabilitation expenditures.”

Because no more than 100 applications can be approved in each fiscal year, and because applicants must demonstrate that their planned rehabilitation projects meet certain standards before beginning physical rehabilitation, applicants who intend to pursue the new historic rehabilitation tax credit should plan carefully before proceeding with their projects.

Who Is Eligible?

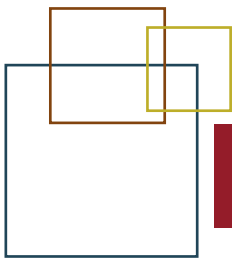
The pilot program allows a refundable tax credit for any of the following:

- A dealer in intangibles (e.g. stock broker, mortgage broker, securities dealer, finance company, loan company), to be used against the intangibles tax;
- A corporation that is subject to the corporation franchise tax, to be used against that tax;
- A person that is subject to the income tax, or a pass-through entity that makes an election to be subject to the income tax rather than the corporation franchise tax, to be used against the income tax.

What Do You Have To Do?

To obtain the tax credit, the owner first must file an application with the State Historic Preservation Officer for a rehabilitation tax credit certificate.

- An application must be filed on or after July 1, 2007, but before July 1, 2009.



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- Within 7 days after an application is filed, the State Historic Preservation Officer must forward it to the Director of Development, who reviews the application and determines whether all of the following criteria are met:
 1. That the building is a historic building and the applicant is the owner of the building;
 2. That the rehabilitation will satisfy standards prescribed by the United States Secretary of the Interior under the National Historic Preservation Act and federal regulations that establish standards for rehabilitation; and
 3. That receiving a rehabilitation tax credit certificate is a major factor (a) in the applicant's decision to rehabilitate the historic building or (b) to increase the level of investment in that rehabilitation.

If the Director of Development determines that the 3 criteria described above are met, the Director, in conjunction with the Tax Commissioner, must conduct a cost and benefit analysis for the historic building to determine whether rehabilitation of the building will result in a net revenue gain in state and local taxes once the building is used.

- A rehabilitation tax credit certificate cannot be issued before rehabilitation of the building is completed, and the Director cannot issue more than 100 applications in an application period.

Notably, among the other criteria that must be met, the applicant must demonstrate that receiving the credit is a "major factor" either in (i) the applicant's decision to proceed with the rehabilitation project, or (ii) to increase the level of investment in such rehabilitation.

Issuance of a certificate represents a finding by the Director of Development only of the matters described in the 3 application criteria. Issuance of a certificate does not represent a verification or certification by the Director of the amount of qualified rehabilitation expenditures for which a tax credit may be claimed. The amount of qualified rehabilitation expenditures is subject to inspection and examination by the Tax Commissioner.

The Ohio Department of Development has yet to promulgate rules to implement the pilot program and as such, additional requirements associated with application for the rehabilitation tax credit certificate may ensue.

Vorys has a long history of working with local, state and federal authorities to structure, negotiate and secure economic development incentives to help clients expand facilities, construct facilities, rehabilitate facilities and develop property. Depending on the project, we utilize attorneys who practice in the areas of corporate law, state and local taxation, real estate law, federal taxation, environmental law, commercial law, municipal law and other practice areas. To obtain more information about the Ohio Historic Rehabilitation Tax Credit, contact Scott Ziance at (614) 464-8287 or sziance@vssp.com or Joseph Mann at (614) 464-6313 or jbmenn@vssp.com.