

Comparison of the Ohio and Federal Historic Tax Credits

Questions	Ohio Rehabilitation Tax Credit	Federal Rehabilitation Tax Credit
What buildings are eligible?	It appears that both depreciable and non-depreciable buildings (e.g., personal residences) are eligible.	Only depreciable buildings that are not tax-exempt-use properties are eligible.
What are the rehabilitation standards?	The US Secretary of the Interior's rehabilitation standards.	The US Secretary of the Interior's rehabilitation standards.
How much rehabilitation is required to claim the credit?	No minimum amount of rehabilitation is specified; however, any rehabilitation must meet the National Historic Preservation Act's rehabilitation standards. Unlike the federal statute, there does not appear to be a substantially rehabilitated requirement.	The building must be "substantially rehabilitated," and the rehabilitation must eventually be treated as a "certified rehabilitation." A building is substantially rehabilitated when qualified rehabilitation expenditures incurred during a certain measurement period exceed the taxpayer's basis in the building at the beginning of that period.
When may the credit be claimed?	The credit may be claimed only in the calendar year specified in the Ohio Tax Credit Certificate, and the certificate is issued after the completion of the rehabilitation.	The credit may be claimed in any tax year in which the qualified rehabilitation expenditures are placed in service.
Is an application required for the taxpayer to claim the credit?	Yes, only a taxpayer whose application has been approved by the Ohio Development Director may receive a credit certificate entitling the taxpayer to claim the credit on a tax return. The director can approve up to 100 applications in each of the next two years.	Yes, the taxpayer must apply for certifications from the National Park Service to establish that the rehabilitation is a "certified rehabilitation" and, if applicable, that the building is a certified historic structure.
Must expenditures eligible for the credit be made within a certain period of time?	Yes, the statute states that the credit can be used for certain rehabilitation expenditures incurred during either a 24- or 60-month rehabilitation period and before and after that period "as determined under 26 U.S.C. 47," the federal rehabilitation credit statute. It is unclear how this reference to the federal statute will determine whether expenditures incurred outside the rehabilitation period will be eligible for the credit.	Yes, and it includes all qualified rehabilitation expenditures paid or incurred through the end of the taxpayer's tax year in which the qualified rehabilitation expenditures have been placed in service, including certain expenditures made before the substantially rehabilitated measurement period that have not been previously included in calculating a credit amount.
To what taxes does the credit apply?	The credit may be applied against the following Ohio taxes: the dealer-in-intangibles tax, corporation franchise tax and personal income tax. The credit may be applied against the corporation franchise tax even after that tax has been phased out.	The credit may be applied to an individual's or business' federal income taxes.
Is the credit refundable?	Yes, any amount in excess of the taxpayer's tax liability is refunded to the taxpayer.	The credit is not refundable but may be carried back one year and carried forward 20 years, subject to certain limitations.

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Does the amount of the credit, subject to other limitations, depend on the circumstances of the taxpayer?	Once a taxpayer has received a certificate, there appears to be no further limitation that would reduce the amount of the credits listed on the certificate.	Yes, the amount of the credit that may be claimed in any taxable year may be limited by the at-risk rules and the passive-income loss rules.
Is the credit transferable?	No. Although there is a process by which an application may be transferred.	No.
Can the credit be passed through to the shareholders, partners or members of a pass-through entity?	Yes.	Yes.
Can the credit be passed through to a lessee of a building?	No.	Yes, if a lessee pass-through election is made.
Are there requirements as to how the credit may be allocated among the shareholders, partners or members of a pass-through entity?	Currently the form to request the credit requires that the credit be allocated among shareholders, partners or members of a pass-through entity in a manner which has substantial economic effect for federal tax purposes.	For the allocation to be respected, it must be allocated according to Treasury Regulations.
What approvals and certifications are required from the National Park Service?	The credit requires that the rehabilitation be made pursuant to the rehabilitation standards; thus, as a practical matter, the National Park Service's approval of a Part 3 may likely be used to satisfy this requirement. Additionally, if the building is a historic building on the National Register of Historic Places, the National Park Service would have had to approved its listing.	The National Park Service must approve a Part 1 application to certify that the building is a "certified historic structure" and a Part 2 application regarding the taxpayer's anticipated rehabilitation. The building must finally receive a Part 3 approval from the National Park Service certifying that the actual rehabilitation is consistent with its rehabilitation standards.
What is the amount of the credit?	The credit is 25 percent of qualified rehabilitation expenditures.	The credit is 20 percent of qualified rehabilitation expenditures made with respect to a certified historic structure and 10 percent of the qualified rehabilitation expenditures made with respect to a building other than a certified historic structure.
Must a taxpayer prove that there is a net tax benefit to Ohio to receive the credit?	Yes, for a taxpayer's application to be approved by Ohio, the taxpayer must demonstrate that there is a net tax benefit.	No.
Must a taxpayer do anything prior to beginning physical rehabilitation of the building?	The taxpayer must demonstrate to the satisfaction of the officer and director that the rehabilitation satisfies the Secretary of the Interior's rehabilitation standards before beginning the physical rehabilitation for which a credit is sought, including for ongoing expenditures.	Generally, a taxpayer is not required to obtain any approvals or certifications prior to beginning physical rehabilitation if the rehabilitation will take 24 months or less. Otherwise, solely for purposes of the substantial rehabilitation test, the taxpayer must set forth plans and specifications of the rehabilitation for the rehabilitation to be treated as a "phased rehabilitation."

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Is the credit subject to recapture if the taxpayer disposes of the building within five years after the property is placed in service?	There appears to be no recapture provision. There is, however, a requirement that the taxpayer certify and provide support for the amount of the qualified rehabilitation expenditures stated on the certificate.	Yes.
Can the building be used by a nonprofit organization or government entity and still qualify for the credit?	The availability of the credit does not appear to be contingent on the use of the building. However, taxes not paid by the user may affect the net tax benefit calculation.	Subject to a few exceptions, expenditures made with respect to a building owned or used by a nonprofit organization or government entity does not qualify for the credit.

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