



## Small Business/Self-Employed

- [Industries/Professions](#)
- [International Taxpayers](#)
- [Self-Employed](#)
- [Small Business/Self-Employed Home](#)

## Small Business/Self-Employed Topics

- [A-Z Index for Business](#)
- [Forms & Pubs](#)
- [Starting a Business](#)
- [Deducting Expenses](#)
- [Businesses with Employees](#)
- [Filing/Paying Taxes](#)
- [Post-Filing Issues](#)
- [Closing Your Business](#)

# Rehabilitation Tax Credit - Real Estate Tax Tips

The rehabilitation credit applies to costs you incur for rehabilitation and reconstruction of certain buildings. Rehabilitation includes renovation, restoration, and reconstruction. It does not include enlargement or new construction.

Generally, the percentage of costs you can take as a credit is:

- 10% for buildings placed in service before 1936
- 20% for certified historic structures

## Safe Harbor

In *Historic Boardwalk Hall, LLC. v. Commissioner*, 694 F.3d 425 (3d Cir. 2012), *cert. denied*, U.S., No. 12-901, May 28, 2013, the Third Circuit considered whether an investor's interest in the success or failure of a partnership that incurred qualifying rehabilitation expenditures was sufficiently meaningful for the investor to qualify as a partner in that partnership. The Third Circuit determined that the investor's return from the partnership was effectively fixed, and that the investor also had no meaningful downside risk because its investment was guaranteed. The Third Circuit agreed with the Commissioner's reallocation of all of the partnership's claimed losses and tax credits from the investor to the principal, holding that "because [the investor] lacked a meaningful stake in either the success or failure of [the partnership], it was not a bona fide partner.

On January 13, 2014, the Internal Revenue Service issued [Revenue Procedure 2014-12](#) which establishes the circumstances under which the Internal Revenue Service will not challenge partnership allocations of § 47 rehabilitation credit by a partnership to its partners.

## Tax Exempt Use Property

The rehabilitation tax credit is not allowed for expenditures with respect to property that is considered be tax exempt use property. Under the tax-exempt entity leasing rules of 168(h) the threshold to determine if a disqualified lease exists has been raised from more than 35% to more than 50%. The provision is effective for expenditures properly taken into account for periods after December 31, 2007.

## Alternative Minimum Tax

Business tax credits generally may not exceed the excess of the taxpayer's income tax liability over the tentative minimum tax (or, if greater, 25 percent of the regular tax liability in excess of \$25,000) Thus, business tax credits cannot offset the alternative minimum tax liability.

For qualified rehabilitation credits determined under Internal Revenue Code Section 47 attributable to qualified rehabilitation expenses properly taken into account for periods after December 31, 2007 the tentative minimum tax is treated as being zero with respect to the rehabilitation tax credit. Thus, a taxpayer may use the rehabilitation tax credit to offset his regular tax liability.

See the instructions on [Form 3468, Investment Credit](#) (PDF), for more information.

## Place of Filing Notice

If you have claimed a rehabilitation tax credit and the entire project is not completed 30 months after you have claimed the credit and you have not received final certification from the Department of Interior, you must provide written notice to the Internal Revenue Service. The notice must be provided before the last day of the 30 months. The notice as required under Regulation Section 1.48-12(d)(7) is to be mailed to the [address](#) shown and you must consent to extend the statute of limitations.

## Topical Tax Briefs

Facade Easement Brief August 2009 (PDF)

[Late Submission of "HPC Application"](#) (PDF)

[Property Leased to a Tax-Exempt Entity](#) (PDF)

[Use of the Rehabilitation Tax Credit by Lessees](#) (PDF)

[Rehabilitation Tax Credit Recapture](#) (PDF)

[Allocations of Tax Credit](#) (PDF)

### **IRS Connection**

Get [Frequently Asked Questions](#) (PDF) about the Tax Aspects of Historic Preservation.

---

[Rate the Small Business and Self-Employed Website](#)

*Page Last Reviewed or Updated: 19-Aug-2015*