



Guidance on Real Property Ownership and Eligibility to Apply for the State Historic Preservation Cultural and Entertainment District Tax Credit under Chapter 404A as Amended by 2014 Iowa Acts, House File 2453

The State Historic Preservation Office (“SHPO”) and the Iowa Department of Revenue (“IDR”) have received several questions regarding the type and timing of real property ownership necessary to apply for the State Historic Preservation Cultural and Entertainment District Tax Credit (“tax credit”) under Iowa Code chapter 404A, as amended by 2014 Iowa Acts, House File 2453. SHPO and IDR are in the process of drafting administrative rules that will address the issue; this document is intended to provide guidance until those rules are promulgated. This guidance only addresses the type and timing of real property ownership needed to apply and advance through the application process. This document is not intended to provide guidance on any other issues, such as other reasons entities are not eligible to apply for or receive tax credits.

Effective July 1, 2014, under section 404A.3, only an “eligible taxpayer” may apply for the tax credit. Section 404A.1 defines “eligible taxpayer” as “the *owner* of the property that is the subject of a qualified rehabilitation project, or another person who *will* qualify for the federal rehabilitation credit allowed under section 47 of the Internal Revenue Code with respect to the property that is the subject of a qualified rehabilitation project.” (Emphasis added). Therefore, there are two categories of eligible applicants: (1) owners and (2) persons who *will* qualify for the federal credit. To be considered the owner, the applicant must be the fee simple owner of the property. To be considered a person who will qualify for the federal credit, the applicant must demonstrate to SHPO's satisfaction that the applicant is pursuing the federal credit and will either be the eventual fee simple owner or enter into a long-term lease that meets the requirements of the federal rehabilitation credit. **An applicant who will qualify for the federal credit shall not be eligible for any state tax credits if the applicant does not become the fee simple owner or qualified long-term lessee of the property before entering an agreement with the Department of Cultural Affairs (“DCA”) under Iowa Code section 404A.3(3).**

The applicant will be expected to provide the following information to show that he or she is an eligible taxpayer:

Applicants who are fee simple owners:

An applicant who is the fee simple owner will be required to include proof of ownership with the Part 1 application and to notify SHPO of any changes in ownership status.

Applicants who will qualify for the federal rehabilitation credit:

An applicant who is not presently the fee simple owner but “will qualify for the federal rehabilitation credit” will be required to provide increasingly substantial evidence that he or she will qualify, culminating with actual fee simple ownership or a qualified long-term lease prior to entering into an agreement with DCA. The expectations for each phase of the application process are as follows:

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- All applications (Part 1, 2, and Registration) must be accompanied by a written statement from the fee simple owner of the property that indicates that he or she is aware of the application and has no objection. All applications must be signed by the person or the authorized representative of the entity that will qualify for the federal rehabilitation credit.
- Part 1 Application: Include a copy of the approved Federal Part 1 as required by the Federal Historic Preservation Certification Program.
- Part 2 Application: Include a copy of the approved Federal Part 2.
- Registration Application: Actual ownership and steps taken towards ownership will be considered as part of the weighted Registration Application scoring criteria. Additionally, the applicant must certify that he or she understands that he or she will not qualify for any state tax credit if he or she is not the fee simple owner or otherwise qualified for the federal credit.
- Agreement: Before an applicant can enter an agreement with DCA under Iowa Code section 404A.3(3), the applicant must submit to DCA proof of fee simple ownership of the property or proof of a binding qualified long-term lease for the property. Actual fee simple ownership or a long-term lease that meets the requirements of the federal rehabilitation credit must be obtained prior to entering an agreement pursuant to Iowa Code section 404A.3(3). A condition precedent of any agreement will be proof of actual fee simple ownership or a binding qualified long-term lease.