

TAX CONFORMITY COMPLICATES THE MINNESOTA HISTORIC TAX CREDIT

DEVELOPERS HATE UNCERTAINTY. If we've heard that once, we've heard it 1,000 times. The planned tax conformity changes to the MN Historic Tax Credit leave several lingering questions.

1. What are the transition rules?

When the Federal changes were enacted, they included transition rules that allowed projects to be grandfathered in if a building was owned by the developer before the end of 2017, and if rehabilitation work started before June 20 of this year. Will similar rules be adopted in Minnesota? Or will the projects that are already underway in 2018 see their tax credits - and overall funding - jeopardized?

2. Will the program expire in the middle of the 5-year credit claim period?

The MN Historic Tax Credit is due to sunset in 2021, just three years from now. Conforming to the Federal changes would mean that a tax credit allocation received in 2018 would be paid in installments for five years, through 2023. What are the sunset and phase-out rules, and how will they affect projects and investments?

3. What if business circumstances change during the 5-year credit claim period?

Unforeseen business or investment changes, such as mergers, partnerships, name changes, or bankruptcies, could jeopardize and unnecessarily complicate the investments made by historic tax credit developers and their partners.

PROPOSED SOLUTIONS:

Extend or eliminate the sunset date to accommodate the new 5-year credit claim structure. (The Federal Historic Tax Credit has no sunset date.)

Allow the credit certificate to be transferred more than once to increase opportunities for investment and to avoid potential complications. (Most other states allow this.)

BACKGROUND

The Minnesota Historic Structure Rehabilitation Tax Credit (MN Statute 290.0681), passed into law in 2010, has been a successful economic development tool for revitalizing distressed, vacant, and underutilized historic properties throughout the state. The Historic Tax Credit generates approximately \$9 in economic activity for every \$1 allowed in the credit. From 2011-2017, the credit resulted in an estimated \$2.2 billion of economic activity, including \$745.1 million in labor income and 12,900 FTE jobs.

The MN Rehabilitation Tax Credit is tied to the Federal Historic Tax Credit in statute. Projects must qualify for - and claim - the Federal credit in order to receive the state credit. The Tax Cuts and Jobs Act, passed in December 2017, restructured the terms by which the Federal credits are claimed. Project developers must now claim the Federal Historic Tax Credit ratably over a period of five years, beginning with the tax year in which the rehabilitated building is placed in service.

Changes to the Federal rules have significantly reduced the value of the Federal Historic Tax Credits. Typically, project developers sell the credits to investors (including banks and insurance companies) to earn capital to invest in the project. The Federal changes have reduced the price paid for these credits by as much as 10-15%.

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