

DELAWARE HISTORIC PRESERVATION TAX CREDIT PROGRAM

Program Overview and Frequently Asked Questions

Since 2001, the Historic Preservation Tax Credit (HPTC) Program has assisted Delaware property owners and developers who invest 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 beginning, the State HPTC program has helped preserve hundreds of buildings and leveraged hundreds of millions of dollars in investment. The program is administered by the State Historic Preservation Office (SHPO), a section of the Delaware Division of Historical and Cultural Affairs. The State Tax Credit Program Manager coordinates with the Delaware Division of Revenue and the State Bank Commission to award tax credits to a taxpayer.

Overview of the HPTC Program

	For All Types of Applicants
Properties Which Qualify?	Buildings listed in the National Register of Historic Places (NRHP) individually or as contributing to a listed district; or a locally designated landmark or contributing to a locally designated district (if locally designated, local government must prepare supporting documentation and then SHPO must certify the property is NRHP-eligible).
Benefit for Taxpayer	Awarded tax credits may be applied to offset one's tax liability, and thereby provide a reduction in state income or franchise tax liabilities.
What are Qualifying Expenditures?	Rehabilitation material and labor costs for work on the historic building; costs related to additions if their square footage does not exceed 20% of the historic building; site work if its cost does not exceed 10% of all qualified costs; plus architectural & engineering costs, site survey fees, legal fees, development fees & other construction-related costs.
What expenditures <u>do not</u> Qualify for Credit?	Acquisition, costs of additions which exceed above criteria, landscaping costs which exceed above criteria, and personal property including furnishings, window treatments, and appliances are not qualified costs.
Application Process	4-part application: <ul style="list-style-type: none"> • Part 1 - Certification of Historic Property (is it a qualifying property). • Part 2 - Certification of Rehabilitation (will the proposed work meet rehabilitation standards). • Part 3 - Request for Certificate of Completion (was the work completed appropriately). • Request for Credit Award.
When Can Credits Be Claimed?	One year after receiving Certification of Rehabilitation, if Owner has obtained Certificate of Completion. Once the credits are awarded by the State Historic Preservation Office (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).
Are Credits Transferable?	Delaware's tax credits are fully transferable; they may be sold (in whole or in part) or assigned to others who have Delaware income or bank franchise tax liability. <i>Non-Profits are required to transfer/sell their awarded credits.</i>

For Specific Types of Applicants	Depreciable	Homeowner	Non-Profit
Minimum Expenditures to Qualify for Program?	For depreciable properties – exceed adjusted basis but minimally \$5,000. Phasing of projects is allowed.	For owner-occupied properties – minimum of \$5,000 in expenditures.	For non-profit properties – minimum of \$5,000 in expenditures. Phasing of projects is allowed.
Building Use after Rehab?	Depreciable - commercial, industrial, agricultural, or rental residential	Residential use	Any type of use
Percentage of Credit¹	20% of the Qualified Rehabilitation Expenses (QREs)*	30% of the Qualified Rehabilitation Expenses (QREs)*	30% of the Qualified Rehabilitation Expenses (QREs)*
*Low Income Provisions¹	Credits are increased by 10% for properties or parts of properties which qualify to apply for state low-income housing credits, or if the owner personally meets certain low-income criteria.		
Review Fee(s)	<p>The fee for Depreciable applicants:</p> <ul style="list-style-type: none"> • Part 1: \$250 due with the application submission • Part 2: 1.5% of the anticipated Credit Award • Part 3: 1.5% of the Credit Award <p>The fee will be calculated by the Delaware SHPO based on the qualified expenditures and associated documentation.</p>	<p>The fee for applicants of owner-occupied properties and resident curators:</p> <p>a <u>one-time</u> \$100 fee due with the submission of the Part 1 application.</p>	<p>The fee for Non-Profit applicants:</p> <ul style="list-style-type: none"> • Part 1: \$250 due with the application submission • Part 2: 1.5% of the anticipated Credit Award • Part 3: 1.5% of the Credit Award <p>The fee will be calculated by the Delaware SHPO based on the qualified expenditures and associated documentation.</p>

See next pages for FREQUENTLY ASKED QUESTIONS

¹ Note that additional documentation is required if claiming an increase in calculating tax credits when the project has been awarded Low Income Housing Tax Credits (LIHTCs) by the Delaware State Housing Authority, or because the applicant is making a claim that they meet the qualifications of a low-income applicant. Depreciable properties, such as apartment buildings, are eligible for LIHTCs if they maintain a minimum of four (4) qualifying Low-income housing units.

FREQUENTLY ASKED QUESTIONS

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

Any person with income tax liability, including:

- Individual property owners
- Companies or corporations
- Renters or lease holders (with some conditions and consent of the property owner)
- Non-profit organizations- this includes churches (State program only)

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 low-income individuals. Contact the State Tax Credit Program Manager for specific information on the Program's eligibility requirements and application instructions.

How can I apply to Delaware's Historic Preservation Tax Credit Program?

All applications are submitted through the online portal: <https://hptc.delaware.gov/>, using a My Delaware account. My Delaware offers secure, single sign-on access for Delaware's many public-facing digital government programs. Applicants sign into their My Delaware account to access the historic preservation tax credit application forms and instructions.

If you do not have a My Delaware account, click here to register: my.delaware.gov. For help with this step, go to: <https://mydelawarehelp.dti.delaware.gov/help/Sign-Up-Help-MyDel-2025.pdf>.

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/database-research.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, contact Emily Whaley at (302) 736-7406 or Emily.Whaley@delaware.gov.

What criteria must the rehabilitation work meet 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 (<https://www.nps.gov/articles/000/treatment-standards-rehabilitation.htm>) as the criteria for evaluating proposed project work. Rehabilitation of a "Certified Historic Property" which meets 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 (<https://history.delaware.gov/wp-content/uploads/sites/179/2020/03/Guidance-on-Carrying-Out-Qualified-Rehabilitation.pdf>).

Is previously completed rehabilitation work eligible for the program?

No. Only proposed work is eligible for the program. Prior or completed rehabilitation work does not qualify for tax credits. The Part 1 and Part 2 portions of the application must be certified prior to the start of rehabilitation work in order to qualify for tax credits.

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 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, but there is a cap on the amount of credits that can be awarded each State Fiscal Year.

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 only if 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 if they do not exceed more than 10% of the total qualified expenditures. Costs to acquire the property are not eligible for this program, nor are those costs which the IRS deems to be personal property. Please contact the State Tax Credit Program Manager for specific information on the Program's 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.

Is there a set timeframe for completing the project?

There is no set timeframe for completing a rehabilitation project. However, there are two rules to keep in mind for the Part 1 and Part 2 applications. The Part 1 application will expire if a Part 2 application is not submitted to the State Office within one calendar year from the date of issue of the approved Part 1. The Part 2 application's approved rehabilitation 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 commenced" means rehabilitation work accounting for a minimum of 25% of the estimated qualified expenditures has been completed.

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. The "pools" are defined as **no less than**:

- ²\$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 a minimum of \$500,000 is reserved for small projects, eligible for credits not exceeding \$300,000

After April 1 of each state fiscal year, unawarded credits remaining in these pools may be awarded to any eligible project. If there are approved projects for which there were insufficient credits available to make a full Credit Award, then a partial award will be made, and credits due will be awarded out of the next fiscal year in the order which they were approved.

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

The State Historic Preservation Office determines the amount of tax credits to be awarded to a project, based on documentation of qualified costs submitted in the Part 3 application. 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 (depreciable properties), the tax credits are calculated at 20% of the qualified rehabilitation costs.
- Projects which qualify for Delaware's low-income housing tax credits are eligible for additional incentives, as are owners who personally meet certain low-income criteria.

Delaware's tax credits are fully transferable; they may be sold or assigned to others who have Delaware income or bank franchise tax liability.

² There is also a set-aside for projects for resident-curatorship properties.

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

In addition to the Low-Income Housing Tax Credit program, 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: <https://www.destatehousing.com/build/ddd-program/>.

Can Decisions Be Appealed?

Applicants whose applications are formally denied by the State Historic Preservation Office under this Program are entitled to an appeal process. A taxpayer whose application is disapproved by the Delaware State Historic Preservation Officer may file a written request for review with the Secretary of State. Check for current contact information on the Department of State's webpage: <https://sos.delaware.gov/contact/>.

- The 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 appealing party if the non-certification decision of the SHPO shall stand or be reversed.
- Where an applicant 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 can apply 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. Each program has its own forms and application process, and some of the requirements for the two programs are different. This link provides a breakdown comparison of the state and federal programs (<https://history.delaware.gov/wp-content/uploads/sites/179/2023/10/Comparison-of-State-and-Federal-Tax-Credit-Programs.pdf>) Please review eligibility requirements for the federal historic preservation tax credit program at: <https://www.nps.gov/subjects/taxincentives/index.htm>.

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.

Where can I find the regulations for the program?

To review the regulations that govern the Delaware Historic Preservation Tax Credit Program, go to:
<https://regulations.delaware.gov/register/december2019/final/23%20DE%20Reg%20470%2012-01-19.htm>

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

REHABILITATION STANDARDS AND GUIDELINES

The National Park Service provides many online sources of information on rehabilitating historic properties. To review information on Rehabilitation Standards and Guidelines, go to: <https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>

NATIONAL PARK SERVICE ONLINE LEARNING ON REHABILITATION

<https://www.nps.gov/orgs/1739/index.htm> [page which links to 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

NATIONAL PARK SERVICE PRINTED PUBLICATIONS

<https://www.nps.gov/orgs/1739/tps-publications.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 (<https://www.nps.gov/orgs/1739/sustainability-energy-efficiency-resilience-historic-buildings.htm>)
- Green Roofs (<https://www.nps.gov/orgs/1739/green-roofs-on-historic-buildings.htm>)
- Weatherization of Historic Buildings (<https://www.nps.gov/orgs/1739/weatherization-of-historic-buildings.htm>)
- Window Repair and Retrofit: Studies and Research (https://ohp.parks.ca.gov/?page_id=25935)

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