Planning Successful Historic Tax Credit Rehabilitation Projects

- Program overview
- Who uses the credit?
- Eligibility requirements
- Application and review process
- Best practices

Lafayette Building, Butler, PA
Federal Historic Preservation Tax Incentives

Two types of credits available

10%
Tax credit for the rehabilitation of non-historic buildings built before 1936 and used for non-residential income producing use

20%*
Tax credit for the "certified rehabilitation" of "certified historic structures"

Easements

Donation of specified property rights to protect a historic structure or site in exchange for tax benefits of a charitable deduction
Pennsylvania Historic Preservation Tax Credit

25%*

Tax credit for the "certified rehabilitation" of "certified historic structures"

Federal and State Program Similarities
1. Use same eligibility requirements
2. Use IRS tax code
3. First point of contact is PA SHPO

Program Differences - State program is competitive!
1. State cap on total amount of credits - $3M
2. State cap on credits per project - $500,000
3. Federal is open application period, state period is limited
4. First-come, first served requirement
5. Regional distribution requirement
6. State is a "certificated" credit but "too little, too late, too slow"

* Project does not need to “piggy-back” w/ NPS program
Preservation and Economic Development Tool

- From 1977-2016, NPS certified over **42,000 completed projects** for total rehab costs of **$84 billion**
- From 1977-2017, PA has over **2,500 completed projects** leveraging over **$7 billion** in private investment
- In PA, FFY 2017 totals are:
  - **38 completed projects** for total rehab costs over **$391 million** in private investment
  - **75 approved proposed projects** for an estimated **$626 million** in private investment
Program Benefits

- Saves buildings
- Creates jobs
- Increases property values
- Promotes investment in older neighborhoods
- Stimulates other rehabilitation
- Attracts new residents
- Promotes smart growth
Certified Projects for FY 2015

870 completed projects representing $4.5 billion in rehabilitation work
Approved Projects for FY 2015

1283 proposed projects representing $6.6 billion in rehabilitation work

- 50+ projects
- 30 – 49 projects
- 10 – 29 projects
- 1 – 9 projects
- 0 projects
Who uses HTCs in PA?

- Large, sophisticated developers
- Multi-million dollar rehab projects?
- Large office or industrial buildings?
- Only in Philadelphia and Pittsburgh?

Who does not use HTCs in PA?

- Small property owners/developers?
- Rehab projects under $500,000?
- Small cities and boroughs?
- Central Business District/Main Streets?
- Elm Street communities?
Federal HTC projects in PA from 2002-2016

Data Source: National Park Service, 2017

Economic Impact*

- 613 approved projects
- $3.8 billion in development costs
- 58,841 jobs created
  - 25,052 Construction
  - 33,789 Permanent
- $4B in income generated
- $837M in local, state and federal taxes

*Data Source: National trust for Historic Preservation and the Historic Tax Credit Coalition
Factors that influence use of HTCs*

- Timeliness?
  - Review process and incentive at end of project
- Knowledge of program or qualified consultant to help through process?
- Lack of owner access to investor capital?
- Standards for Rehabilitation
  - Difficulty to communicate/negotiate with NPS
- IRS regulations
  - Substantial Rehab Test
  - Ability to use credit/Syndication rules
- Preference for dealing with local/county officials and programs

*John Leith-Tetrault, Public Policy Advisor, NTCIC - Main Street America article
Historic Tax Credit Improvement Act!

- Sponsored by Reps. Mike Kelly, R-Pa., and Earl Blumenauer, D-Ore.
- Encourages redevelopment of smaller, income producing properties by:
  - More projects in small, midsize and rural communities
  - Increase credit from 20% to 30% for projects less than $2.5M
  - Allow one-time transfer of credit as tax certificate
  - Reduce investment level for Substantial Rehab/Basis Test from 100% to 50%
- Flexibility for non-profit partnerships
  - schools, libraries, museums, theaters!
The tax incentives program is administered in partnership by:

1. State Historic Preservation Offices (SHPOs)
   - In PA, SHPO is located in the Pennsylvania Historical and Museum Commission - the state's official history agency

2. National Park Service (NPS)

3. Internal Revenue Service (IRS)
Pennsylvania SHPO

• First point of contact
• Provide application forms, regulations and technical assistance
• Maintain records of properties listed in National Register
• Assist in process to list a building or a district in National Register
• Advise applicants on rehabilitation projects and make site visits
• Make certification recommendations to NPS
National Park Service

• Reviews applications to certify a building as a **historic structure** and if proposed and completed work is a **certified rehabilitation** according to the Standards

• Issues all decisions in writing

• Transmits copies of decisions to IRS

• Publishes program information:
  • Regulations
  • SOI Standards for Rehabilitation
  • Historic Preservation Certification Application
  • Technical guidance information on rehabilitation treatments.
Internal Revenue Service

• Publishes regulations on qualified rehabilitation expenses, time periods for incurring expenses, and all other financial matters.

• Answers inquiries on financial aspects of the program, and publishes an audit guide to assist owners.

• Audits taxpayers to ensure that only parties eligible for the 20% tax credits use them.
Eligibility Requirements

There are 4 factors that can help you decide whether your rehabilitation project would meet the basic requirements for the federal or state tax credit:

1) The building must be a “certified historic structure” which means it must be:
   - Listed in the National Register of Historic Places or
   - Certified as contributing to the significance of a "registered historic district.”
2) After rehabilitation, building must be used for an income-producing purpose for at least five years.

• Income-producing purposes include commercial, industrial, agricultural, rental residential or apartment use.

• Owner-occupied residential properties do not qualify for the federal rehabilitation tax credit.

• Credit subject to recapture if property is sold during 5 years.
3) The project must meet the "substantial rehabilitation test"

- The cost of rehabilitation must exceed the **greater** of $5,000 or the pre-rehabilitation value/adjusted basis of the building.
- The test must be met within a self-defined 24 month period or within 60 months for a phased project.

\[ A - B - C + D = \text{Adjusted Basis} \]

- **A** = purchase price of property
- **B** = cost of land at time of purchase
- **C** = depreciation taken for an income-producing property
- **D** = cost of any capital improvements made since purchase

Masonic Hall, Pittsburgh, PA
Substantial Rehabilitation Test

(A) Purchase Price of Property $125,000
- (B) value of land 40,000
- (C) depreciation 0
+ (D) improvements 0

Value of the Building = $85,000

Applicant MUST spend more than $85,000 within a defined 24 month period to qualify for credit.
4) The completed work must be a “certified rehabilitation” according to the Secretary of the Interior's Standards for Rehabilitation.

- These are ten principles that ensure the historic character of the building has been preserved in the rehabilitation.
- Take into consideration economic and technical feasibility.
- Apply to buildings of all types, sizes, uses, materials.
- Apply to exteriors and interiors.
- Extend to building site, landscape and new construction.
- All ten Standards must be met.
Computing the Credit:

Only “qualified rehabilitation expenditures” are eligible for credit

- Costs directly related to repair or improvement of structural and architectural features of historic building that qualify include:
  - Walls, partitions, ceilings, windows and doors, mechanical systems, elevators and stairs, etc...
  - Both “hard” and “soft” costs qualify
- Expenses that do not qualify include:
  - Acquisition, Site Work, Appliances, Cabinets, Furniture, Additions and new construction

Credit equals related % of all qualified rehabilitation expenditures

- $100,000 x 20% = $20,000
Historic Preservation Certification Application
Instructions

The National Park Service (NPS) administers the Federal Historic Preservation Tax Incentives program with the Internal Revenue Service (IRS) and in partnership with State Historic Preservation Offices. The tax incentives promote the rehabilitation of income-producing historic structures of every period, size, style and type. Through this program, thousands of historic buildings throughout the country have been returned to useful life in a manner that maintains their historic character.

The Historic Preservation Certification Application is a “presumptive certification” used to apply for certifications required for Federal historic preservation tax incentives. This NPS certifies whether a building is a “certified historic structure” and whether a rehabilitation meets the Secretary of the Interior’s Standards for Rehabilitation and is consistent with the historic character of the building and, where applicable, the district (in which it is located).

Department of the Interior regulations (36 CFR Part 67) take precedence in the event of any inconsistency with this application. Approval of applications for Federal historic preservation tax incentives is conveyed only in writing by duly authorized officials of the NPS acting on behalf of the Secretary of the Interior. Approval of a project by other Federal, State, and local agencies and organizations does not ensure approval by the Secretary of the Interior for Federal tax purposes.

Applicants are strongly encouraged to contact their State Historic Preservation Office (SHPO) early in the project planning process, to submit applications describing proposed work, and to receive approval from the NPS before beginning rehabilitation work. Owners who undertake rehabilitation projects without prior approval from the NPS do so at their own risk. In the event of any discrepancy between the application form and supplementary materials submitted with it (such as architectural plans), the application form takes precedence. Photographs and other materials sent with the application become the property of the NPS and may be reproduced without permission.

IRS codes and regulations govern all financial and other tax matters relating to the rehabilitation tax credits (Section 148-12) and the tax deduction for easement donations (Section 170A-14). General information, prepared by the IRS, about the tax aspects of these incentives is available at the IRS website. Specific questions about the tax aspects of these incentives should be addressed to the IRS. Approval of historic preservation certification applications by the NPS does not mean that applications meet IRS requirements.

At a glance

- Federal Tax Incentives for Historic Preservation
- Before Applying
- Application Process
- Part 1-Evaluation of Significance
- Part 2-Description of Rehabilitation
- Amendments / Advisory Determinations
- Part 3-Request for Certification of Compulsory Work
- Photographs for Certification Application
- Review Fees

Federal Tax Incentives for Historic Preservation

- 20% income tax credit for the “certified rehabilitation” of a “certified historic structure.”
- A “certified historic structure” is a building that is listed individually in the National Register of Historic Places, or located in a “registered historic district” and certified by the Secretary of the Interior as contributing to the historic significance of the district. A “registered historic district” is a district listed in the National Register or a state or local district certified by the Secretary of the Interior.
Application Process

Three Part Application Process

1) Part 1 Evaluation of Significance
   • Verifies “Certified Historic Structure”

2) Part 2 Description of Rehabilitation
   • Describes interior and exterior work

3) Part 3 Certification of Completed Work
   • Verifies work was completed as proposed

Applicant Submits application to State Historic Preservation Office (SHPO)

National Park Service receives application from SHPO, makes final certification decision, notifies applicant
Application Process

- Owner/Consultant prepares Historic Certification Application
- BHP verifies all information, offers recommendations
- Technical Preservation Services makes final certification decision
- IRS receives Owners return with Form 3468 and signed Part 3 application
Historic Preservation Certification Application
Part 1 – Evaluation of Significance

Does it contribute to the historic district?

• Physical Description
• Statement of Significance
• Building inventory from nomination
• Period of Significance
• District Map
• Photographs and Photo Key
Photographs - document existing condition and character defining features
Photographs - document existing condition and character defining features

Project Name: Harry C. Kahn Furniture Warehouse
3101 Glenwood Avenue
Philadelphia, PA
November 2015

First Floor
Photos 25-38
Yellow arrow indicates starting point
Historic Preservation Certification Application
Part 2 – Description of Rehabilitation

- Describes of proposed work
- Estimate QREs for review fee payable on pay.Gov
- Architectural drawings
- Existing floor plans
- Proposed floor plans
- Elevations
- Additional photographs if necessary
Phased Projects

Two or more distinct stages of development over 60 month period

• plans and specs outlines all phases
• plans complete BEFORE construction begins
• expectation that all work will be completed
**Part 2 Application Form: Description of Rehabilitation**

**Name:** Harry C. Kahn and Son Warehouse

**Address:** 3101-27 W. Glenwood Avenue, Philadelphia, PA

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### Project Data

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### Architectural Feature

**Building/Project Information**

**Date of Feature:** 1922 and subsequent changes

**Existing Feature:** The Harry C. Kahn and Son Warehouse is located in the Brewerytown neighborhood in North Philadelphia. The subject building at 3101-27 W. Glenwood Ave. is located on the western edge of the neighborhood, delineated from the neighboring Strawberry Mansion neighborhood by the Pennsylvania Railroad tracks. It is located adjacent to the Pennsylvania Railroad tracks, between Glenwood Ave (to the east) and Oxford Street (to the north), and is surrounded by predominantly two- and three-story rowhouses and two-story former industrial buildings. The building was constructed as a warehouse for the Harry C. Kahn and Son furniture company in 1922. The five-story, triangular warehouse is constructed of reinforced concrete with brick and concrete infill. The interior was cleared by a previous unrelated owner, as a result, there are no interior finishes or features but the raw exposed concrete structure of the building and exposed and painted brick. The building has been vacant for a number of years and, consequently, has been heavily tagged with graffiti on both the interior and exterior that contains varied levels of significance.

**Work and Impact on Feature:** The rehabilitation of the Harry C. Kahn and Son Warehouse will be undertaken in 2 phases. It is anticipated that the project will likely extend more than 24 months. As detailed in this application, Phase I will involve exterior work and Phase 2 will involve interior. The scope of work for both phases is detailed in this application.

**Projected Work:**

The proposed project will involve the rehabilitation of the complex for use as apartments, specifically artists' lofts, with gallery and office space within the basement and first floor and apartments on the upper floors. A surface parking lot for the building will be constructed off-site on a vacant lot to the south of the building. Additional site work will include a grass lawn in the space between the building and the Pennsylvania Railroad tracks. Exterior work will include: painting of exterior concrete, the cleaning and repointing of masonry, replacement of the deteriorated windows and doors, replacement of garage doors with compatible storefronts, and replacement of roofing materials. Interior work will include: repurposing of the buildings for use as office, gallery space, and apartments, and installation of new mechanical services and HVAC equipment.

**Photos:** All

**Drawings:** A11
Existing Typical Upper Floor Plans
Proposed Typical Upper Floor Plans
Proposed Elevations

the pyramid electric lofts
3101-27 west glenwood avenue, philadelphia, pa

mm partners, llc
1234 north 30th street, unit 2, philadelphia, pa
Window Replacement
Window Drawings
Continuation/ Amendment Sheets

- Additional Information
- Window specifications
  - existing and proposed
- Revised Architectural Drawings
• Photos of completed work
• Placed in Service Date
• Building Rehab Costs
• New Construction Costs
• Original Signatures
• Fed ID Number of all owners!
Photographs of completed work
Caution

1. Can not submit Part 1, Part 2 and Part 3 at the same time. [Tres. Reg. 1.48-12(d)(1)]

2. If a building or historic district not yet listed in the National Register, certification is not final until listing is complete.

3. Additional work undertaken within a 5-year period after certification must be reviewed by the SHPO and NPS and must meet Standards for Rehabilitation.
Historic Tax Credit Best Practices

- SHPO Communication
  - Verify NR Status
  - Discuss application and review process
  - Coordinate state/federal review
  - Multiple building and/or phased projects
  - Site visits???

- Application Issues
  - Incomplete applications
  - Lack of/poor documentation
  - Architectural plans

- Review Issues
  - Starting work prior to NPS review
  - Refusing to negotiate with NPS
  - Assuming local review / approval
  - Code issues - egress and fire safety
  - Energy efficiency and LIHTC projects!!!
QUESTIONS???