

Colorado Historic Preservation Income Tax Credit (Updated March 2015)

AVAILABLE PROGRAMS

From July 1, 2015 through December 31, 2019, Colorado will offer taxpayers two different programs that offer income tax credit for the rehabilitation of qualified historic properties.

The Colorado Job Creation and Main Street Revitalization Act of 2014 (CRS 39-22-514.5) offers a 20 – 30 percent tax credit for the rehabilitation of a qualified commercial (income-producing) property, as well as a 20 – 25 percent credit for the rehabilitation of a qualified residential (owner-occupied) property.

The Historic Preservation Tax Credit Act of 1990 (CRS 39-22-514) offers a 20 percent tax credit for the rehabilitation of any qualified historic property.

WHICH CREDIT TO USE?

Most taxpayers will want to take advantage of the Colorado Job Creation and Main Street Revitalization Act of 2014 (the 2014 credit) because it offers a higher return on expenditures (up to 30%), a higher per-project credit cap on commercial properties (up to \$1 million in tax credits as opposed to \$50,000), and greater flexibility (tax credits for income-producing properties can be sold to other taxpayers without penalty).

The 2014 credit for commercial properties has a limited availability; each year the state sets aside funding (\$2.5 million in 2016 and \$5 million in 2017, 2018, and 2019) for this credit, but when the funding is exhausted, no further credits can be given. By contrast, the old 1990 credit is available to all property owners at all times. Owners of commercial properties who are unable to take advantage of the 2014 credit can still apply for the 1990 credit and receive up to \$50,000 in credits for their project.

ELIGIBLE PROPERTIES

Under both the 2014 and 1990 credits, eligible properties must be:

- ◆ At least 50 years old, AND;
- ◆ Historically designated by being:
 - Listed on the National Register of Historic Places
 - Listed on the Colorado State Register of Historic Properties
 - Listed as a Historic Landmark by a Certified Local Government (CLG)*
 - Designated as a “contributing structure” in a historic district that is listed on the National Register, State Register, or landmarked by a CLG

ELIGIBLE TAXPAYERS

The 1990 credit limits the program to:

- ◆ Property owners, or
- ◆ Tenants with a lease of at least five years

*As of May 2015, Colorado has 51 Certified Local Governments. A full list of these CLGs can be found at the end of this document.

The 2014 credit expands the availability of the program to:

- ◆ Property owners
- ◆ Tenants of residential properties with a lease of at least 5 years
- ◆ Tenants of commercial properties with a lease of at least 39.5 years
- ◆ Potential buyers of a historic property who have a purchase agreement or an option to purchase

ELIGIBLE PROJECTS

- ◆ Projects must involve physical preservation, restoration, or rehabilitation and must preserve the historic character of the property
- ◆ Projects can retain the original use of the building or adopt the building for a new use
- ◆ Projects must meet the Secretary of the Interior's Standards for Rehabilitation

ELIGIBLE EXPENDITURES

Tax credits are calculated as 20 – 30 percent of Qualified Rehabilitation Expenditures.

- ◆ Under the 1990 credit, qualified rehabilitation expenditures include “hard costs” associated with the physical preservation of a historic property, including demolition, carpentry, sheetrock, plaster, painting, doors and windows, fire sprinkler systems, roofing and flashing, exterior repairs, tuck-pointing, etc.
- ◆ Under the 2014 credit, qualified rehabilitation expenditures for commercial properties are defined by the Internal Revenue Service (under Section 47(c)(2)(A) of the Internal Revenue Code)
- ◆ Under the 2014 credit, qualified rehabilitation expenditures for residential properties are defined by state law (under CRS 39-22-514.5(k)(II)).
- ◆ Qualified rehabilitation expenditures typically do not cover the following:
 - “Soft costs” such as: appraisals; design fees; legal, accounting, and realtor fees; building permit, use, and inspection fees; insurance; and rent loss during construction
 - Acquisition costs
 - New additions or enlargements
 - Excavation, grading, paving, and landscaping

EXTENT OF TAX SAVINGS

Tax credits directly reduce (dollar for dollar) the amount of income tax owed by the taxpayer in a given tax year. Available credits for all programs can be carried forward for up to ten years. Taxpayers can reduce the amount of state income tax credit they owe to zero if they have the available credits to do so.

- ◆ The 1990 credit is calculated as 20% of the Qualified Rehabilitation Expenditures, with a cap of \$50,000 in credits per property. This is a lifetime cap.
- ◆ The 2014 credit for residential properties is calculated as 20% of the Qualified Rehabilitation Expenditures, with a cap of \$50,000 in credits per property. However, this is not a lifetime cap. It resets to zero upon sale of the property to a new owner or after ten years.
- ◆ The 2014 credit for commercial properties is calculated as 25% of all Qualified Rehabilitation Expenditures under \$2 million, and 20% of all Qualified Rehabilitation Expenditures above \$2 million. For example, an owner who spends \$1,000,000 in qualified rehabilitation expenditures would receive \$250,000 in tax credits (25%), while an owner who spends \$3,000,000 would receive \$700,000 (25% on the first \$2 million and 20% on the remaining \$1 million). The commercial credit is capped at \$1 million per project, per property, per year. There is no lifetime cap.

- ◆ Residential and commercial properties under the 2014 credit can receive an additional 5% “bonus credit” if they are located in a county that has been declared a Federal or State Disaster Area.* The property owner is still limited to a maximum of \$50,000 (residential) or \$1,000,000 (commercial) in credits.

*Note: A list of currently-eligible counties is found at the end of this document

- ◆ A 2008 provision of the 1990 credit stipulates that projects commencing on or after January 1, 2011 (and before December 31, 2019) are subject to an additional credit limitation. If the state’s general fund revenues are predicted to fall short of a certain threshold in a given year, the credit cannot be taken for that year. Taxpayers can contact History Colorado or the Colorado Department of Revenue to determine if the credits are available for the current year.
- ◆ NOTE: the above provision applies ONLY to the 1990 credit. Projects completed under the new 2014 law are NOT subject to these budgetary limitations, and taxpayers who hold these credits may use them regardless of state revenue projections.

MINIMUM EXPENDITURES

- ◆ Under the 1990 credit, the costs associated with the rehabilitation of the property must exceed \$5,000
- ◆ Under the 2014 credit, the costs associated with the rehabilitation of a residential property must exceed \$5,000
- ◆ Under the 2014 credit, the costs associated with the rehabilitation of a commercial property must exceed 25% of the *adjusted basis* of the property. This basis is defined by state law as being “the purchase price of the qualified commercial structure less the value attributed to the land”

EFFECTIVE DATES

- ◆ The 1990 credit came into effect on January 1, 1991, and has been extended through December 31, 2019
- ◆ The 2014 credit came into effect on July 1, 2015, and is currently in effect through December 31, 2019
- ◆ The Colorado State Legislature has the option of extending one or both programs beyond December 31, 2019. In the past, the tax credit program has been extended for periods of ten years (e.g., extended to December 1999, then December 2009, then to December 2019).

ASSOCIATED FEES

- ◆ The 1990 credit has an initial application fee of \$250 (which may be waived by the reviewing entity for projects costing less than \$15,000). There is also an additional charge based on the cost of the project:
 - No additional charge for projects costing less than \$15,000
 - \$250 for projects costing between \$15,000 and \$49,999.99
 - \$500 for projects costing between \$50,000 and \$99,999.99
 - \$750 for projects costing \$100,000 or more
- ◆ The 2014 credit allows reviewing entities to charge a “reasonable application fee” for the review of residential projects, but does not specify a maximum or minimum fee
- ◆ The 2014 credit allows reviewing entities to charge a review fee not exceeding \$500 for the review of commercial projects

- ◆ Under the 2014 credit, commercial projects are also subject to an additional fee upon the completion of the project and the issuance of tax credits. This additional fee is 3% of the value of the credits issued. For example, a commercial project with \$1 million in qualified rehabilitation expenditures would receive a tax credit of \$250,000. This would be subject to a 3% “issuance fee” (or \$7,500).

APPLICATION PROCEDURES

- ◆ Under the 1990 credit, projects are reviewed by the Certified Local Government or, in the absence of a participating CLG, by History Colorado
 - The applicant submits preliminary work plans to the reviewing entity and pays an application fee (if required)
 - The reviewing entity reviews the proposed scope of work and, if it meets the program requirements, notifies the applicant that the project has preliminary approval
 - Upon completion of the project, the applicant submits final paperwork, including project costs and photographs of completed work, and pays any required fees
 - The reviewing entity reviews the final paperwork to confirm that the work performed was done in accordance with the previously-approved preliminary application.
 - The reviewing entity certifies the work as completed and meeting the requirements of the program, and a tax credit is issued to the applicant
- ◆ Under the 2014 credit, the review process for residential properties is exactly the same as under the 1990 law (see above)
- ◆ Under the 2014 credit, all applications for commercial properties are reviewed by the Colorado Department of Economic Development and International Trade (OEDIT) and by History Colorado
 - The applicant submits preliminary work plans to the OEDIT through that agency's web site (www.advancolorado.com)
 - OEDIT and History Colorado review the proposed scope of work to certify that it meets program requirements
 - Upon approval, OEDIT reserves a portion of that year's available “pool” of tax credit funding to the applicant. If the “pool” of funding has been reduced to zero, the applicant will be notified and will automatically be placed in line for the next year's funding.
 - Upon completion of the project, the applicant submits final paperwork, including project costs and photographs of the completed work. All project costs must be certified by a Certified Public Accountant. Project costs in excess of \$1 million must also be audited by a third party, and proof of this audit must be submitted to OEDIT.
 - OEDIT and History Colorado review the final paperwork to ensure compliance with the program requirements
 - OEDIT and History Colorado certify the project as complete. OEDIT issues a tax credit certificate to the applicant

PROJECT TIMING

- ◆ Under the 1990 credit, all projects are accepted on a rolling, year-round basis.
- ◆ Under the 2014 credit, all residential projects are also accepted on a rolling, year-round basis.
- ◆ Under the 2014 credit, commercial projects are also accepted on a rolling, year-round basis. However, the total amount of available credits for a given year is limited by the amount of money that has been set aside by the State Legislature for that year:

- For 2016, \$2.5 million for projects with qualified costs of under \$2 million and \$2.5 million for projects with qualified costs of over \$2 million
- For 2017, 2018, and 2019, \$5 million for projects qualified costs of under \$2 million and \$5 million for projects with qualified costs of over \$2 million
- ◆ Because the “pool” of available money in any given year is limited, applicants are encouraged to apply for the credit as early as possible during the State Fiscal Year (which runs from July 1 through June 30). If the “pool” is depleted during a given year, later applicants will be notified of this fact and will be placed in line for the next year’s allocation of credits.

PROJECT LENGTH

- ◆ The 1990 credit requires that all projects be completed within 24 months of starting work.
- ◆ The 2014 credit eliminates time limits for residential and commercial projects. However, applicants for the commercial credit must meet several milestones to keep their allocation of credits:
 - They must begin work within 12 months of project approval;
 - The project must be at least 20% complete within 18 months of approval;
 - The applicant must complete at least 10% of the total work every year
 - All updates must be submitted to OEDIT in order to keep the allocation of credits
 - Projects that do not meet these timetables may lose their credits. Lost credits are returned to the “pool” for use by other applicants.
- ◆ Because the 2014 credit currently sunsets at the end of 2019, and because (as of June 2015) the State has not set aside any funding for Fiscal Year 2020 for the credit, all applicants should plan on completing their projects before December 31, 2019. Projects completed after this date may not be able to claim and use credits even if a preliminary allocation of credits was obtained.

SALE OF CREDITS

The 2014 credit allows commercial property owners, non-profits, and (long-term) lease holders to sell or transfer tax credits that they have obtained to other Colorado taxpayers. Holders of tax credits can sell or transfer all or part of their credits to other Colorado taxpayers at any time. In addition, “Colorado taxpayers” refers only to taxpayers (individuals, corporations, etc.) who have a state tax liability; they do not have to be physically located or headquartered in Colorado. Buyers of tax credits may, in turn, sell or transfer them to a third party without penalty.

CERTIFIED LOCAL GOVERNMENTS (updated June 2015)

The following cities and counties are designated as Certified Local Governments. These governments have the power to designate properties as historic landmarks (and to create historic districts); under state law, these designated properties may be eligible for tax credits under both the 1990 and 2014 credit programs.

Certified Local Governments have the authority to review and approve tax credit projects under the 1990 law and residential tax credit projects under the 2014 law. Local governments can choose to review or to not review applications. In cases where the local government has chosen not to review tax credit project, and in communities that are not Certified Local Governments, History Colorado will provide the review instead.

Certified Local Governments:

Alamosa	Denver*	Leadville*
Aspen*	Durango*	Littleton*
Aurora*	Erie*	Longmont*
Berthoud*	Fort Collins*	Louisville
Black Hawk*	Fort Lupton*	Loveland
Boulder*	Georgetown*	Manitou Springs*
Boulder County*	Gilpin County*	New Castle
Breckenridge	Glenwood Springs	Otero County
Brighton*	Golden*	Pagosa Springs*
Broomfield	Greeley*	Park County*
Carbondale*	Gunnison County	Pueblo
Castle Rock*	Idaho Springs*	Saguache*
Central City*	Kiowa County	Salida
Colorado Springs*	La Veta	Steamboat Springs*
Cortez	Lafayette	Telluride*
Crested Butte*	Lake City*	Westminster*
Cripple Creek*	Lakewood	Windsor

(* This Certified Local Government reviews applications for historic preservation tax credits)

**FEDERAL AND STATE DISASTER AREAS
(updated June 2015)**

Sections 8(c)(III) and 8(e)(II) of the Colorado Job Creation and Main Street Revitalization Act of 2014 (CRS 39-22-514.5) allow tax credit applicants to claim an additional 5% credit if they are located in a county that has been declared:

- ◆ A major disaster area under Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 512), or;
- ◆ A disaster area under Article 7 of the Colorado Disaster Emergency Act (CRS 24-33.5-700)

An area is declared to be a major disaster area under the Stafford Act by proclamation of the President of the United States. Similarly, an area is declared to be a disaster area under the Colorado Disaster Emergency Act by proclamation of the Governor of Colorado.

Disaster areas, for the purposes of the Colorado Job Creation and Main Street Revitalization Act, are determined to be county-wide in scope. Thus, if the Governor of Colorado declares a disaster area in a portion of a given county, all properties within that county are eligible for the additional 5% credit.

NOTE: Under state law, the additional 5% credit only applies to projects that begin with six years of the date the disaster is declared.

In addition, the additional 5% credit does not allow the total allocation of tax credits to rise above the mandated project caps for projects, which are \$50,000 for residential projects and \$1,000,000 for commercial projects.

LIST OF COUNTIES:

County	Designation	Cause	Declared	Expires
Adams	Federal	Flood	9/14/2013	9/14/2019
Arapahoe	Federal	Flood	9/14/2013	9/14/2019
Boulder	Federal	Flood	9/14/2013	9/14/2019
Broomfield	State	Flood	9/13/2013	9/13/2019
Chaffee	State	Flood	9/13/2013	9/13/2019
Clear Creek	Federal	Flood	9/14/2013	9/14/2019
Crowley	Federal	Flood	9/14/2013	9/14/2019
Custer	State	Fire	10/24/2012	10/24/2018
Denver	Federal	Flood	9/14/2013	9/14/2019
El Paso	Federal	Flood	9/14/2013	9/14/2019
Fremont	Federal	Flood	9/14/2013	9/14/2019
Garfield	State	Fire	8/16/2013	8/16/2019
Gilpin	Federal	Flood	9/14/2013	9/14/2019
Grand	State	Fire	6/13/2013	6/13/2019
Hinsdale	State	Fire	6/26/2013	6/26/2019
Huerfano	State	Fire	6/12/2013	6/12/2019
Jefferson	Federal	Flood	9/14/2013	9/14/2019
Lake	Federal	Flood	9/14/2013	9/14/2019
Larimer	Federal	Flood	9/14/2013	9/14/2019
Las Animas	State	Fire	6/21/2013	6/21/2019
Lincoln	Federal	Flood	9/14/2013	9/14/2019
Logan	Federal	Flood	9/14/2013	9/14/2019
Mesa	State	Fire	7/12/2012	7/12/2018
Mineral	State	Fire	6/26/2013	6/26/2019
Moffat	State	Fire	12/7/2012	12/7/2018

County	Designation	Cause	Declared	Expires
Montezuma	State	Fire	10/26/2012	10/26/2018
Morgan	Federal	Flood	9/14/2013	9/14/2019
Otero	State	Flood	9/13/2013	9/13/2019
Park	State	Flood	9/13/2013	9/13/2019
Prowers	State	Flood	9/13/2013	9/13/2019
Pueblo	State	Flood	9/13/2013	9/13/2019
Rio Blanco	State	Fire	7/24/2012	7/24/2018
Rio Grande	State	Fire	6/26/2013	6/26/2019
Sedgwick	Federal	Flood	9/14/2013	9/14/2019
Teller	State	Fire	7/1/2012	7/1/2018
Washington	Federal	Flood	9/14/2013	9/14/2019
Weld	Federal	Flood	9/14/2013	9/14/2019

