

NYS Commercial Tax Credit Questions and Answers

DISCLAIMER

The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) does not provide legal, tax or accounting advice; the information provided is intended to be general in nature; and tax credit applicants are strongly encouraged to consult their own professional tax, accounting and legal advisors on individual tax matters, or consult the NYS Department of Taxation and Finance or the Internal Revenue Service (IRS). OPRHP is not responsible for the information or advice provided here as it may affect the specific tax consequences to any individual (including sole proprietor), corporate, partnership, estate or trust taxpayer, which will depend on many other facts and circumstances. The information is for the general benefit of persons interested in obtaining certifications from OPRHP that may allow them to qualify for federal or state historic properties tax credits. Given the frequency of changes in federal and state tax laws, regulations and guidance, of necessity, the information cannot be expected to be completely current and it represents a good faith effort to reference controlling laws and regulations as accurately as possible.

Q. How do I know if my building is listed in the National Register of Historic Places (NR) or in an NR listed historic district?

A. You can find out by going online to the [New York State Office of Parks, Recreation, and Historic Preservation website](#) and selecting **Online Tools** then select the **Geographic Information System for Archeology and National Register (GIS)**. Select **Zoom To Location**, then select **MUNI** your county and municipality from the drop down menus and click the **SUBMIT** button. Use the ZOOM and PAN Tools to find your location. If your property is located in a RED striped area it is in a National Register listed district or individually listed. You can also find some information on the [National Park Service website](#). If you need additional assistance, please contact the National Register representative for your area. A list of representatives can be found by selecting **CONTACT** at our web site.

Q. If my building is not listed in the State and/or National Register of Historic Places, how do I find out if it can be listed?

A. If you need information about listing your property to the Registers, please contact the National Register Representative assigned to your county. A listing can be found at the CONTACT section of our web site, or call 518-237-8643 and ask for the National Register representative for your county.

Q. How do I know if my building is in an eligible census tract?

A. Only certain census tracts qualify for the new NY State Credits. These areas must have median incomes of less than \$67,040.00. You can find out if your tract qualifies by going to our web site and selecting **Online Tools** and selecting the **Geographic Information System for Archeology and National Register (GIS)**. Select **Zoom To Location**, then select **MUNI** your county and municipality from the drop down menus and click the **SUBMIT** button. Next go to the LAYER menu (lower right corner of screen) and “check” BACKGROUND and the CENSUS TRACT layers (STATE/NATIONAL REGISTER should already be checked), then click the REFRESH button. Use the ZOOM and PAN Tools to find your location. If the area is highlighted in light **BLUE** it is in a qualifying census tract. Please double check census tract eligibility with staff because the census data can change.

Q. Is there an application for the state commercial historic preservation tax credit?

A. No. If a project qualifies for the [federal historic preservation tax credit](#), [the building is located in an eligible census tract](#), and [a state tax credit fee is paid](#), then it automatically qualifies for the state tax credit. The New York State Office of Parks, Recreation and Historic Preservation will send a letter certifying the project for the state tax credits, after approval of Part 3 of the NPS application, for owners to include when they file their income taxes. For application materials for the Federal Tax Credit please contact the Technical Service Representative assigned to your county. A listing can be founds at the **CONTACT** section of our web site or call 518-237-8643 and ask for the Technical Services representative for your county.

Q. What types of rehab work qualify?

A. In general, in order for work to qualify for the historic preservation tax credits, the building must retain its overall historic character. The New York State Office of Parks, Recreation and Historic Preservation and the

National Park Service review the proposed work using the [Secretary of the Interior Standards for Rehabilitation](#). There is a list of qualifying expenses on the [National Park Service](#) website.

Q. May the federal and state credits be separated, meaning can we find separate investors for each credit?

A. No, the credits can not be separated. The entities that claim the federal credit must be the same entities that claim the state tax credit.

Q. May banks and insurance companies take the commercial credit?

A. Yes, as of August 2010, banks and insurance companies can take the credit. Banks and insurance companies are among the most active users of the Federal rehabilitation tax credit. Previously, companies based outside of New York State could only apply the credit against their general corporate income tax liability, which reduced the incentive for many companies to invest in rehabilitation projects in the Empire State. These companies may now apply the rehabilitation tax credit program against their state franchise tax liability. The new legislation also closes the loophole for Business Franchise tax payers (Article 9-A). Under the old versions (of 9-A) these entities were not subject to the census tract requirements. Now they are.

Q. I live in a portion of my commercial building. How can I best utilize the tax credits?

A. People can combine the [Federal Historic Preservation Investment Tax Credit](#) (for income producing properties), the [State Historic Preservation Commercial Tax Credit](#) (which owners receive automatically if they receive the federal credit and the building is located in an eligible census tract), and the [State Historic Homeownership Tax Credit](#). Due the complexities of this type of project we recommend that you contact the Technical Service Representative assigned to your county. A listing can be found at the **CONTACT** section of our web site or call 518-237-8643 and ask for the Technical Services representative for your county.

Q. Will the tax credit be deferred?

A. The tax credit may be subject to deferral. Please visit the New York State Department of Taxation and Finance website at www.tax.ny.gov/pdf/memos/multitax/m10_5c_11i.pdf for more information.

Q. Is there a processing fee for my application?

A. Yes. Beginning March 23, 2011 a fee structure was established for the processing of applications. More information can be found at <http://nysparks.state.ny.us/shpo/tax-credit-programs/>.

Q. Can the commercial credit be sold on the market to entities not connected with the project?

A. No. Other states (e.g., Virginia) allow the credit to be sold but New York State does not.