



## New York State Commercial Rehabilitation Tax Credit *Frequently Asked Questions*

### DISCLAIMER

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The governor signed tax credit program extensions and changes into law effective March 28, 2013 for the state rehabilitation tax credits. The homeowner and commercial state credits will now be available until December 31, 2019. The legislation also makes the commercial tax credit more attractive to out-of-state investors by making the unused commercial tax credit refundable for projects placed in service in 2015 or after.

The changes update the eligible census tracts using more recent data from the 2007-2011 American Community Survey.

**Q.** How do I know if my building is eligible for the New York State Commercial Rehabilitation Tax Credit?

**A.** In order for a project to receive the credit, the owner needs to receive the federal rehabilitation tax credit for the project, the building needs to be located in an eligible census tract, and the fees for the state tax credit need to be paid. See below to find out how to determine census tract eligibility. The fee schedule is on the [state tax credit website](#). There is no application for the New York State Commercial Rehabilitation Tax Credit.

**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 Historic Preservation Office \(SHPO\)](#) 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 on [SHPO website](#).

**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 the [SHPO website](#), or you can 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 NY State Credits. In order to determine if a building is located in an eligible census tract, visit the OPRHP tax credit website at [www.nysparks.com/shpo/tax-credit-programs](http://www.nysparks.com/shpo/tax-credit-programs), select *Determining Census Tract Eligibility by Address or Map* and follow the directions. You can also call 518-237-8643 and ask for the staff person handling state tax credits.

Eligible census tracts must have median family incomes at or below the state median family income. Data from the most recent five year estimate from the American Community Survey, which is published by the US Census Bureau, is being used to determine eligibility. The 2007-2011 American Community Survey data is the most recent. The boundaries of the census tract referred to in that data are the 2010 census tract boundaries.

**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 fees are paid when Part 2 and Part 3 are submitted, it automatically qualifies for the state tax credit. The fee schedule is found at [www.nysparks.com/shpo/tax-credit-programs](http://www.nysparks.com/shpo/tax-credit-programs). The SHPO 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 Investment Tax Credit representative for the county or visit the [National Park Service website](#). For help, a listing of the SHPO staff can be found at the CONTACT section of the [SHPO website](#) or you can call 518-237-8643 and ask for the Investment Tax Credit representative.

**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 SHPO and the National Park Service (NPS) review the proposed work using the [Secretary of the Interior Standards for Rehabilitation](#). The National Park Service publishes a variety of helpful resources including [Preservation Briefs](#) and [Tech Notes](#). There is a list of qualifying expenses on the [NPS website](#).

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

**A.** The credits can not be separated right now, but will be able to be for projects that result in a building being placed in service in 2015 or later. The state commercial tax credit will be refundable at that time, making it possible to pass it on to out-of-state investors. Right now, the entities that

claim the federal credit must be the same entities that claim the state tax credit. Any unused credit can be carried over indefinitely for rehabilitation projects placed in service in 2014 or earlier.

**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 Commercial Rehabilitation Tax Credit (which owners receive automatically if they receive the federal credit, the building is located in an eligible census tract, and the state fees are paid), and the State Historic Homeownership Tax Credit. Due the complexities of this type of project we recommend that you contact the State Tax Credit staff member or the Investment Tax Credit Representative assigned to your county. A listing can be found at the CONTACT section of the [SHPO website](#) or you may call 518-237-8643 and ask for the receptionist to connect you.

**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/>. If the SHPO received an application for a project before that date, there is no state fee.