

**CORPORATE FRANCHISE AND INCOME TAX
AND INDIVIDUAL INCOME TAX CREDITS -
HISTORIC BUILDING REHABILITATION**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

This act amends the Individual Income Tax Act and Corporate Franchise and Income Taxes to expand the corporate franchise and income tax and individual income tax historic building rehabilitation credits to include credits for commercial certified historic buildings and commercial qualified historic buildings. The act deletes a requirement that a taxpayer reside in the state to be eligible for a tax credit. This act provides definitions and makes technical changes. The act has retrospective operation for taxable years beginning on or after January 1, 2001.

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

AMENDS:

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

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

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

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

59-7-609. Historic building rehabilitation credit.

(1) As used in this section:

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

(i) (A) is listed on the National Register of Historic Places; or

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

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

(iii) the Division of State History has designated as being of significance to the National



28 Register Historic District.

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

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

33 (d) "Commercial unit" means a building or structure that is primarily used for the purpose
34 of conducting 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 a:

45 (I) certified historic building; or

46 (II) qualified historic building.

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

48 (A) an expenditure related to the taxpayer's personal labor;

49 (B) an expenditure related to the cost of acquiring the property;

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

51 (D) if the rehabilitation work is not approved as provided in Subsection (2)(c), an
52 expenditure related to rehabilitation work on a:

53 (I) certified historic building; or

54 (II) qualified historic building;

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

56 (I) landscaping or other site features;

57 (II) an outbuilding;

58 (III) a secondary structure; or

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

60 (g) "Residential" means a building that is:

61 (i) primarily used for residential purposes; and

62 (ii) (A) occupied by the owner of the building; or

63 (B) income producing.

64 ~~[(1)]~~ (2) (a) [For tax years beginning January 1, 1993, and thereafter, there is allowed to

65 a] A taxpayer subject to [Section 59-7-104, as a credit against the tax due,] taxation under this

66 chapter may claim the following nonrefundable credits against the taxes imposed by this chapter

67 as provided in this section:

68 (i) for taxable years beginning on or after January 1, 1993, an amount equal to 20% of the

69 total amount of the taxpayer's qualified rehabilitation expenditures~~[-costing more than]~~ if the

70 taxpayer expends more than \$10,000~~[-incurred]~~ in connection with [any] a residential certified

71 historic building~~[-When qualifying expenditures of more than \$10,000 are incurred, the credit~~

72 allowed by this section shall apply to the full amount of expenditures.];

73 (ii) except as provided in Subsection (2)(b), for taxable years beginning on or after January

74 1, 2001, an amount equal to 20% of the total amount of the taxpayer's qualified rehabilitation

75 expenditures if the taxpayer expends more than \$10,000 in connection with a:

76 (A) commercial certified historic building; or

77 (B) commercial qualified historic building; or

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

79 (b) (i) Notwithstanding Subsection (2)(a)(ii), the maximum amount of credit that may be

80 claimed or carried forward during a six-year period is \$100,000 for all of the qualified

81 rehabilitation expenditures incurred in connection with:

82 (A) each commercial certified historic building; or

83 (B) each commercial qualified historic building.

84 (ii) A six-year period described in Subsection (2)(b)(i):

85 (A) begins on the first day of the first taxable year for which a taxpayer may claim a credit

86 under Subsection (2)(a)(ii); and

87 (B) ends six years after the date described in Subsection (2)(b)(ii)(A).

88 ~~[(b)]~~ (c) All rehabilitation work to which [the] a credit under this section may be applied

89 shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation

90 project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the [~~office~~
91 ~~can~~] State Historic Preservation Office may provide corrective comments to the taxpayer in order
92 to preserve the historical qualities of the building.

93 ~~[(c) Any]~~ (d) If the amount of a tax credit [remaining] a taxpayer claims under this section
94 exceeds the taxpayer's tax liability for a taxable year, the taxpayer may [be carried] carry forward
95 [to each of the] the amount of the credit that exceeds the liability for a period that does not exceed
96 five taxable years following the day on which the taxpayer incurred the qualified rehabilitation
97 expenditures.

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

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

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

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

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

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

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

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

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

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

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

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

- 121 **59-10-108.5. Historic building rehabilitation credit.**
- 122 (1) As used in this section:
- 123 (a) "Certified historic building" means a building or structure that:
- 124 (i) (A) is listed on the National Register of Historic Places; or
- 125 (B) is listed on the National Register of Historic Places within a three-year period after a
- 126 taxpayer claims a credit under this section; or
- 127 (ii) is located in a National Register Historic District; and
- 128 (iii) the Division of State History has designated as being of significance to the National
- 129 Register Historic District.
- 130 (b) "Commercial certified historic building" means a commercial unit that is a certified
- 131 historic building.
- 132 (c) "Commercial qualified historic building" means a commercial unit that is a qualified
- 133 historic building.
- 134 (d) "Commercial unit" means a building or structure that is primarily used for the purpose
- 135 of conducting business.
- 136 (e) "Qualified historic building" means a building that is determined by the Division of
- 137 State History to meet the age and integrity requirements established by the National Register of
- 138 Historic Places.
- 139 (f) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to
- 140 the rehabilitation and restoration of the physical elements of a building, including:
- 141 (A) the historic decorative elements of the building;
- 142 (B) the upgrading of the structural, mechanical, electrical, or plumbing systems of the
- 143 building to applicable codes; or
- 144 (C) notwithstanding Subsection (1)(f)(ii)(E), an expenditure described in Subsection
- 145 (1)(f)(ii)(E)(II) or (III) if the outbuilding or secondary structure is a:
- 146 (I) certified historic building; or
- 147 (II) qualified historic building.
- 148 (ii) "Qualified rehabilitation expenditures" does not include:
- 149 (A) an expenditure related to the taxpayer's personal labor;
- 150 (B) an expenditure related to the cost of acquiring the property;
- 151 (C) an expenditure attributable to the enlargement of an existing building;

152 (D) if the rehabilitation work is not approved as provided in Subsection (2)(c), an
 153 expenditure related to rehabilitation work on a:

154 (I) certified historic building; or

155 (II) qualified historic building; or

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

157 (I) landscaping or other site features;

158 (II) an outbuilding;

159 (III) a secondary structure; or

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

161 (g) "Residential" means a building that is:

162 (i) primarily used for residential purposes; and

163 (ii) (A) occupied by the owner of the building; or

164 (B) income producing.

165 ~~[(1)] (2) (a) [For tax years beginning January 1, 1993, and thereafter, there is allowed to~~

166 ~~resident individuals, as a credit against the income tax due] A taxpayer subject to taxation under~~

167 ~~this chapter may claim the following nonrefundable credits against the taxes imposed by this~~

168 ~~chapter as provided in this section:~~

169 (i) for taxable years beginning on or after January 1, 1993, an amount equal to 20% of the

170 total amount of the taxpayer's qualified rehabilitation expenditures[~~, costing more than~~] if a

171 taxpayer expends more than \$10,000[~~, incurred~~] in connection with [any] a residential certified

172 historic building[~~. When qualifying expenditures of more than \$10,000 are incurred, the credit~~

173 allowed by this section shall apply to the full amount of expenditures.];

174 (ii) except as provided in Subsection (2)(b), for taxable years beginning on or after January

175 1, 2001, an amount equal to 20% of the total amount of the taxpayer's qualified rehabilitation

176 expenditures if the taxpayer expends more than \$10,000 in connection with a:

177 (A) commercial certified historic building; or

178 (B) commercial qualified historic building; or

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

180 (b) (i) Notwithstanding Subsection (2)(a)(ii), the maximum amount of credit that may be

181 claimed or carried forward during a six-year period is \$100,000 for all of the qualified

182 rehabilitation expenditures incurred in connection with:

183 (A) each commercial certified historic building; or

184 (B) each commercial qualified historic building.

185 (ii) A six-year period described in Subsection (2)(b)(i):

186 (A) begins on the first day of the first taxable year for which a taxpayer may claim a credit
187 under Subsection (2)(a)(ii); and

188 (B) ends six years after the date described in Subsection (2)(b)(ii)(A).

189 ~~[(b)]~~ (c) All rehabilitation work to which ~~[the]~~ a credit under this section may be applied

190 shall be approved by the State Historic Preservation Office prior to completion of the

191 rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that

192 the ~~[office can]~~ State Historic Preservation Office may provide corrective comments to the

193 taxpayer in order to preserve the historical qualities of the building.

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

195 exceeds the taxpayer's tax liability for a taxable year, the taxpayer may ~~[be carried]~~ carry forward

196 ~~[to each of the]~~ the amount of the credit that exceeds the liability for a period that does not exceed

197 five taxable years following the day on which the taxpayer incurred the qualified rehabilitation

198 expenditures.

199 ~~[(d) The]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking

200 Act, the commission, in consultation with the Division of State History, shall promulgate rules to

201 implement this section.

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

203 ~~[(a) "Certified historic building" means a building that is listed on the National Register~~

204 ~~of Historic Places within three years of taking the credit under this section or that is located in a~~

205 ~~National Register Historic District and the building has been designated by the Division of State~~

206 ~~History as being of significance to the district.]~~

207 ~~[(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to~~

208 ~~the rehabilitation and restoration of the physical elements of the building, including the historic~~

209 ~~decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing~~

210 ~~systems to applicable codes.]~~

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

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

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

214 ~~[(C) any expenditure attributable to the enlargement of an existing building;]~~
215 ~~[(D) rehabilitation of a certified historic building without the approval required in~~
216 ~~Subsection (1)(b); or]~~
217 ~~[(E) any expenditure attributable to landscaping and other site features, outbuildings,~~
218 ~~garages, and related features.]~~
219 ~~[(e) "Residential" means a building used for residential use, either owner occupied or~~
220 ~~income producing.]~~

221 Section 3. **Retrospective operation.**

222 This act has retrospective operation for taxable years beginning on or after January 1, 2001.

Legislative Review Note
as of 2-1-01 10:20 AM

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

Office of Legislative Research and General Counsel