

Franchise Tax Credit for Certified Rehabilitation of Certified Historic Structures

Effective for franchise tax reports originally due on or after Jan. 1, 2015

Overview

Texas law provides a franchise tax credit for the certified rehabilitation of certified historic structures, up to 25 percent of eligible costs and expenses.

Who Qualifies

To qualify for the credit:

- The structure must be placed in service on or after Sept. 1, 2013;
- The entity must have an ownership interest in the structure during the calendar year the structure was placed in service after the rehabilitation; and
- The total amount of eligible costs and expenses incurred by the entity must exceed \$5,000.

Five Steps to Establish the Franchise Tax Credit

1. Contact the Texas Historical Commission (THC) to obtain a Certificate of Eligibility.
2. Contact a certified public accountant to obtain an audited cost report that itemizes the eligible costs and expenses incurred by the entity in the certified rehabilitation of the certified historic structure.
3. Prepare the Texas Franchise Tax Historic Structure Credit Registration (Form AP-235).
4. Mail the following three documents to the Comptroller's office:
 - Texas Franchise Tax Historic Structure Credit Registration (Form AP-235)
 - The Certificate of Eligibility issued by the THC
 - An audited cost report completed by a certified public accountant

The Comptroller's office will review your documents within two to four weeks of receiving a complete application.

5. Upon approval the Comptroller's office will send you a Historic Structure Credit Certificate (Form 05-901) in the mail.
 - **Note:** The Historic Structure Certificate is your proof you have established a franchise tax credit amount for the historic structure rehabilitation.

Additional Information

What is a certified historic structure?

A certified historic structure is a property in Texas that is:

- Listed individually in the National Register of Historic Places;

- Designated as a Recorded Texas Historic Landmark under Government Code, 442.006, or as a state archeological landmark under Natural Resources Code, Chapter 191; or
- Certified by the Texas Historical Commission as contributing to the historic significance of:
 - A historic district listed in the National Register of Historic Places; or
 - A local district certified by the United States Department of the Interior in accordance with 36 C.F.R. Section 67.9, Certifications of state and local historic district.

What is certified rehabilitation?

- “Certified rehabilitation” is the rehabilitation of a certified historic structure that the Texas Historical Commission has certified as meeting the United States Secretary of the Interior’s Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7, Standards for Rehabilitation.

What are eligible costs?

“Eligible costs” are qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code, Rehabilitation Credit.

Contact your certified public accountant for information on eligible costs and expenses. The Comptroller’s office cannot provide this information.

What is an audited cost report?

An “audited cost report” must be completed by a certified public accountant as defined by Section 901.002, Occupations Code. It itemizes the eligible costs and expenses incurred by the entity in the certified rehabilitation of the certified historic structure.

How can I claim the credit on a franchise tax report?

A taxable entity can claim the credit by mailing the following forms with their Texas Franchise Tax Report:

- Texas Franchise Tax Credits Summary Schedule (Form 05-160)
- Texas Franchise Tax Historic Structure Credit Supplement for Credit Claimed on Report (Form 05-180)
- Historic Structure Credit Certificate (Form 05-901)

How can I claim the credit on a franchise tax report if I do not have the Historic Structure Credit Certificate (Form 05-901)?

You can claim the credit if you do not have Form 05-901, by sending the following documents with your franchise tax report:

- Texas Franchise Tax Credits Summary Schedule (Form 05-160)
- Texas Franchise Tax Historic Structure Credit Supplement for Credit Claimed on Report (Form 05-180)
- Texas Historic Structure Credit Registration (Form AP-235)
- The Certificate of Eligibility issued by the Texas Historical Commission

- An audited cost report completed by a certified public accountant

What is the process to buy or sell a franchise tax historic structure credit?

Upon the sale or purchase of a franchise tax credit for the rehabilitation of a historic structure, the buyer should receive from the seller:

- The Historic Structure Credit Certificate (Form 05-901)
- The Texas Franchise Tax Sale, Assignment or Allocation of Historic Structure Credit (Form 05-179)
- A copy of the Certificate of Eligibility
- A copy of the audited cost report

Attention: Both the seller and the buyer must sign the Texas Franchise Tax Sale, Assignment or Allocation of Historic Structure Credit (Form 05-179).

Within 30 days from the date of the sale, mail Form 05-179 and Form 05-901 to the Comptroller.

Note: The buyer cannot claim the credit on a report until the Comptroller has processed them, which normally takes two to four weeks.

Once the credit is transferred, the Comptroller will send each credit owner with a credit balance a new Historic Structure Credit Certificate reflecting their new franchise tax historic structure credit balance.

Can each owner receive a share of the credit when a structure is owned by more than person or entity?

Yes, multiple owners can receive a share of the credit if each owner completes Form AP-235. All of the registration forms (Form AP-235) must be mailed together with the Certificate of Eligibility. The total of all the amounts listed under Item 12 on each of the registration forms must equal the total of the eligible costs and expenses covered on the audited cost report.

How does the Comptroller determine the expiration date on the Historic Structure Credit Certificate (Form 05-901)?

The expiration date listed on Form 05-901 is six years from the placed-in-service date listed on the Certificate of Eligibility.

Note: Even if the credit is sold, assigned or allocated, the expiration date will remain the same.

How many years can I carry the credit forward?

The unused portion of the credit can be carried forward for not more than five consecutive reports.

“Carryforward” is the remaining portion of a credit that cannot be claimed in the current year because the credit cannot exceed the amount of franchise tax due for the report after any other applicable tax credits.

How many times can I sell or assign the credit?

There is no limit on the total amount of transactions for the sale or assignment of all or part of the total credit.