

New Mexico's 50% Income Tax Credit for Preservation of Cultural Property: The Details



The NM Historic Preservation Division (HPD) and Department of Taxation and Revenue (TRD) have administered the **New Mexico State Income Tax Credit for Registered Cultural Properties** program since 1984. More than 800 rehabilitation projects have been approved for homes, hotels, restaurants, theaters and businesses.

To be eligible, a property must be listed in the **State Register of Cultural Properties** or be a contributing resource in a state register-listed historic district. The state income tax credit is available to owners or long-term lessees of historic buildings who complete qualified, pre-approved rehabilitations.

Unlisted properties with historic value may be nominated to the register. HPD can help you determine if your property is eligible for the register or is already listed. Both commercial and residential buildings may be eligible for the program.

What is a Tax Credit?

An **income tax credit** offsets the amount of income tax owed, generally dollar-for-dollar. For instance, if your tax bill is \$500, a \$100 tax credit would reduce the tax owed to \$400. (*An **income tax deduction** lowers only the amount of income subject to taxation. If your income tax rate is 15%, a \$100 deduction would lower your tax bill by only \$15.*)



The 50% NM Income Tax Credit

For this program, the tax credit that may be earned for a project is **50%** of eligible costs spent in a pre-approved rehabilitation or a maximum credit of **\$25,000** or 5 years of state income tax liability, whichever is least. Project expenses may be greater but the eligible expenses and tax credit are capped at these figures. In other words, \$5,000 in approved expenses would earn a 50% tax credit of \$2,500, and approved expenses of \$50,000 would earn the maximum tax credit of \$25,000. However, for listed historic buildings located within state-certified **Arts & Cultural Districts**, the maximum in eligible expenses is \$100,000 for a 50% tax credit maximum of **\$50,000**.

If the credit is not entirely used to offset tax owed for the year of project
(*continued...*)

completion, any remaining credit may be spread over 4 additional tax years, unless used-up earlier. Any unused credit remaining after the total of 5 tax years is forfeited. Please consult your tax advisor.

Eligible Work

The state's Cultural Properties Review Committee (CPRC) reviews applications for conformance with the program's standards (the *Secretary of the Interior's Standards for Rehabilitation*) as per regulation NMAC 4.10.9. They are common-sense preservation practices that inform simple repairs or complex work like the rehabilitation of historic windows. Their guiding principles include minimizing changes to the features that define the building's historic character, retaining and repairing them unless severely deteriorated and, when beyond repair, replacing them with an exact match. HPD staff can help you develop rehab treatments that will meet the standards. Please see:

www.nps.gov/tps/standards/rehabilitation.htm



Typically tax credit projects may include roof replacement, rehabilitation of deteriorated exterior woodwork, repair of historic windows (and the addition of secondary or storm glazing), stabilization of foundations and structural elements, restoration of historic interior trim and replacement of broken or out-of-code

mechanical, electrical and plumbing systems. Historic landscaping may be eligible only when documented in the State Register.

Projects that do not meet program standards or would compromise a resource's historic integrity will not be approved. All aspects of a project, interior and exterior, are reviewed. Any work begun before written CPRC approval is ineligible as is remodeling, new construction, routine maintenance and most landscaping.



The Application Process

The program has a two-part application process, **Part 1** is submitted before work begins and **Part 2** after work is complete. The applications may be downloaded from the **Related Documents** panel on HPD's Tax Credit web page (please see page 5 for URL) or HPD can email or mail an application on request. Please submit the application on paper with original signatures, along with contractors' written estimates and clear, printed-out photos, so they arrive at HPD at least 14 days prior to a CPRC meeting for action at that meeting.



The Part 1 Application

The state **Cultural Properties Review Committee** (CPRC) must approve the proposed rehabilitation prior to the beginning of project work. All work is to conform to the program standards in the regulation NMAC 4.10.9 as interpreted by the CPRC. All parts of the project are to be described in the Part 1 Application including those not eligible for credit such as new additions or remodeling.

- A complete Part 1 Application includes:
 - Clear, printed-out photos of each façade of the building (4"x6" suggested)
 - Close-up, printed-out photos of proposed work areas
 - Detailed contractors' written estimates
 - Written descriptions of features/systems and work to be done to them
- The application is to be received at HPD **at least 14 days prior** to the CPRC meeting. Meeting dates are published on our website. The applicant will receive written notification of the committee's decision within two weeks following the meeting. At its discretion, the committee may approve an application as submitted, approve it with conditions, deny it, or table it until a later meeting pending receipt of additional information or project modifications. **Projects in-progress**

or previously completed are ineligible for the program.

- The project term expires 24 months from the date of the Part 1 approval. Expenses incurred before the approval date or after the expiration date will not be eligible for credit.



Part 1 Documentation

When describing your project in the application text boxes, it may be helpful to think in terms of overall systems or categories of elements, for instance roof, exterior walls, windows and doors, porches or *portals*, foundations and drainage. Many applicants first describe exterior work, often from top to bottom, and then move to the interior and finally the mechanical, electrical and plumbing systems.

Photos must depict current conditions at the time of submission of the application. We recommend having them printed in color on photo paper at 4" x 6". Many copy centers, photo stores, large drug store chains and discount clubs can provide clear, reasonably priced glossy color prints of digital images, often via internet upload.

Building or site plans are helpful and they should be submitted for large or complex

projects, and for those with changes in floor plans or exterior appearance. Keying photo locations to the plans is very helpful. As part of the review, missing or additional documentation may be requested by HPD or the CPRC.

Repairs to historic building features (or their replacement with exactly matching elements only when deteriorated-beyond-repair) are eligible for credit. For requests for replacement of or extensive work on historic windows the CPRC usually requires scaled drawings of existing window elevations and detailed profiles with corresponding scaled drawings for the proposed replacements, along with overall and close-up photos showing window conditions in detail. Keying photos to a floor plan or diagram is very helpful.

It is important to include a street map or historic district map with the exact location of the property pinpointed.

Consulting with HPD

Applicants are encouraged to call or email HPD to discuss the nature of their projects and the scope of work, as early in the project planning as possible. Once submitted, tax credit staff will review your application, make site visits (when possible), provide treatment recommendations as needed, and prepare a folder on your project for review by the CPRC. Site visits are sometimes needed to better understand the property, the proposed work and its effect on the building and its surroundings. Submitting an application at the last minute may delay a site visit and make CPRC review difficult.



Project Approval

Applicants are welcome to attend the CPRC meeting when their project is considered (call HPD for details). Written notification of the decision is provided within two weeks following the meeting. CPRC conditions for approval of your project and any requested clarification will be described in the notification. Please do not proceed with the work without understanding and complying with them, as failure to meet approval conditions set by the CPRC as well as unapproved project changes could result in loss of credit for the whole project.

CPRC approval expires in 24 months. All eligible work for which you seek tax credit must be completed during that time, though it is not usually required that everything described in the Part 1 application be completed. The program has no mechanism to extend the approval period. After it expires, a new Part 1 Application may be submitted for CPRC approval at a subsequent meeting.

A copy of HPD's financial documentation policy is included with the Part 1 notification letter. Please be aware that cash payments and an applicant's own labor are not considered eligible expenses.

Changes

Work on your project needs to reflect what is described in the application but changes sometimes are necessary due to discoveries made while the project is underway. The program requires you to discuss these changes with HPD tax credit staff before proceeding. In some cases they will need further CPRC approval. Additional work items may be added to an approved project through a Part 1 Amendment but the program limits for eligible expenses and tax credit for the overall project are unchanged.

The Part 2 Application

When work is complete, submission of a **Part 2 Application** is needed for final CPRC approval and tax credit certification. It should fully document finished conditions with photos and complete financial documentation including invoices, receipts, copies of cancelled checks or credit card statements, applicant signatures and Taxpayer ID or the last 4 digits of Social Security numbers.

Filing Your Taxes

After certification by the CPRC for the tax credit, a copy of the Part 2 application with the CPRC chairperson's signature will be sent to the applicant along with HPD's notification letter. As per detailed instructions in the letter, both are to be submitted with your state income tax return along with the appropriate NM

Taxation and Revenue Department (TRD) forms (available on their website). The HPD log number on the approved Part 2 application and letter is considered the "certificate number" by TRD.



Federal Tax Incentives for Rehabilitating Historic Buildings

In cooperation with the National Park Service (NPS), this division administers a similar program for federal tax credits for income-producing buildings listed in the National Register of Historic Places. Further information may be found on our website, by calling or emailing HPD staff or on the NPS website at: www.nps.gov/tps/tax-incentives.htm

HPD Tax Program Information:

www.nmhistoricpreservation.org

HPD main number and email:

(505) 827-6320 nmshpo@state.nm.us

HPD Tax Credit Programs:

(505) 827-3971 (Harvey Kaplan)
harvey.kaplan@state.nm.us

Guidelines for ELIGIBLE EXPENSES FOR CREDIT TO STATE INCOME TAX

Preservation means the act or process of applying measures to sustain the existing form, integrity, and material of a historic building, structure, object, or landscape. Rehabilitation means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values. Restoration accurately depicts a property at a particular period in its history. This does not include ordinary operating maintenance. Routine painting and periodic maintenance shall be the responsibility of the owner and shall not be considered for credit.

All work on the property undertaken during the 24-month project approval period must be described in the application and must meet program standards. **Failure to meet CPRC (Cultural Properties Review Committee) approval conditions, or alterations to the project that have not been approved by the CPRC and do not meet program standards, will result in loss of credit for all work.**

THE FOLLOWING GENERAL CATEGORIES ARE TYPES OF PROJECT COSTS THAT GENERALLY **COUNT** TOWARD CREDIT UNDER THE GUIDELINES:

- Roof replacement due to deterioration caused by weathering or accident, or corrective measures to alter drainage runoff adversely affecting the structure.
- Foundation repair due to structural weakness, settling, cracking, mortar loss or drainage problems
- Utility repair or replacement where conditions are such that the historic fabric will be adversely affected if corrective measures are not taken (i.e. broken water pipe, faulty wiring)
- Structural replacement or repair due to weather, wear, accident or weakened structural support.
- Painting which is part of an initial overall restoration or preservation program, or painting which is necessitated by other work items approved by the CPRC.
- Repair of historic architectural elements such as doors, windows, stairs and interior trim.

SOME SPECIFIC EXPENSES **THAT MAY COUNT** TOWARD CREDIT UNDER THE PROGRAM GUIDELINES:

- Architectural, engineering and planning services
- Inspection reports, such as structural conditions or environmental inspections
- Sampling and analyses of materials
- Building permits and fees
- Abatement programs, for example asbestos or lead-based paint removal
- Energy conservation measures like (interior) insulation or storm windows that do not adversely affect the historic appearance and character of the property, as per program standards and CPRC approval.
- Equipment rental necessary for project, for example, tools, machinery or portable toilets
- Purchase of tools where the life expectancy of the tool is no longer than the project e.g. brushes or drop cloths
- Upgrade of utilities and connections to meet current codes, including plumbing, mechanical (HVAC) and electrical.
- Alterations for code or A.D.A. requirements, if pre-approved by CPRC (must meet program standards).
- Gross receipts taxes
- Contract labor (provided adequate supporting documentation is provided), **BUT NOT** salary or fees paid to the owner or family member for performing work
- Replacement or repair of historic landscaping features (statuary, decorative planting, terraces, walkways, walls). These items must have been part of the property at the time the site was listed on the State Register of Cultural Properties **AND** the items are called out in the nomination as significant or contributing elements to the historic character of the property.
- Unusual and unforeseen costs will be allowed on a case-by-case basis, as determined by the CPRC.

In addition, the following costs are eligible for businesses (partnerships, proprietorships, and corporations) when a bid has been provided and the cost is part of a contract that is related to the project. Contracts for program projects shall be submitted to the Historic Preservation Division as part of Part 2. Contracts for services such as those listed will be submitted with the Part 2 application.

- Accounting fees, office supplies
- Gasoline and automobile reimbursement
- Profit and overhead, **EXCEPT** when the business is the property owner (i.e., "in-house" projects).

THE FOLLOWING GENERAL CATEGORIES ARE TYPES OF PROJECT COSTS THAT **DO NOT COUNT** TOWARD CREDIT UNDER THE PROGRAM GUIDELINES:

- Routine cleaning, painting, minor repairs and general periodic upkeep.
- Interior furnishings or fixtures, unless they are historic elements documented as original to the building that require preservation techniques to restore them to a functional condition.
- Partition removal, alterations, additions, and changes to floor plans (aka remodeling) unless it is demonstrated that such a change is necessary to provide needed structural strength to an otherwise unaltered building and is approved by the CPRC.
- Changes to or replacement of historic fabric unless work has received approval from the CPRC.
- Construction of new additions or repair to additions constructed after the property was listed on the State Register of Cultural Properties. Repairs to additions to the original structure made prior to placement on the Register might be eligible for credit.
- Repairs to outbuildings not considered by the CPRC as contributing buildings to the historic property or district.
- Upgrades to structures related to terms of sale or rental of property, unless historic fabric is involved and work is approved by the CPRC.
- Replacement of repairable character-defining historic features (as per program standards).
- Introduction of conjectural or undocumented "historic" elements or those from other buildings.

SOME SPECIFIC EXPENSES THAT **DO NOT COUNT** TOWARD CREDIT UNDER THE PROGRAM:

Architectural, engineering and planning services for new construction or additions added to a structure after its listing in the Register, or for work on buildings that are not identified as significant or contributing within the nomination:

- Landscaping, unless the landscaping is significant and is noted in the nomination. Seasonal or periodic trimming is considered maintenance and does not count.
- Interior furnishings or fixtures, including wall coverings, furniture, floor coverings and carpeting, window coverings, linens, accessories, unless they are replicating historic material documented as original to the building.
- Purchase of tools when the life expectancy of the tool is longer than the project e.g. ladders, drills, saws
- Alarm systems or security lighting
- Light fixtures, except for repair of existing historic items or exact replication of historic fixtures documented as original to the building.
- Exterior lighting
- Kitchen appliances and accessories, except for repair to existing historic appliances or replacement of documented historic accessories
- New kitchen or bath cabinets and counters unless replicating missing, documented historic features.
- Meals or food
- Membership to discount stores, for example Costco or Sam's Club
- All acquisitions costs, for example, surveys, appraisals, legal fees
- Property damaged or stolen from a project site.
- Work performed by the owner or family member.

THE FOLLOWING WORK ITEMS ARE IDENTIFIED AS ALLOWABLE ACTIVITIES UNDER THE PROGRAM BUT EXPENSES INCURRED FOR THESE ITEMS **DO NOT COUNT TOWARD CREDIT**.

The Committee may approve a project, as described in Part 1, that contains work items listed below. These expenses shall not be reflected in the CPRC approved project cost. These items include, but are not limited to:

- New construction (except as may be required by current building and life safety codes); however, new construction will always be reviewed by Committee for compliance with program standards.
- Landscaping (unless landscaping is significant to the site's historic qualities and is noted in the nomination, and work is part of an initial overall rehabilitation or restoration program).
- Routine maintenance (including, but not limited to, cleaning, painting, seasonal landscape trimming, minor repairs and periodic upkeep, except where work is part of an initial overall rehabilitation or restoration program and are approved by CPRC).
- Repairs to additions added to a structure after placement in the Register.
- Interior furnishings, unless of historic significance to the property and noted in the nomination.
- Minor remodeling that conforms to program standards.

The purpose of these guidelines is to clarify the eligibility of certain costs of restoration, rehabilitation or preservation and to further define ordinary and necessary costs associated with such projects. Such guidelines shall provide for a consistent review of projects. These guidelines shall give specific clarification to Section 7-2-18.2 and 7-2A-8.6 NMSA 1978 and CPRC Rule NMAC 4.10.9 STATE INCOME TAX CREDIT FOR APPROVED RESTORATION, REHABILITATION OR PRESERVATION OF REGISTERED CULTURAL PROPERTIES.

Program Standards (from Section 7-2-18.2 and 7-2A-8.6 NMSA and CPRC Rule NMAC 4.10.9):

- (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (7) Chemical or physical treatments, such as sand-blasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

From program Rule 4 NMAC 10.9, Section 4.10.9.9 **Program Requirements:**

After the project is completed, the owner of a registered cultural property will submit an application to the committee for the certification of approved restoration, preservation or rehabilitation and shall provide to the committee a complete description with photographs of all work performed. Part 2 of the application (requests for certification of completed work) shall be received by the division at least 14 days prior to the committee's meeting in which it will be reviewed and within 60 days after the completion of the work, but in no event later than January 25 of the year following the taxable year in which the credit is claimed. The division shall determine whether the information being presented is complete and adequate for committee review. The property owner shall submit together with part 2, accurate and complete documentation, including a summary sheet of expenditures along with invoices, canceled checks, receipts, or any documents requested by the committee of all expenses for which the property owner proposes to claim credit. Work items that are not eligible for credit shall not be included in the cost document within part 2.

TAX CREDITS for PRESERVATION of CULTURAL PROPERTIES HISTORIC PRESERVATION DIVISION POLICY on COST DOCUMENTATION

Please take into account the following policies when you are beginning your tax credit project. We recommend that you set up a plan for your project's financial records at the beginning of the project. Costs will be deleted from the total eligible expenditures for undocumented expenses including cash payments. At the end of your project, you will be asked for the following items to document the project:

- Copies of final invoices or receipts from contractors, tradespeople or vendors, with a New Mexico CRS-1 tax identification number. They must indicate the correct address of the property where the project occurred and must be dated within the project approval period. If the business or vendor does not have a CRS-1, then the receipt or final invoice must clearly delineate the name, address, daytime phone number and social security number for the owner of the business, trades person or vendor. The Division may, at its discretion, request copies of 1099s or W-2 forms issued to employees of the applicant. Receipts or final invoices must include dollar amounts and dates paid.

Invoices/receipts must be accompanied by **one** of the following:

- Copies of cancelled checks. You may obscure private information, such as your account number and other irrelevant information.
- *Or...* Copies of your bank statement, if your bank does not provide access to your cancelled checks. The statement must show clearly your name, the check number and amount, and the date it cleared the bank. You may obscure private information, such as your account number and other irrelevant information.
- *Or...* Copies of credit card statements. An expenditure will be considered incurred on the date the charge is posted to the account, even though the credit card bill may be paid by the applicant in the following year. You may obscure private information, such as your account number and other irrelevant information.

For all of the above, the check or charge amount must match the invoice/receipt or, if items that are not part of an approved project or are not approved eligible expenses, and are included within the check or charge, those items must be set apart in some type of itemization and be excluded from the total costs claimed. Checks and charges must be dated within the project approval period. Checks and charges may not be made out to cash.

All invoices, receipts and checks must show that the work was performed on the appropriate project and within the approval period. The approval period is 24-months (two years), beginning on the date of Part 1 approval by the Cultural Properties Review Committee (CPRC).

When a project includes additional allowable work that is not approved as eligible for the tax credit, the project documentation must clearly differentiate the eligible and non-eligible expenses. If it does not do so, the documentation will be returned to the applicant for clarification.