

1 **INDIVIDUAL AND CORPORATE INCOME TAX**
2 **CREDITS FOR REHABILITATING**
3 **COMMERCIAL USE BUILDINGS**

4 1999 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Beverly Ann Evans**

7 AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING DEFINITIONS;
8 EXPANDING THE CORPORATE FRANCHISE AND INCOME AND INDIVIDUAL INCOME
9 TAX HISTORIC PRESERVATION TAX CREDITS TO INCLUDE CREDITS FOR
10 COMMERCIAL CERTIFIED HISTORIC BUILDINGS AND COMMERCIAL QUALIFIED
11 HISTORIC BUILDINGS; DELETING THE RESIDENCY REQUIREMENT FOR THE
12 INDIVIDUAL INCOME TAX CREDIT; MAKING TECHNICAL CHANGES; AND
13 PROVIDING AN EFFECTIVE DATE.

14 This act affects sections of Utah Code Annotated 1953 as follows:

15 AMENDS:

16 **59-7-609**, as enacted by Chapter 42, Laws of Utah 1995

17 **59-10-108.5**, as last amended by Chapter 25, Laws of Utah 1995

18 *Be it enacted by the Legislature of the state of Utah:*

19 Section 1. Section **59-7-609** is amended to read:

20 **59-7-609. Historic preservation credit.**

21 (1) As used in this section:

22 (a) "Certified historic building" means a building or structure that:

23 (i) is listed on the National Register of Historic Places within a three-year period after a
24 taxpayer claims a credit under this section; or

25 (ii) (A) is located in a National Register Historic District; and

26 (B) has been designated by the Division of State History as being of significance to the
27 district.

28 **(b) "Commercial certified historic building" means a commercial unit that is a certified**
29 **historic building.**

30 **(c) "Commercial qualified historic building" means a commercial unit that is a qualified**
31 **historic building.**

32 **(d) "Commercial unit" means a building or structure:**

33 **(i) that is not a residential building; and**

34 **(ii) in which a person engages in business.**

35 **(e) "Qualified historic building" means a building that is determined by the Division of**
36 **State History to meet the age and integrity requirements established by the National Register of**
37 **Historic Places.**

38 **(f) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to**
39 **the rehabilitation and restoration of the physical elements of a building, including:**

40 **(A) the historic decorative elements of the building;**

41 **(B) the upgrading of the structural, mechanical, electrical, or plumbing systems of the**
42 **building to applicable codes; or**

43 **(C) notwithstanding Subsection (1)(f)(ii)(E), an expenditure described in Subsection**
44 **(1)(f)(ii)(E)(II) or (III) if the outbuilding or secondary structure is:**

45 **(I) a certified historic building or a qualified historic building; and**

46 **(II) part of a commercial unit.**

47 **(ii) "Qualified rehabilitation expenditures" does not include:**

48 **(A) expenditures related to the taxpayer's personal labor;**

49 **(B) expenditures related to the cost of acquiring the property;**

50 **(C) any expenditure attributable to the enlargement of an existing building;**

51 **(D) expenditures related to rehabilitation of a certified historic building if the expenditures**
52 **are not approved as provided in Subsection (2)(c); or**

53 **(E) except as provided in Subsection (1)(f)(i)(C), any expenditure attributable to:**

54 **(I) landscaping or other site features;**

55 **(II) an outbuilding;**

56 **(III) a secondary structure; or**

57 **(IV) an expenditure similar to those described in Subsections (1)(f)(ii)(E)(I) through (III).**

58 **(g) "Residential" means a building used for residential use that is:**

59 (i) owner occupied; or

60 (ii) income producing.

61 ~~[(1)] (2)~~ (a) ~~[For tax years beginning January 1, 1993, and thereafter, there is allowed to~~

62 a] A taxpayer subject to Section 59-7-104~~[, as a credit against the tax due,]~~ may claim the

63 following nonrefundable credits as provided in this section:

64 (i) for taxable years beginning on or after January 1, 1993, an amount equal to 20% of the
65 taxpayer's qualified rehabilitation expenditures~~[, costing more than]~~ that:

66 (A) exceed \$10,000~~[,]; and~~

67 (B) are incurred in connection with ~~[any]~~ a residential certified historic building~~[. When~~
68 qualifying];

69 (ii) for taxable years beginning on or after January 1, 2000, an amount equal to 25% of the
70 taxpayer's qualified rehabilitation expenditures that:

71 (A) exceed \$10,000; and

72 (B) are incurred in connection with a:

73 (I) commercial certified historic building; or

74 (II) commercial qualified historic building; or

75 (iii) a combination of the credits described in Subsections (2)(a)(i) and (ii).

76 (b) (i) Except as provided in Subsection (2)(b)(ii), if a taxpayer incurs qualified
77 rehabilitation expenditures ~~[of more than]~~ that exceed \$10,000 ~~[are incurred],~~ the credit allowed
78 by this section ~~[shall apply]~~ applies to the full amount of expenditures.

79 (ii) Notwithstanding Subsection (2)(b)(i), for purposes of the credit allowed under
80 Subsection (2)(a)(ii), the maximum amount of expenditures for which a credit is allowed is
81 \$400,000.

82 ~~[(b)] (c)~~ All rehabilitation work to which ~~[the]~~ a credit under this section may be applied
83 shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation
84 project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the ~~[office~~
85 can] State Historic Preservation Office may provide corrective comments to the taxpayer in order
86 to preserve the historical qualities of the building.

87 ~~[(c) Any]~~ (d) If the amount of a tax credit ~~[remaining]~~ a taxpayer claims under this section
88 exceeds the taxpayer's tax liability for a taxable year, the taxpayer may ~~[be carried]~~ carry forward
89 [to each of the] the amount of the credit that exceeds the liability for a period that does not exceed

90 five [taxable] years following the day on which the taxpayer incurred the qualified rehabilitation
91 expenditures.

92 ~~[(d) The]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
93 Act, the commission, in consultation with the Division of State History, shall promulgate rules to
94 implement this section.

95 ~~[(2) As used in this section:]~~

96 ~~[(a) "Certified historic building" means a building that is listed on the National Register~~
97 ~~of Historic Places within three years of taking the credit under this section or that is located in a~~
98 ~~National Register Historic District and the building has been designated by the Division of State~~
99 ~~History as being of significance to the district.]~~

100 ~~[(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to~~
101 ~~the rehabilitation and restoration of the physical elements of the building, including the historic~~
102 ~~decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing~~
103 ~~systems to applicable codes.]~~

104 ~~[(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:]~~

105 ~~[(A) the taxpayer's personal labor;]~~

106 ~~[(B) cost of acquisition of the property;]~~

107 ~~[(C) any expenditure attributable to the enlargement of an existing building;]~~

108 ~~[(D) rehabilitation of a certified historic building without the approval required in~~
109 ~~Subsection (1)(b); or]~~

110 ~~[(E) any expenditure attributable to landscaping and other site features, outbuildings,~~
111 ~~garages, and related features.]~~

112 ~~[(c) "Residential" means a building used for residential use, either owner occupied or~~
113 ~~income producing.]~~

114 Section 2. Section **59-10-108.5** is amended to read:

115 **59-10-108.5. Historic preservation credit.**

116 (1) As used in this section:

117 (a) "Certified historic building" means a building or structure that:

118 (i) is listed on the National Register of Historic Places within a three-year period after a
119 taxpayer claims a credit under this section; or

120 (ii) (A) is located in a National Register Historic District; and

121 (B) has been designated by the Division of State History as being of significance to the
122 district.

123 (b) "Commercial certified historic building" means a commercial unit that is a certified
124 historic building.

125 (c) "Commercial qualified historic building" means a commercial unit that is a qualified
126 historic building.

127 (d) "Commercial unit" means a building or structure:

128 (i) that is not a residential building; and

129 (ii) in which a person engages in business.

130 (e) "Qualified historic building" means a building that is determined by the Division of
131 State History to meet the age and integrity requirements established by the National Register of
132 Historic Places.

133 (f) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
134 the rehabilitation and restoration of the physical elements of a building, including:

135 (A) the historic decorative elements of the building;

136 (B) the upgrading of the structural, mechanical, electrical, or plumbing systems of the
137 building to applicable codes; or

138 (C) notwithstanding Subsection (1)(f)(ii)(E), an expenditure described in Subsection
139 (1)(f)(ii)(E)(II) or (III) if the outbuilding or secondary structure is:

140 (I) a certified historic building or a qualified historic building; and

141 (II) part of a commercial unit.

142 (ii) "Qualified rehabilitation expenditures" does not include:

143 (A) expenditures related to the taxpayer's personal labor;

144 (B) expenditures related to the cost of acquiring the property;

145 (C) any expenditure attributable to the enlargement of an existing building;

146 (D) expenditures related to rehabilitation of a certified historic building if the expenditures
147 are not approved as provided in Subsection (2)(c); or

148 (E) except as provided in Subsection (1)(f)(i)(C), any expenditure attributable to:

149 (I) landscaping or other site features;

150 (II) an outbuilding;

151 (III) a secondary structure; or

152 (IV) an expenditure similar to those described in Subsections (1)(f)(ii)(E)(I) through (III).

153 (g) "Residential" means a building used for residential use that is:

154 (i) owner occupied; or

155 (ii) income producing.

156 ~~[(H)]~~ (2) (a) [For tax years beginning January 1, 1993, and thereafter, there is allowed to
157 resident individuals, as a credit against the income tax due] A taxpayer may claim the following
158 nonrefundable credits as provided in this section:

159 (i) for taxable years beginning on or after January 1, 1993, an amount equal to 20% of
160 qualified rehabilitation expenditures ~~[, costing more than]~~ that:

161 (A) exceed \$10,000~~[-];~~ and

162 (B) are incurred in connection with [any] a residential certified historic building~~[- When~~
163 qualifying];

164 (ii) for taxable years beginning on or after January 1, 2000, an amount equal to 25% of the
165 taxpayer's qualified rehabilitation expenditures that:

166 (A) exceed \$10,000; and

167 (B) are incurred in connection with a:

168 (I) commercial certified historic building; or

169 (II) commercial qualified historic building; or

170 (iii) a combination of the credits described in Subsections (2)(a)(i) and (ii).

171 (b) (i) Except as provided in Subsection (2)(b)(ii), if a taxpayer incurs qualified
172 rehabilitation expenditures ~~[of more than]~~ that exceed \$10,000 ~~[are incurred]~~, the credit allowed
173 by this section ~~[shall apply]~~ applies to the full amount of expenditures.

174 (ii) Notwithstanding Subsection (2)(b)(i), for purposes of the credit allowed under
175 Subsection (2)(a)(ii), the maximum amount of expenditures for which a credit is allowed is
176 \$400,000.

177 ~~[(b)]~~ (c) All rehabilitation work to which ~~[the]~~ a credit under this section may be applied
178 shall be approved by the State Historic Preservation Office prior to completion of the
179 rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that
180 the ~~[office can]~~ State Historic Preservation Office may provide corrective comments to the
181 taxpayer in order to preserve the historical qualities of the building.

182 ~~[(c) Any]~~ (d) If the amount of a tax credit ~~[remaining]~~ a taxpayer claims under this section

183 ~~exceeds the taxpayer's tax liability for a taxable year, the taxpayer may [be carried]~~ carry forward
184 ~~[to each of the]~~ the amount of the credit that exceeds the liability for a period that does not exceed
185 five [taxable] years following the day on which the taxpayer incurred the qualified rehabilitation
186 expenditures.

187 ~~[(d) The]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
188 Act, the commission, in consultation with the Division of State History, shall promulgate rules to
189 implement this section.

190 ~~[(2) As used in this section:]~~

191 ~~[(a) "Certified historic building" means a building that is listed on the National Register~~
192 ~~of Historic Places within three years of taking the credit under this section or that is located in a~~
193 ~~National Register Historic District and the building has been designated by the Division of State~~
194 ~~History as being of significance to the district.]~~

195 ~~[(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to~~
196 ~~the rehabilitation and restoration of the physical elements of the building, including the historic~~
197 ~~decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing~~
198 ~~systems to applicable codes.]~~

199 ~~[(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:]~~

200 ~~[(A) the taxpayer's personal labor;]~~

201 ~~[(B) cost of acquisition of the property;]~~

202 ~~[(C) any expenditure attributable to the enlargement of an existing building;]~~

203 ~~[(D) rehabilitation of a certified historic building without the approval required in~~
204 ~~Subsection (1)(b); or]~~

205 ~~[(E) any expenditure attributable to landscaping and other site features, outbuildings,~~
206 ~~garages, and related features.]~~

207 ~~[(c) "Residential" means a building used for residential use, either owner occupied or~~
208 ~~income producing.]~~

209 **Section 3. Effective date.**

210 This act takes effect for taxable years beginning on or after January 1, 2000.

Legislative Review Note

as of 2-16-99 11:57 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel