



Ohio Rehabilitation Tax Credit Amendments

Allowance of Special Credit Allocations

The recently finalized Amended Substitute Ohio House Bill 1 (Budget Bill) contains an amendment that allows the special allocation of Ohio's historic rehabilitation tax credit against Ohio's personal income tax and corporation franchise tax. This amendment only applies to tax credits from tax credit certificates issued in taxable years ending on or after the effective date of the Budget Bill amendment. The tax credit can be allocated in proportion with the equity owners' ownership interests or in such proportions or dollar amount as the equity owners mutually agree. A tax credit certificate is available after the completion of a historic rehabilitation project and is required to claim the tax credit. Tax credits from any funding round can be specially allocated provided that the issuance date of the tax credit certificate to which the tax credit relates meets the [requirements discussed here](#).

The Budget Bill amendment will be effective around mid-October 2009 or the 91st day after the bill is filed with Ohio's secretary of state. To the extent applicable, this amendment overrides the provision in the tax credit application prohibiting any special allocation of the tax credit. The Budget Bill remains subject to referendum, but these provisions are unlikely to change.

The following examples illustrate how the Budget Bill amendment applies to the tax credits: A tax credit certificate holder (building owner) whose 2009 taxable year begins on January 1, 2009 and ends on December 31, 2009 can specially allocate tax credits from a tax credit certificate issued to it on February 1, 2009. That same certificate holder can specially

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allocate tax credits from a tax credit certificate issued to it on February 1, 2010. However, that same certificate holder cannot specially allocate tax credits from a tax credit certificate issued to it before January 1, 2009.

Creation of the Ohio Preservation Tax Credit Fund

The Budget Bill authorizes the Ohio Department of Development to use up to \$75 million to create the Ohio Preservation Tax Credit Fund. This Fund is to be created out of money available to Ohio under the American Recovery and Reinvestment Act of 2009; however, the Budget Bill does not appropriate any money to the Ohio Preservation Tax Credit Fund.

The Department of Development will provide loan guarantees secured by the Ohio Preservation Tax Credit Fund for historic rehabilitation projects for which an Ohio rehabilitation tax credit has been approved. The Department of Development is directed to provide loan guarantees first to projects approved in the first funding round before providing loan guarantees to projects approved in subsequent funding rounds. Additionally, the amount of the loan guarantee for a particular project is limited to the amount of the rehabilitation tax credit awarded to the project.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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