



FEDERAL PRESERVATION PROGRAM NOTES

Federal Historic Preservation Tax Incentives Program

The Federal Historic Preservation Tax Incentives program is one of the nation's most successful and cost-effective public/private revitalization programs. The program fosters private sector rehabilitation of historic buildings and promotes economic revitalization. It also provides a strong alternative to government ownership and management of such historic properties. The Federal Historic Preservation Tax Incentives are available for buildings that are National Historic Landmarks, are listed in the National Register, and that contribute to National Register Historic Districts and certain state or local historic districts. Properties must be income-producing and must be rehabilitated according to standards set by the Secretary of the Interior.

Jointly managed by the National Park Service (NPS) and the Internal Revenue Service (IRS) in partnership with State Historic Preservation Offices (SHPOs), the Historic Preservation Tax Incentives program rewards private investment in rehabilitating historic buildings. Prior to the program, the U.S. tax code favored the demolition of older buildings over saving and using them. Starting in 1976, the Federal tax code became aligned with national historic preservation policy to encourage voluntary, private sector investment in preserving historic buildings. Since that time, the tax incentives have leveraged over \$33 billion of private sector investment to preserve and rehabilitate over 32,000 historic properties, including the creation of nearly 185,000 housing units, of which over 75,000 are low and moderate-income units.

BRAC and Federal Historic Preservation Tax Incentives

The implementation of Base Realignment and Closure (BRAC) 2005 presents an opportunity for developers to convert historic military properties into new uses, utilizing the Federal Historic Preservation Tax Incentives program. Current tax incentives for preservation, established by the Tax Reform Act of 1986 (PL 99-514; Internal Revenue Code Section 47 [formerly Section 48(g)]) include:

- a 20% tax credit for the *certified rehabilitation of certified historic structures* and
- a 10% tax credit for the rehabilitation of *non-historic, non-residential* buildings built before 1936.

For both credits, the rehabilitation must be *substantial* and must involve a *depreciable* building. The *substantial rehabilitation* test means that the cost of rehabilitation must exceed the pre-rehabilitation cost of the building. Generally, this test must be met within two years or within five years for a project completed in multiple phases. A *depreciable building* is one that after rehabilitation must be used for an income-producing purpose for at least five years. Owner-occupied residential properties do not qualify for the federal rehabilitation tax credit.

A tax credit differs from an income tax deduction. An income tax deduction lowers the amount of income subject to taxation. A tax credit, however, lowers the amount of tax owed. In general, a dollar of tax credit reduces the amount of income tax owed by one dollar.

The 20% rehabilitation tax credit applies to any project that the Secretary of the Interior designates a *certified rehabilitation* of a *certified historic structure*. A *certified historic structure* is defined as a building that is listed in the National Register of Historic Places, either individually or as a contributing building in a National Register historic district, or as a contributing building within a local historic district that has been certified by the Department of the Interior (National Park Service). Buildings in historic districts must be *certified* or approved by NPS as contributing to the district as part of the Historic Preservation Certification Application. The MNPS must approve, or *certify* all rehabilitation projects seeking the 20% tax credit. A *certified rehabilitation* is a rehabilitation of a *certified historic structure* that is approved by the NPS as being consistent with the historic character of the property and, where applicable, the historic district in which it is located.

The 20% credit is available for properties rehabilitated for commercial, industrial, agricultural, or rental residential purposes, but it is not available for properties used exclusively as the owner's private residence. As an alternative, the 10% credit applies only to non-historic buildings rehabilitated for non-residential uses. Rental housing would thus not qualify. Hotels, however, do qualify, as they are considered to be in commercial use, not residential.

Both the 20% and 10% credits apply only to buildings – not to ships, bridges, or other structures. In addition, the rehabilitation must be *substantial*; that is exceeding either \$5,000 or the adjusted basis of the property, whichever is greater. And the building must be depreciable.

While the 10% rehabilitation tax credit applies only to *non-historic, non-residential* buildings built before 1936, the 20% rehabilitation tax credit applies only to *certified historic structures*, and may include buildings built after 1936. The two credits are mutually exclusive; that is, only one applies to a given project and the two cannot be combined to be used on the same project. Which credit applies depends on the building – not on the owner's preference. Buildings listed in the National Register of Historic Places are not eligible for the 10% credit and buildings located in National Register-listed historic districts are presumed to be historic and are therefore not eligible for the 10% credit unless the owners request that the buildings be certified as non-contributing to the historic district.

Application Process for the 20% Tax Credit

The Historic Preservation Certification application is a 2- or 3-part process, depending on whether the building is individually listed in the National Register of Historic Places. Each part requires approval or "certification" by the NPS. The application is always submitted in duplicate to the State Historic Preservation Officer (SHPO), which retains one copy and forwards the other

to the NPS. It is important to remember that projects are reviewed by both the SHPO and the NPS, but only the NPS approves projects for the Federal tax credit. Both the NPS and the IRS strongly encourage owners to apply *before* they start work.

Part 1: Evaluation of Significance of the Property

Owners of buildings located in a historic district or buildings eligible for listing in the National Register of Historic Places must complete Part 1 of the application to determine if the building contributes to the significance of the historic district. The owner submits this application to the SHPO. The SHPO reviews the application and forwards it to the NPS with a recommendation for approving or denying the request. If the NPS determines that the building does contribute to the significance of the historic district, the National Park Service issues a decision that the building is a *certified historic structure*. The NPS bases its decision on the [Secretary of the Interior's Standards for Evaluating Significance within Registered Historic Districts](#). The Part 1 application form must have been submitted and approved by the NPS before the Part 3 application form, "Request for Certification of Completed Work," is submitted. Properties that consist of a single building and are individually listed in the National Register are automatically certified historic structures and do not need a Part 1 form.

Part 2: Description of Rehabilitation Work

All owners of a *certified historic structure* who are seeking the 20% tax credit for the rehabilitation work must complete a Part 2 application form, which is a description of the proposed rehabilitation work. Long-term lessees may also apply if their remaining lease is 27.5 years for residential property or 39 years for nonresidential property. The owner submits the application to the SHPO. The SHPO provides technical assistance and literature on appropriate rehabilitation treatments, advises owners on their applications, makes site visits when possible, and forwards the application to the NPS, with a recommendation. The NPS reviews the description of the proposed rehabilitation for conformance with the [Secretary of the Interior's Standards for Rehabilitation](#). The entire project is reviewed, including related demolition and new construction, and is certified, or approved, only if the overall rehabilitation project meets the *Standards*.

If the proposed work meets the Standards, the NPS issues a preliminary decision approving the work. Or, the proposed work may be given a conditional approval that outlines specific modifications required to bring the project into conformance with the Standards. Both the NPS and the IRS strongly encourage owners to apply *before* they start work.

Part 3: Request for Certification of Completed Work

After the rehabilitation work is completed, the owner must submit a Part 3 application form requesting final approval of the completed work. The owner submits the "Part 3" to the SHPO. The SHPO forwards the application to the NPS, with a recommendation as to certification. The NPS evaluates the completed project and compares it with the work proposed in the Part 2 application form. If it meets the *Standards*, the NPS approves the project as a certified rehabilitation eligible for the 20% rehabilitation tax credit. Notification of certification decisions is made in writing by the NPS. A copy of each notification is provided to the IRS and to the SHPO.

State Tax Incentives

A number of States offer additional tax incentives for historic preservation. They include tax credits for rehabilitation, including owner-occupied residential properties, tax deductions for easement donations, and property tax abatements or moratoriums. The SHPO will have information on current State programs. Requirements for State incentives may differ from the requirements of the Federal Tax Incentive Program.

Coordination with Section 106 of the National Historic Preservation Act

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by the ACHP (“Protection of Historic Properties”, 36 CFR Part 800). DoD is required to comply with Section 106 and the ACHP regulations when disposing of Federal property through the BRAC process. As a result, coordination may be required between this compliance process and the use of the Federal Tax Incentives by a non-Federal entity. To ensure consistency and avoid duplication of efforts, it is important to work closely with the SHPO to coordinate these two processes.

BRAC Case Studies

Fort Benjamin Harrison, Indiana

Fort Benjamin Harrison was identified for closure by the Base Realignment and Closure Commission in 1991. The decision to rebuild a new center for the City of Lawrence around the historic brick and masonry structures built for Army use was an essential element in the Fort Harrison Reuse Authority’s plan.

The centerpiece of the Fort Harrison Historic District is the 39-acre parade field – Lawton Loop - that is surrounded by 31 of the original installation buildings. Constructed between 1906 and 1910, 48 structures from this original period remain in the district. These original structures are well-maintained examples of Colonial Revival architecture. With minor exceptions, all of the structures in the Fort Harrison Historic District have been or are in the process of being restored for residential or commercial uses.

Within the historic district, the Fort Harrison Redevelopment Authority (FHRA) established strict architectural and development standards that require any new construction blend with the historic structures. Developers of new properties have abided by these standards, resulting in a transition from historic buildings to compatible new construction.

The first private sector businesses moved to Historic Fort Harrison in 1997. Since then, the flow of new tenants has continued at a steady pace. Today, over 1 million square feet of new residential or commercial construction has been completed or is under contract at the former Fort. The FHRA has found there is a substantial market for historic properties in good repair. More importantly, the ambiance of the historic district and the strenuously enforced architectural and development standards are an important attraction for people and businesses locating in Historic Fort Harrison.

Examples of projects utilizing the Federal Tax Incentives at Fort Harrison include the rehabilitation and reuse of the 1st Post Hospital as the Kendall Inn. Completed in 2004, the inn now operates as the only privately owned and operated full-service inn and hotel in its area. The Kendall Inn and Conference Retreat caters to hotel guests, diners, organizations and meeting participants. From 1998 to 2004, six other rehabilitation projects at Fort Harrison were approved under the Federal Tax Incentives program.



Photo Credit: Fort Benjamin Harrison Historical Society

Fort Sheridan, Illinois

LR Development Company completed a \$250 million historic rehabilitation and adaptive reuse of Fort Sheridan, located on the shores of Lake Michigan in Illinois. The Master Development Team was responsible for the purchase, financing, planning, marketing, construction, renovation and management of Fort Sheridan.

As part of that team, LR Development Company oversaw the rehabilitation and adaptive reuse of historic structures on the property. Designed by Hollabird and Roche, the 125-acre National Historic Landmark district at Fort Sheridan contains 94 contributing historic structures, most of which were built between 1888 and 1892. LR renovated the buildings in accordance with the



Photo Credit: www.vater.verberweb.com

Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* and received Federal Tax Incentives for a portion of the project.

The project represented a true public/private partnership. Working hand in hand with local government, a master plan for the historic district was developed. The Master Developer provided critical information to assist the cities in their negotiations with the Army for the purchase of the property. In addition, a Cultural Resource

Management plan for the protection of the historic structures and landscapes was developed. LR spearheaded the coordination of the writing of the plan and its input and review by the Illinois State Historic Preservation Office, the National Park Service, the Army and the Landmarks Preservation Council of Illinois.

LaSalle Bank provided the debt financing for the project. Due to the scale and diversity of products on the site, several architects provided architectural services, and several contractors, including LR Contracting Company, which was the general contractor for many of the historic buildings, performed the construction.

McClellan Air Force Base, California

The Air Force finished its mission at McClellan in 2001 and the planning and redevelopment of the base property became the responsibility of the Sacramento County Board of Supervisors. A private developer, McClellan Park created a master plan for the former



Photo Credit: Sacramento Housing and Redevelopment Agency

base which included an aviation/industrial district, business park, housing, recreation and park areas, a University of California, Davis research facility, and family services such as a child-care center. In addition, a historic properties maintenance manual was prepared for the historic district, known as the Sacramento Army Air Depot Historic District, which is listed on the National Register of Historic Places.

Already deemed a success with the creation of up to 7,000 new jobs in its commercial and industrial sectors, the McClellan Park redevelopment is also a case study in effective community outreach. The planning and development team knew that community support was dependent on McClellan Park becoming an active neighbor that was integrated into the larger community.

To this end, the development team established a 15-member committee made up of community representatives, as well as an Action Team consisting of local business leaders. The outreach strategy included keeping the exchange and commissary open for the area's many military retirees, allowing for public use of McClellan Park's recreation facilities and parks, and providing new opportunities for cultural facilities. Over the next 10 years, McClellan Park is projected to lease 12-13 million square feet of commercial/industrial space, with ultimate build out of up to 16 million square feet. The Federal Tax Incentives are currently being used by developers for three projects at McClellan, including rehabilitation of officers' quarters.

For More Information

For more information on tax incentives for historic preservation, contact the National Park Service, the Internal Revenue Service, or the State Historic Preservation Officer in your state.

National Park Service

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Heritage Preservation Services-Org. 2255
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202/513-7270
email: nps_hps-info@nps.gov
<http://www.cr.nps.gov/hps/tps/tax/index.htm>

The National Park Service has developed information entitled *Incentives! A Guide to the Federal Historic Preservation Tax Incentives Program for Income-Producing Properties* to assist historic building owners, preservation consultants, community officials, architects and developers.

<http://www.cr.nps.gov/hps/tps/tax/incentives>

Internal Revenue Service

<http://www.cr.nps.gov/hps/tps/tax/IRS.htm>

A listing of State Historic Preservation Officers can be found at:

<http://www.ncshpo.org/stateinfo/>

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NATIONAL CONFERENCE OF STATE
HISTORIC PRESERVATION OFFICERS

NC SHPO

