Office of Archaeology and Historic Preservation
History Colorado
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Colorado Historic Preservation Income Tax Credit

(Updated June 2018)

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 – 35 percent tax credit for the rehabilitation of a qualified commercial (income-producing) property, as well as a 20 – 30 percent credit for the rehabilitation of a qualified residential (owner-occupied) property. This law currently expires on December 31, 2029.

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. This law is set to expire on December 31, 2019.

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 35%), 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 (a total of $10 million each year from 2017 through 2029) 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.

However, applicants claiming the 1990 credit may be unable to apply that credit to their tax returns in years where the state’s revenues fail to increase by at least 6% over the previous year. By contrast, applicants claiming the 2014 credit can apply that credit to their tax returns every year, regardless of state revenue growth.

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.

Beginning on January 1, 2020, the 2014 credit will be the only option for taxpayers.

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

*As of June 2018, Colorado has 61 Certified Local Governments. A full list of these CLGs can be found at the end of this document.

ELIGIBLE TAXPAYERS

The 1990 credit limits the program to:

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

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 5 years (rural areas) or 39.5 years (urban areas)*
- Potential buyers of a historic property who have a purchase agreement or an option to purchase

*For the definitions of “rural” and “urban” areas, refer to the section on Rural and Urban areas at the end of this document

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 – 35 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(2)(k)).
- 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
- Some expenditures for kitchen and bathroom projects (appliances, fixtures, cabinets, etc.) qualify for the 1990 credit, but not the 2014 credit.

EXTENT OF TAX SAVINGS

Tax credits directly reduce (dollar for dollar) the amount of income tax owned 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.
- **Starting on January 1, 2020**, residential and commercial properties under the 2014 credit can receive an additional 10% "bonus credit" if they are located in a Rural Area, as defined by state law. Again, the property owner is limited to a maximum of $50,000 (residential) or $1,000,000 (commercial) in credits.
- Taxpayers cannot claim both the "disaster" and "rural" bonuses described above, even if they qualify for both. They must choose one or the other.

*Note: A list of areas that are eligible for the "disaster" and "rural" bonuses can be 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. This information is also available online at https://www.colorado.gov/pacific/tax/income-tax-credits (select "historic property preservation")
- 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"
- For commercial projects commencing on or after January 1, 2020, the costs associated with the rehabilitation must exceed $20,000 (the adjusted basis method will no longer be used after December 31, 2019)

EFFECTIVE DATES

- The 1990 credit came into effect on January 1, 1991, and is set to end on December 31, 2019.
- The 2014 credit came into effect on July 1, 2015, and is currently in effect through December 31, 2029.

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. This fee is charged at the start of the project review period. The state of Colorado, and most local reviewing entities, charge the same fee for the 2014 credit as they do for the 1990 credit listed above ($0 to $1,000, depending on cost)
- 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 (CLG) or, in the absence of a participating CLG, by History Colorado
    - The applicant submits preliminary work plans, project description, and current photos 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.advancecolorado.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 audited by a Certified Public Accountant not affiliated with the owner, 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. <u>However</u>, 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 2017 through 2029, $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 Calendar Year (January 1 through December 31). 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:
    - 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 2029, and because the State has not yet set aside any funding for Fiscal Year 2030 for the credit, all applicants should plan on completing their projects before December 31, 2032. Projects completed after this date may not be able to claim and use credits even if a preliminary allocation of credits was obtained.

SUBMISSION DEADLINES

- For the 1990 credit, initial applicants for projects can be submitted:
    - Before the project begins
    - At any time during the project's two-year project window (this can include work that has already been completed during that two-year period)
    - Within 60 days of project completion
- For residential projects using the 2014 credit, initial applicants for projects can be submitted:
    - Before the project begins
    - In the middle of a project (this can include work that has already been completed, up to 24 months prior to submittal)
    - Within 60 days of project completion
- For commercial projects using the 2014 credit, initial applicants for projects can be submitted:
    - Before the project begins
    - In the middle of a project (this can include work that has already been completed, up to 60 days prior to submittal)
    - Within 60 days of project completion
- In all cases, applicants who wish to claim tax credits for already completed work should be prepared to provide documentation of said work ("before" and "after" photographs, project costs and timelines, etc.)

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 2018)

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.

Note: Certified Local Governments must pass separate ordinances declaring their intention to review and approve tax credits projects under the 1990 and 2014 laws. As of June 1, 2018, there are 32 Certified Local Governments that review projects under the 1990 law, and 1 (Denver) that reviews projects under the 2014 law.

Certified Local Governments:

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

(This Certified Local Government reviews applications for the 1990 historic preservation tax credits)*

(# This Certified Local Government reviews applications for the 2014 historic preservation tax credits)

FEDERAL AND STATE DISASTER AREAS
(updated June 2018)

Subsections 5.5(a)(II) and 8(c)(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
(Note: counties listed in **bold** will have their disaster provision expire in calendar year 2018)

County	Designation	Cause	Declared	Expires
Adams	Federal	Flood	9/14/2013	9/14/2019
Arapahoe	Federal	Flood	9/14/2013	9/14/2019
Baca	Federal	Severe Storms	7/15/2015	7/15/2021
Bent	State	Flood	5/26/2017	5/26/2023
Boulder	State	Severe Storms	6/23/2017	6/23/2023
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	Flood	5/26/2017	5/26/2023
Denver	Federal	Flood	9/14/2013	9/14/2019
Elbert	Federal	Severe Storms	7/15/2015	7/15/2021
El Paso	Federal	Severe Storms	7/15/2015	7/15/2021
Fremont	State	Flood	5/26/2017	5/26/2023
Garfield	State	Landslide	3/2/2016	3/2/2022
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	Flood	5/26/2017	5/26/2023
Jefferson	State	Severe Storms	6/23/2017	6/23/2023
Lake	Federal	Flood	9/14/2013	9/14/2019
Larimer	State	Severe Storms	6/23/2017	6/23/2023
La Plata	State	Gold King Mine	8/10/2015	8/10/2021
Las Animas	State	Fire	6/21/2013	6/21/2019

County	Designation	Cause	Declared	Expires
Lincoln	Federal	Flood	9/14/2013	9/14/2019
Logan	State	Fire	3/20/2017	3/20/2023
Mesa	**State**	**Fire**	**7/12/2012**	**7/12/2018**
Mineral	State	Fire	6/26/2013	6/26/2019
Moffat	State	Fire	10/20/2017	10/20/2023
Montezuma	**State**	**Fire**	**10/26/2012**	**10/26/2018**
Morgan	Federal	Severe Storms	7/15/2015	7/15/2021
Otero	State	Flood	5/26/2017	5/26/2023
Park	State	Flood	9/13/2013	9/13/2019
Phillips	State	Fire	3/20/2017	3/20/2023
Prowers	State	Flood	9/13/2013	9/13/2019
Pueblo	State	Flood	5/26/2017	5/26/2023
Rio Blanco	**State**	**Fire**	**7/24/2012**	**7/24/2018**
Rio Grande	State	Fire	6/26/2013	6/26/2019
Routt	State	Fire	10/20/2017	10/20/2023
Saguache	Federal	Severe Storms	7/15/2015	7/15/2021
San Juan	State	Gold King Mine	8/10/2015	8/10/2021
Sedgwick	Federal	Severe Storms	7/15/2015	7/15/2021
Teller	**State**	**Fire**	**7/1/2012**	**7/1/2018**
Washington	Federal	Severe Storms	7/15/2015	7/15/2021
Weld	State	Severe Storms	6/23/2017	6/23/2023
Yuma	Federal	Severe Storms	7/15/2015	7/15/2021

RURAL AND URBAN AREAS
(updated June 2018)

Subsections 5.5(a)(II) and 8(c)(III) 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 10% credit if they are located within a Rural Area, as defined by Subsections 2(d.3) and 2(o.5) of the law. This additional 10% credit only applies to projects that commence on or after January 1, 2020.

Lease holders of commercial properties in Rural Areas may be eligible for tax credits if they have a leasehold interest of not less than five years, as defined by Subsection 2(i)(III.5).

“Population” is defined as the population of the town, city, or county as of the most recent United States Census. As of June 2018, the most recent U.S. Census was conducted in 2010.

Under Subsections 2(d.3) and 2(o.5) of the law, a Rural Area is defined as:

- A property that is located in a municipality that has a population of under 50,000 residents and is not located within the Denver Metropolitan Area, or;
- A property that is located in an unincorporated area of a county that has a total countywide population of under 50,000 residents and is not located within the Denver Metropolitan Area;
- The “Denver Metropolitan Area” is defined as the following counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Jefferson, and Douglas, with the exception of the towns of Castle Rock and Larkspur.

In general, this means that taxpayers cannot take this bonus 10% credit if:

- Their property is located within the boundaries of Adams, Arapahoe, Boulder, Denver, or Jefferson Counties (these counties are part of the Denver Metropolitan Area).
- Their property is located in an unincorporated area of Eagle, El Paso, Garfield, La Plata, Mesa, or Weld Counties (these counties exceed 50,000 in population);
- Their property is located within the city/town limits of: Colorado Springs, Fort Collins, Grand Junction, Greeley, Longmont, Loveland, Pueblo, or Thornton (these cities exceed 50,000 in population).
- Their property is located in Douglas County, but is outside of the town limits of Castle Rock and Larkspur (Douglas County, with the exception of Castle Rock and Larkspur, is part of the Denver Metropolitan Area).

Taxpayers who are eligible for both the 5% bonus for being located in a “disaster county” and the 10% bonus for being located in a “rural area” cannot claim both bonuses. They must choose one or the other.

In addition, the additional 10% 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.