

DELAWARE HISTORIC PRESERVATION TAX CREDIT PROGRAM FREQUENTLY ASKED QUESTIONS

What is Delaware’s Historic Preservation Tax Credit Program and how is it administered?

Delaware’s Historic Preservation Tax Credit Program (as amended November 2018) assists in preserving and rehabilitating historic buildings throughout the state by providing a State of Delaware income or franchise tax credit to help offset repair and maintenance costs. The credit is equal to a percentage of the qualified costs incurred during rehabilitation. Since its inception in 2001, the program has helped preserve over 230 historic buildings and leveraged over \$350 million in investment. The program is administered by the State Historic Preservation Office, a section of the Delaware Division of Historical and Cultural Affairs. The State Tax Credit Program Manager is located in this office. The Program Manager coordinates with the Delaware Division of Revenue and the State Bank Commission to assign tax credits to a taxpayer.

Who may apply for Delaware’s Historic Preservation Tax Credit Program?

An applicant can be an individual, a company or corporation, an estate or trust that owns a historic property. Certain lessees may also be eligible to apply, including entities under a lease contract for five (5) years or longer and resident curators having a life tenancy in a residential property. Since applicants can sell or transfer these tax credits, property owners without tax liability such as non-profits, religious institutions, and local governments can also take advantage of the program. Please see the Application Instructions [posted on the main webpage](#) for more information on the program’s eligibility requirements.

What criteria must a building meet in order to be eligible for Delaware’s Historic Preservation Tax Credit Program?

Only buildings which are listed in the National Register of Historic Places or are contributing buildings within National-Register listed or certain locally-designated historic districts are eligible to receive these tax credits. Buildings which meet this criterion are defined as a “Certified Historic Property” for purposes of this program.

Where can I find out if a building is eligible for Delaware’s Historic Preservation Tax Credit Program?

The National Park Service maintains the list of properties that are on the National Register of Historic Places, accessible on this website: <https://www.nps.gov/subjects/nationalregister/index.htm>. The State Historic Preservation Office’s Cultural and Historical Resources Information System (CHRIS) also provides an online map identifying National Register-listed properties; go to <https://history.delaware.gov/preservation/research/gis.shtml> for more information about CHRIS. The state’s National Register Coordinator can also help; call (302) 736-7400 for further information.

What criteria must the rehabilitation work meet in order to qualify for tax credits?

The proposed rehabilitation work must be carried out in a manner consistent with the historic character of the property, and where applicable, with the character of the district in which it is located. A qualified project will protect the character-defining aspects of a building, including the form and detailing of exterior and interior features and materials, room configurations, and spatial relationships. Delaware’s program uses the Secretary of the Interior’s Standards and Guidelines for Rehabilitation (<http://www.nps.gov/tps/standards/rehabilitation/rehab/index.htm>) as the criteria for evaluating proposed project work. Rehabilitation of a “Certified Historic Property” which meets all of these Standards and is consistent with the historic character of the property is termed a “Certified Rehabilitation” and, if all other program criteria have been met, the project will be eligible for state tax credits.

Is previously completed rehabilitation work eligible for the program?

For new applications, as of November 11, 2018, only proposed work will be considered for the program. Prior rehabilitation work will not qualify for tax credits. There are some exceptions during the transition period for the new regulations. Please see the [amended regulation](#), and contact the Program Coordinator for more information.

Are there limits on the size of a project?

The rehabilitation work must be “substantial.” Owner-occupied projects must expend at least \$5,000 in rehabilitation costs in order to qualify for the program. For depreciable projects, the costs of the rehabilitation within a 24-month period, or within 60 months for a phased project, must exceed the adjusted basis of the building (i.e. the purchase price minus value of the land minus any depreciation already taken plus any capital improvements), or \$5,000, whichever is greater. There is no maximum size for a project.

Do all rehabilitation costs count as “qualified rehabilitation expenses?”

Costs which “qualify” for the program are construction costs related to the interior and exterior of the building including structural and systems work and, for depreciable properties, costs which the IRS has determined may be charged to a capital account. Costs associated with addition(s) may also be included as long as the square footage of the addition does not exceed 20% of the square footage of the existing building and meets other requirements for preserving the historic character of the property. Landscaping and site work costs are also allowable up to 10% of the other “qualified” costs. Costs to acquire the property are not eligible for this program, nor are those costs which the IRS deems to be personal property. Please see the Application Instructions [posted on the main webpage](#) for more information on allowable costs.

Is there a deadline in applying for the program?

No. Applications are accepted continuously throughout the year and are reviewed and processed on first come/first serve basis.

What is the application process for Delaware’s Historic Preservation Tax Credit Program?

Delaware’s Historic Preservation Tax Credit Program has a four-part application process:

- Part 1 - Certification of Historic Property: establishes that the building is eligible for the program. Once the State Office has approved the Part 1 application, the project is considered initiated for the purpose of this program.
- Part 2 – Certification of Rehabilitation: describes the proposed rehabilitation work, supported by photographic documentation and including cost estimates, to determine if the project will preserve the historic character of the building. If significant changes are proposed, or there is new construction, then drawings or sketches may also be required. The Part 2 application shall include any proposed rehabilitation work; work that has been completed prior to the approval of the Part 2 application is not eligible for consideration.
- Part 3 – Certification of Completion: submitted after the rehabilitation work has been completed, supported by photographic and final cost documentation.
- Part 4 – Request for Credit Award: this form is the basis of determining the amount of credits to be awarded.

See Application Instructions for detailed information on each step in the application process.

Is there a set timeframe for completing the project?

There is no set timeframe for completing a rehabilitation project. However, work must “substantially commence” within one year of the State Historic Preservation Office’s approval of the project plan submitted with the Part 2 application. For the purposes of this program, “substantially commencing” means rehabilitation work accounting for a minimum of 25% of the estimated qualified expenditures has been completed.

How is the value of the Historic Preservation Tax Credit calculated?

Applicants may seek tax credits for owner-occupied, non-profit-owned and income-producing buildings. The credit is calculated as a percentage of the qualified rehabilitation expenses; the percentage varies with the type of property and applicant:

- For resident-curators, 100% of qualified expenses are eligible for credits, capped at \$5,000. The work must be done within the first 5 years of the tenancy agreement with the property owner.
- For non-profits and owner occupants, the tax credits are calculated at 30% of the qualified rehabilitation costs. Homeowners may only receive up to \$30,000 in credits per application.
- For properties held for income, the tax credits are calculated at 20% of the qualified rehabilitation costs.
- Projects which qualify for Delaware’s low-income tax credits are eligible for additional incentives.

Delaware’s tax credits are fully transferable; they may be sold or assigned to others who have Delaware income or bank franchise tax liability. To determine the amount of tax credits to be assigned to a project, documentation of the associated qualified costs must be submitted.

When can the Historic Preservation Tax Credits be claimed?

Once the credits are awarded by the SHPO, the applicant (or the recipient of transferred credits) may file a claim against a tax return for the following tax year. Such filing may not take place sooner than 12 months after the approval of the Certification of Rehabilitation (Part 2) application. Assignment of the tax credits is finalized by the Delaware Division of Revenue (for income tax credits) and the Office of the State Bank Commissioner (for franchise tax credits). For further information, see the Application Instructions [posted on the main webpage](#).

Is there a limit on the available historic preservation tax credits?

There is an annual cap on the amount of historic preservation tax credits available each state fiscal year, which runs from July 1 through June 30. The current cap is \$8 million. At the beginning of the fiscal year, a certain amount of credits are reserved for different types of projects:

- \$100,000 is reserved for resident-curatorship properties.
- \$1.5 million is reserved for small projects, defined as eligible for credits of no more than \$300,000
- \$2.0 million is reserved for larger projects, defined as eligible for credits exceeding \$300,000.
- \$1.5 million is reserved for projects located within Downtown Development Districts, of which \$500,000 is reserved for small projects, eligible for credits not exceeding \$300,000

After April 1 of each state fiscal year, unassigned credits remaining in these pools may be reserved or awarded to any eligible project. Excess credits do not carry over into the new fiscal year. However, if there are approved projects for which there were insufficient credits available to make a full Credit Award, then these credits will be allocated out of the next fiscal year in the order which they were approved.

Are there fees?

As of November 2018, all new applications for the program are subject to a fee. The initial fee is due at the time the applicant submits the Request for Certification of Historic Property (Part 1) application. For owner occupants and resident curators this is a one-time fee. For all other applicants additional fees, calculated as a percentage of the credits to be awarded, are assessed at the time the Part 2 and Part 3 applications are filed. All fees are non-refundable. See application instructions for more information about how fees are assessed and payment requirements.

Property/Applicant Type	Part 1 Fee	Part 2 Fee	Part 3 Fee
Owner-occupied/Homeowner	\$100	none	none
Resident Curatorship	\$100	none	none
Non-profit	\$250	1.5% of anticipated credit award	1.5 % of anticipated credit or credit award
Commercial/depreciable	\$250	1.5% of anticipated credit award	1.5 % of anticipated credit or credit award

Are there other types of state government incentives for rehabilitation projects?

The Delaware State Housing Authority manages the Downtown Development District (DDD) program, which offers several different types of investment incentives for projects within designated development districts. The Office of State Planning Coordination maintains a Centralized DDD Incentives website with links to information on available incentives from state and local partners, including rebates, bridge loans, expedited permitting, funding for architectural and engineering work, property tax abatements and more. The Delaware Historic Tax Credit program is also referenced on this site. For more information, go to: <http://www.stateplanning.delaware.gov/ddd/incentives/index.shtml>.

Can Decisions Be Appealed?

If an applicant is aggrieved by any formal decision made by the SHPO under this Program, they are entitled to appeal this decision to the Delaware Secretary of State or the Secretary's designee. An appeal must be filed with the Secretary of State within sixty (60) calendar days from the issuance of the non-certification decision. Within sixty (60) days of receipt, the Secretary of State or their designee will notify the appellant if they will uphold the non-certification decision of the SHPO. Where an appellant has exhausted all administrative remedies, they are entitled to judicial review in accordance with Subchapter V of the Administrative Procedures Act (29 Del C. §10142).

In cases where a taxpayer is aggrieved by an income tax decision, the taxpayer is entitled to pursue an appeal following the administrative procedures of the Department of Finance as set forth in Title 30 or in regulations promulgated in accordance with this Title. In the case of banks, the taxpayer is entitled to pursue an appeal following the administrative procedures of the State Bank Commissioner as set forth in Title 5 or in regulations promulgated in accordance with this Title. Where an appellant has exhausted all administrative remedies, such appellant is entitled to judicial review in accordance with Subchapter V of the Administrative Procedures Act (29 Del C. §10142).

Can I apply for the federal and state historic tax credit programs at the same time?

Yes. Applicants have the option of submitting application forms for both the federal and state historic tax credit programs at the same time. However, please note that only income-producing properties are eligible for the federal program, and that some of the requirements for the two programs are different. See “Comparison of Delaware Historic Preservation Tax Credit and Federal Historic Rehabilitation Tax Credit Program” [posted on the main webpage](#) for further guidance on this subject.

Who can I contact for more information about Delaware’s Historic Preservation Tax Credit Program?

For further guidance, contact: Kara Briggs, Tax Credit Program Manager, Division of Historical and Cultural Affairs, 29 N. State Street, Dover, DE 19901; kara.briggs@delaware.gov or (302)736-7433.

To review the regulations that govern the Historic Preservation Tax Credit Program, go to:

<http://regulations.delaware.gov/register/november2018/final/22%20DE%20Reg%20409%2011-01-18.htm>

Where can I find more information about methods and materials used in rehabilitating historic buildings?

The National Park Service provides many online sources of information on rehabilitating historic properties:

STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

<http://www.nps.gov/tps/standards/four-treatments.htm>

- Rehabilitation Standards and Guidelines (<http://www.nps.gov/tps/standards/rehabilitation.htm>)
- Applying Rehabilitation Standards (<http://www.nps.gov/tps/standards/applying-rehabilitation.htm>)
- Illustrated Guidelines for the Rehabilitating Historic Buildings (<http://www.nps.gov/tps/standards/rehabilitation/rehab/index.htm>)
- Technical Preservation Briefs (47 White papers on treatment topics) (<http://www.nps.gov/tps/how-to-preserve/briefs.htm>)
- Interpreting the Standards (<http://www.nps.gov/tps/standards/applying-rehabilitation/standards-bulletins.htm>)
- Applying the Standards to Common Rehabilitation Concerns (<http://www.nps.gov/tps/standards/applying-rehabilitation/successful-rehab.htm>)
- Cumulative Effect and Historic Character (<http://www.nps.gov/tps/standards/applying-rehabilitation/cumulative-effect.htm>)
- Preservation Tech Notes (<http://www.nps.gov/tps/how-to-preserve/tech-notes.htm>)
- Cultural Landscapes (<http://www.nps.gov/tps/how-to-preserve/cultural-landscapes.htm>)
- Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings (<http://www.nps.gov/tps/standards/rehabilitation/guidelines/index.htm>)
- Sustainability Resources (<http://www.nps.gov/tps/sustainability/resources.htm>)

NPS ONLINE LEARNING ON REHABILITATION

<http://www.nps.gov/tps/education/online-training.htm> [page which links all online learning topics]

- Treatment Standards and Guidelines
- Sustainability Guidelines
- Illustrated Rehabilitation Guidelines
- INCENTIVES: A Guide to Historic Preservation Tax Incentive Program
- From the Roof Down and Skin Deep
- Managing Moisture in Your Historic House
- Rehab Yes/No
- Roofing for Historic Buildings: From Asbestos to Zincs
- Walk Through Historic Buildings
- Working on the Past in Local Historic Districts

NPS PRINTED PUBLICATIONS

<http://www.nps.gov/tps/education/print-pubs.htm> [page which links to a list of printed publications including several which are available online]

ENERGY EFFICIENCY

- Weatherization and Improving the Energy Efficiency of Historic Buildings (<http://www.nps.gov/tps/sustainability/energy-efficiency/weatherization.htm>)
- Green Roofs (<http://www.nps.gov/tps/sustainability/new-technology/green-roofs.htm>)
- Weatherization Guide for Older and Historic Buildings <http://www.preservationnation.org/information-center/sustainable-communities/buildings/weatherization/>
- Window Repair and Retrofit: Studies and Research (http://www.ohp.parks.ca.gov/?page_id=25935)

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