

IRS Info

This information has been prepared by the Internal Revenue Service for use by applicants for the Historic Preservation Tax Incentives. Its purpose is to present an overview of the issues set forth, and it should not be relied upon as definitive tax advice. Applicants are strongly encouraged to consult their tax advisor or the Internal Revenue Service about the tax implications of the Historic Preservation Tax Incentives.

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[Internal Revenue Service Regulations 26 CFR 1.48-12. Qualified rehabilitated buildings; expenditures incurred after December 31, 1981](#)

[Internal Revenue Code Section 47. Rehabilitation Credit](#)

[Internal Revenue Code of 1986, Section 170\(h\). Qualified Charitable Contributions, as amended](#)

Frequently Asked Questions

Prepared by Mark Primoli, Internal Revenue Service, October 2000

Use with other tax incentives and grants

42. Can the rehabilitation tax credit be used in conjunction with the low income housing tax credit?

Yes. As long as the building and rehabilitation expenditures qualify for both credits, there is no prohibition within the Internal Revenue Code for using the tax credits in tandem. The taxpayer must reduce the amount of rehabilitation expenditures eligible for the low income housing tax credit by the amount of rehabilitation tax credit allowed. The computation for annual depreciation includes a reduction of the depreciable basis by the amount of rehabilitation tax credit allowed.

43. Can the rehabilitation tax credit be used in conjunction with a façade easement contribution?

Yes. Once the building and rehabilitation are "certified" by the Department of Interior, the owner of the building can donate the façade easement. Generally these donations are made to qualified organizations under Internal Revenue Code Section 170 and are considered to be donated in perpetuity. The rehabilitation tax credit and depreciable basis are reduced and no credit or depreciation can be taken on that portion of the building. If the donation occurs after the building is placed in service, the credit recapture provisions of Internal Revenue Code Section 50(a) apply. (See *Rome I Ltd. v. Commissioner*, 96 T.C. No. 29) By donating the façade easement, the taxpayer may be allowed a charitable contribution deduction pursuant to Internal Revenue Code Section 170(h) and Treasury Regulation 1.170A-14. The value of the façade easement is measured by the difference between the value of the property before and after the easement was conveyed.

A donation can be made by a subsequent owner of a certified historic structure as long as the façade was not donated by the previous owner.

44. What is the tax effect of grant proceeds on rehabilitation tax credit projects?

Taxpayers who receive grants must first determine if the proceeds are taxable or non-taxable. If the grant money is taxable, the taxpayer has basis and the rehabilitation tax credit will be allowed on expenditures made with this money.

If the grant money is not taxable, taxpayers will have no basis and the rehabilitation tax credit cannot be claimed on the expenditures incurred with these proceeds.

Grants received by corporate taxpayers fall under the auspices of sections 118 and 362 (c) and would be considered tax-exempt contributions of capital by a non-shareholder. Consequently, no rehabilitation tax credit would be allowed for the expenditures made with these proceeds.

Grants received by non-corporate taxpayers, such as partnerships and individuals, will include the proceeds in income if they have dominion and control over the funds, unless the proceeds are provided as a general welfare grant or a National Historic Preservation Act grant.

Selling or Syndicating the Credit

45. Can the rehabilitation tax credit be bought and sold?

The rehabilitation tax credit, by itself, cannot be bought or sold. The rehabilitation tax credit is only available to the person or entity who holds title to the property. There can be no transfer of the credit without the requisite ownership. Syndication through limited partnerships is allowed and is a common tool to bring investors into rehabilitation projects.

Treasury Regulation 1.48-12(b)(2)(B)(vii) does allow the transfer of qualified rehabilitation expenditures to a new owner provided the previous owner did not place the property in service.